

FILE



MATTHEW YACKSHAW
myackshaw@day-ketterer.com
Direct Dial: 330-458-2180

September 1, 2010

BY FAX AND FEDERAL EXPRESS

Ohio Public Utilities Commission
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

**RE: Certification Application of Palmer Energy Company, Inc. for
Aggregators/Power Brokers Certificate & Competitive Retail Natural
Gas Broker/Aggregator's Certificate
Case Nos. 10-1081-EL-AGG and 10-1082-GA-AGG (Ohio Public
Utilities Commission)**

RECEIVED-DOCKETING DIV
2010 SEP 2 AM 11:11
PUCO

Dear PUCO:

You will find enclosed herewith the original and 10 copies of each of the following documents to be filed in the above two cases:

1. Motion to Intervene of Buckeye Energy Brokers, Inc. in Case No. 10-1081-EL-AGG; and
2. Motion to Intervene of Buckeye Energy Brokers, Inc. in Case No. 10-1082-GA-AGG.

Please file the originals and 9 copies in the applicable case. Then and return the 10th copy of each, stamped with date of filing, in the enclosed self-addressed stamped envelope.

Very truly yours,

A handwritten signature in black ink, reading "Matthew Yackshaw", is written over a horizontal line.

Matthew Yackshaw

MY/kls

Enclosure

cc w/encl. by U.S. Mail only: Mr. M. Howard Petricoff, Esq.

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Mr. Stephen M. Howard, Esq.
This is to certify that the images appearing are an
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PUBLIC UTILITIES COMMISSION OF OHIO

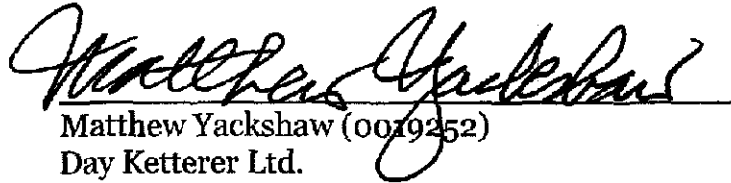
IN RE:) CASE NO. 10-1081-EL-AGG
)
CERTIFICATION APPLICATION OF)
PALMER ENERGY COMPANY, INC.)
FOR AGGREGATORS / POWER)
BROKERS CERTIFICATE)
)

MOTION TO INTERVENE OF BUCKEYE ENERGY BROKERS, INC.

Buckeye Energy Brokers, Inc. (Buckeye) hereby moves the Public Utilities Commission of Ohio for permission to intervene in this certification proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The grounds for this motion are that the Ohio Revised Code confers Buckeye with a right to intervene, Buckeye has a real and substantial interest in this certification proceeding, and that unless Buckeye's interest is adequately represented in this certification proceeding, the disposition of this proceeding may, as a practical matter, impair or impede Buckeye's ability to protect its interests. This Motion is further supported by the attached Memorandum. For these reasons, Buckeye requests that the Public Utilities Commission of Ohio permit its intervention in this certification proceeding.

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PUCO

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew Yackshaw", is written over a horizontal line.

Matthew Yackshaw (0019252)

Day Ketterer Ltd.

Millennium Centre, Suite 300

200 Market Avenue North

Canton, Ohio 44702

Telephone (330) 455-0173

Facsimile (330) 455-2633

E-mail: myackshaw@day-ketterer.com

Attorney for Intervenor Buckeye Energy
Brokers, Inc.

Memorandum in Support

Any person or entity that may be adversely affected by a proceeding in the Public Utilities Commission of Ohio (PUCO) shall be permitted to intervene upon the timely filing of such a motion, a showing that a statute of this state or the United States confers a right to intervene, as well as demonstrating the nature of the interest and the extent to which the interest will not be protected if the intervention is not permitted. R.C. 4903.221; O.A.C. 4901-1-11. The Ohio Supreme Court has made it clear that intervention in PUCO proceedings ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the PUCO. *Ohio Consumers' Counsel v. PUCO*, 111 Ohio St.3d 384, 388, 2006-Ohio-5853, ¶20. Because all of the legal requirements are met here and intervention should be liberally allowed, Buckeye's motion to intervene should be granted.

A. This Motion to Intervene is Timely Filed.

R.C. 4903.221(A) provides that the moving party must file its Motion to Intervene no later than: (1) any specific deadline established by order of the commission for purposes of a particular proceeding; or, if no such deadline is established; (2) five days prior to the scheduled date of hearing. O.A.C. 4901-1-11(E) further states that a Motion to Intervene will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding.

