**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Review of the Alternative Energy Rider Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company | )  )  )  )  ) | Case No. 11-5201-EL-RDR |

**MOTION REQUESTING PERMISSION FOR EDMUND J. BERGER TO APPEAR *PRO HAC VICE***

**AND**

**REQUEST FOR EXPEDITED RULING DURING CALENDAR-YEAR 2012**

Pursuant to Ohio Adm. Code 4901-1-8(B), Ohio Adm. Code 4901-1-12, and Section 2(A) of Rule XII of the Supreme Court Rules for the Government of the Bar of Ohio, now comes Melissa R. Yost, admitted to practice of law in Ohio, and respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant Edmund J. Berger permission to appear *pro hac vice* in this proceeding on behalf of the Office of the Ohio Consumers’ Counsel (“OCC”). Melissa R. Yost also respectfully requests that the Commission grant this Motion on an expedited basis, before the end of calendar-year 2012.[[1]](#footnote-1) The reasons that the Commission should grant Edmund J. Berger permission to appear *pro hac vice* are further set forth in the attached Memorandum in Support.

Respectfully submitted,

*/s/\_Melissa R. Yost\_\_\_\_*

Melissa R. Yost

Assistant Consumers’ Counsel

Office of the Ohio Consumers’ Counsel

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[yost@occ.state.oh.us](mailto:yost@occ.state.oh.us)

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**MEMORANDUM IN SUPPORT**

Section 2(A) of Rule XII of the Rules for the Government of the Bar of Ohio provides that “A tribunal[[2]](#footnote-2) of this state may grant permission to appear pro hac vice to an out-of-state attorney who is admitted to practice in the highest court of a state \*\*\* of the United States or the District of Columbia \*\*\* and is in good standing to appear pro hac vice in a proceeding.”[[3]](#footnote-3) The Commission’s rules provide that a “person authorized to practice law in other jurisdictions may be permitted to appear before the commission in a particular proceeding, upon motion of an attorney of this state.”[[4]](#footnote-4)

Edmund J. Berger has been issued a certificate of *pro hac vice* registration in the state of Ohio.[[5]](#footnote-5) Additionally, the following information is provided per Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio:

Mr. Berger resides at 6035 Red Winesap Way, Dublin, OH 43016. Mr. Berger is employed by the Office of the Ohio Consumers’ Counsel, 10 West Broad St., Suite 1800, Columbus, Ohio, 43215.[[6]](#footnote-6)

Mr. Berger is license to practice law in Pennsylvania. He was admitted to practice on November 16, 1988. *See* Pennsylvania Attorney Registration No. 53407.

Please see the attached affidavit (Attachment B) stating that Mr. Berger has never been disbarred, that he is not under suspension nor has he resigned from the practice of law with discipline pending in any jurisdiction the attorney has ever been admitted.

Mr. Berger has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Section 2(A)(5) of Rule XII of the Rules for the Government of the Bar of Ohio.

Melissa R. Yost, Ohio Attorney Registration No. 0070914, an active Ohio attorney in good standing, has agreed to associate with Mr. Berger on this case.

The information above and Attachments A and B show that Mr. Berger meets the Supreme Court’s requirements for *pro hac vice* practice in Ohio. Accordingly, the Commission should grant Edmund J. Berger permission to appear *pro hac vice* for the purposes of representing the OCC in this proceeding on an expedited basis. And the request for expedited ruling should be granted with a ruling entered in calendar-year 2012.

Respectfully submitted,

*/s/\_Melissa R. Yost\_\_\_\_*

Melissa R. Yost

Assistant Consumers’ Counsel

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[yost@occ.state.oh.us](mailto:yost@occ.state.oh.us)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion* was served on the persons stated below via electronic service, this 12th day of December 2012.

*/s/ Melissa R. Yost*\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Melissa R. Yost

**SERVICE LIST**

|  |  |
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AEs: [gregory.price@puc.state.oh.us](mailto:gregory.price@puc.state.oh.us)

1. In accordance with O.A.C. 4901-1-12(C), Melissa R. Yost certifies that no party objects to an expedited ruling. [↑](#footnote-ref-1)
2. “A tribunal is defined as a court, legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party’s interests in a particular matter.” Section 1(A) of Rule XII of the Rules for the Government of the Bar of Ohio. [↑](#footnote-ref-2)
3. “A proceeding is defined as an adjudicative matter pending before a tribunal.” Section 1(B) of Rule XII of the Rules for the Government of the Bar of Ohio. [↑](#footnote-ref-3)
4. Ohio Adm. Code 4901-1-8(B). [↑](#footnote-ref-4)
5. Attachment A. [↑](#footnote-ref-5)
6. Mr. Berger’s e-mail address is as follows: [berger@occ.state.oh.us](mailto:berger@occ.state.oh.us). [↑](#footnote-ref-6)