

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Self-Complaint of)
Columbus Southern Power Company)
and Ohio Power Company Concerning)
the Implementation of Programs to)
Enhance Their Currently Reasonable)
Level of Distribution Service Reliability)
)

Case No. 06-222-EL-SLF

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**COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S
MEMORANDUM IN OPPOSITION TO MOTION TO INTERVENE BY
NEIGHBORHOOD COALITION AND CONSUMERS FOR FAIR UTILITY**

Under Rule 4901-1-11(A)(2), O.A.C., the Commission will only grant intervention where the movant shows a real and substantial interest in the proceeding and demonstrates that its interests are not adequately represented by existing parties. This standard is consistent with Section 4903.221, Revised Code. The motion to intervene submitted by the Neighborhood Coalition and the Coalition for Fair Utility (Coalition) does not demonstrate either required factor and, indeed, unequivocally fails in both respects. The motion should be denied.

The Coalition does not allege that its members are customers of AEP Ohio. In fact, the Coalition admits that "AEP does not service the Cleveland area" where its members reside. Coalition Memorandum in Support at 3. Instead of demonstrating a concrete interest in this case, the Coalition categorically alleges that their members "are seriously affected by the PUCO's decisions." *Id.* at 1. Similarly, the Coalition vaguely expresses that it is "concerned" and generally speculates that the decision in this matter "may have president [sic] setting affects [sic] that can affect our constituents." *Id.* at 2-3. Building on this prognostication, the Coalition supposes that "other utilities would be eager to take advantage" if AEP's request is granted -

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presumably including the utility that actually provides service to its constituents. *Id.* at 2. These reasons are legally insufficient to support intervention in this case.

As has been established previously, “it is the Commission’s policy not to grant intervention to entities whose only real interest in the proceedings is that legal precedent may be established which may affect that entity’s interest in a subsequent case.” *In Re Complaint of WorldCom, Inc, et al. v. City of Toledo*; and *In Re Complaint of The Toledo Edison Co. and American Transmission Systems, Inc. v. City of Toledo*, PUCO Case Nos. 02-3207-AU-PWC and 02-3210-EL-PWC, Entry, at page 3 (March 4, 2003). “Although [an entity] has an interest in the proceeding and the precedent that might be set in [the] case, [it] has long held that interest is not a sufficient basis for intervention.” *In Re Complaint of Dominion Retail, Inc. v. Ohio Edison Co. et al.*, PUCO Case No. 00-2526-EL-CSS, Entry, at page 2 (April 19, 2001). The Commission affirmed its Attorney Examiner’s ruling in *Dominion Retail* when the entity whose motion to intervene was denied took an interlocutory appeal of the denial. Entry, at page 2 (May 15, 2001).

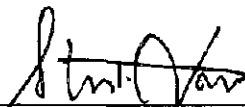
The Commission has further explained why allowing intervention on the basis of an interest in the precedent that might be set in a particular case is not appropriate as follows: “To grant intervention on this basis would render the Commission’s rule on intervention meaningless and allow almost any person intervention in any case based on the proposition that the precedent established may affect them in some future case.” *In Re FirstEnergy Corp. on Behalf of Ohio Edison Co. et al.*, PUCO Case Nos. 99-1212-EL-ETP, 99-1213-EL-ATA, 99-1214-EL-AAM, Entry, at pages 2-3 (March 23, 2000). Following these decisions mandates a denial of the Coalition’s request.

In addition, low-income consumers are already adequately represented in this proceeding and granting the Coalition intervention would be duplicative. Ohio Partners for Affordable Energy (OPAE) and the Appalachian People's Action Coalition (APAC) requested intervention in this case to represent the interests of low-income consumers in this proceeding. Unlike the Coalition, OPAE and APAC have members in AEP Ohio's service territory. February 24, 2006 Motion to Intervene at 5. In response to the OPAE/APAC request, the Commission granted OPAE and APAC intervention. July 26, 2006 Entry at 4. Even if the Coalition members did have a direct and substantial interest in this proceeding (which they do not), intervention would not be warranted because the Commission has already granted party status to low-income consumer advocates.

Conclusion

For the foregoing reasons, the Commission should deny the Coalition's motion to intervene.

Respectfully submitted,

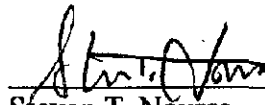


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CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Memorandum in Opposition to the Coalition's Motion to Intervene Continuance was served by e-mail and regular mail on counsel for all parties of record in this case, on this 20th day of March, 2007.



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