A review of the docket of this case demonstrates that no specific deadlines have been set by the PUCO and that no date for hearing has yet been set by the PUCO. Therefore, this Motion to Intervene is timely.

B. Buckeye has a Statutory Right to Intervene.

The right to intervene is conferred by R.C. 4903.221. It provides that any person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding, provided that it has met all of the other requirements set forth therein. Buckeye has demonstrated the statutory elements necessary for intervention as shown in detail in Section C of this Memorandum.

C. The Facts of this Case Justify Intervention.

In order to decide this Motion to Intervene, the PUCO must consider certain factors with respect to the nature of Buckeye's interest. These factors include:

- The nature and extent of the prospective intervenor's interest.
- The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- The extent to which the person's interest is represented by existing parties.

R.C. 4903.221; O.A.C. 4901-1-11

Buckeye has a clear interest in the certification application filed by Palmer Energy Company, Inc. (Palmer). Buckeye is certified to provide Competitive Retail Electric Services (CRES) and to provide natural gas as a retail natural gas supplier. Therefore, Buckeye is a direct competitor of Palmer. Palmer has been competing illegally with Buckeye for the last ten years, notwithstanding Palmer's lack of certification. Further, as a long-time lawful and certified participant in the CRES and natural gas broker and aggregator industry, Buckeye has an interest in assuring that all

of its customers and potential customers are provided with service that is conducted according to the law.

Buckeye's legal position is twofold. First, Palmer has participated in the CRES and natural gas broker and aggregator industry for the past 10 years. In doing so, it has successfully obtained contracts from public entities in the State of Ohio. It has done so without the required certification and has consistently thumbed its nose at the need for certification. This blatant disregard for Ohio law and PUCO regulations demonstrates that Palmer is not the type of organization that should be given PUCO certification to provide such services. The nature and extent of Palmer's participation in this industry without certification is further developed in the case of *Buckeye Energy Brokers, Inc. v. Palmer Energy Company*, PUCO Case No. 10-693-EL-CSS.

The second reason is that Palmer has made material misrepresentations on its application for certification. First, Palmer states that it intends to begin business on September 7, 2010. In fact, Palmer has been acting in the capacity of a CRES and natural gas broker and aggregator for ten years, without certification. Furthermore, Palmer fails to disclose its prior work for the Northeast Ohio Public Energy Council (NOPEC).

The likelihood of success on both of these grounds is high because it is undisputed that Palmer has participated in these business activities in the past. Further, because all of the work obtained by Palmer is with public entities, all of this information is of public record and will easily be demonstrated to the Commission.

Third, intervention will not unduly prolong these proceedings. In addition to the proceedings which would normally be undertaken by the Commission, the Commission

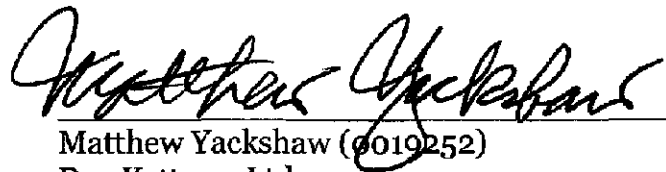
will merely need to review the evidence of Palmer's prior activities and to determine whether that is grounds for denial of the certification.

Buckeye will significantly contribute to a full development and equitable resolution of the factual issues. First, it has information and knowledge related to the past activities of Palmer. Additionally, the ongoing adversary proceeding before this Commission will continue to develop the facts necessary to present in this certification proceeding. Buckeye will present this information to this Commission at the appropriate time and when it becomes available.

Finally, there are no parties to this proceeding that currently will protect the interests of Buckeye or the customers and companies who have been wronged or affected by Palmer's uncertified activities.

For all of these reasons, Buckeye Energy Brokers, Inc., hereby moves this Commission to intervene in this proceeding for purposes of presenting evidence against the Application for Certification of Palmer Energy Company.

Respectfully submitted,


A handwritten signature in black ink, appearing to read "Matthew Yackshaw", is written over a horizontal line.

Matthew Yackshaw (0019252)
Day Ketterer Ltd.
Millennium Centre, Suite 300
200 Market Avenue North
Canton, Ohio 44702
Telephone (330) 455-0173
Facsimile (330) 455-2633
E-mail: myackshaw@day-ketterer.com

Attorney for Buckeye Energy Brokers, Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Intervene of Buckeye Energy Brokers, Inc., has been sent by regular U.S. mail to Mr. M. Howard Petricoff and Mr. Stephen M. Howard, Vorys, Sater, Seymour and Pease LLP, 52 East Gay Street, P.O. Box 1008, Columbus, Ohio 43216-1008, this 1st day of September, 2010.


Matthew Yackshaw (0019252)

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