

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO

In the Matter of the Application of)
Columbus Southern Power Company and) Case No. 10-1072-EL-RDR
Ohio Power Company to Adjust Their)
Economic Development Cost Recovery)
Rider Rates.)

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of residential utility consumers, moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant the OCC's intervention in the above-captioned case. Columbus Southern Power Company ("CSP") and Ohio Power Company ("OP") (collectively "the Companies" or "AEP Ohio") are seeking to collect from customers the 2010 delta revenues associated with the Ormet and Eramet reasonable arrangements. These delta revenues represent the full electric discounts given to Ormet and Eramet that AEP Ohio proposes to collect from its customers.

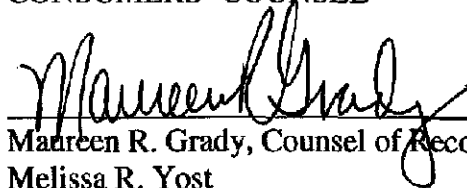
Under Ohio Admin. Code 4901:1-38-08 (C), affected parties may file a motion to intervene and comments and objections to any application seeking to update and reconcile the economic development rider. If it appears to the Commission that the proposal in the application "may be unjust or unreasonable" after reviewing comments or objections, it shall set the matter for hearing. See Ohio Admin. Code 4901:1-38 (B).

The reasons for granting OCC's motion are set forth in the attached Memorandum in Support.

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Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, pursuant to R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential consumers may be “adversely affected” by this case, especially if the consumers are unrepresented here. The economic development rider that AEP Ohio seeks to have approved will impose costs upon consumers, including residential customers. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor’s interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

The nature and extent of OCC's interest is in representing residential consumers that AEP Ohio seeks to charge for revenues related to the electricity discounts given to certain mercantile customers. This interest is different than that of any other party, and is especially different than that of Eramet, Ormet, or AEP Ohio whose advocacy includes their own financial interests.

OCC's legal position will include, as appropriate, advocating for any necessary changes, alterations, or modifications to AEP Ohio's proposal (under Ohio Admin. Code 4901:1-38(B)(2)). AEP Ohio bears the burden to prove that any amounts it seeks to collect from customers are actually appropriate, just, and reasonable.

OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

OCC's intervention will significantly contribute to fully developing and equitably resolving the issues presented by the Companies' proposal. OCC will present lawful and reasonable recommendations for resolving the case.

OCC also satisfies the intervention criteria in the Ohio Administrative Code, which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code. To intervene, a party should have a "real and substantial interest" according to Ohio Admin. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a real and substantial interest in this case where the outcome could have the effect of increasing rates paid by residential customers.

In addition, OCC meets the criteria of Ohio Admin. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC has already addressed, and that OCC satisfies.

Ohio Admin. Code 4901-1-11(B)(5) states that the Commission shall consider the “extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion because OCC has been uniquely designated as the statutory representative of the interests of Ohio’s residential utility consumers.¹ That interest is different from, and not represented by, any other entity in Ohio.

Four years ago the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC’s intervention and that OCC should have been granted intervention.²

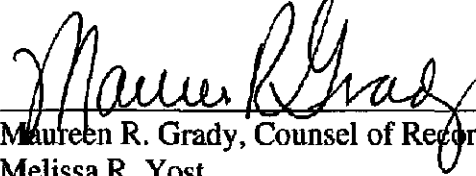
OCC meets the criteria set forth in R.C. 4903.221, Ohio Admin. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of AEP Ohio’s residential consumers, the Commission should grant the OCC’s Motion to Intervene.

¹ R.C. Chapter 4911.

² *Ohio Consumers’ Counsel v. Public Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion has been served upon the below-named persons via regular U.S. Mail Service, postage prepaid, this 20th day of August, 2010.


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