

FILE

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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

2011 FEB 03 PM 1:34

In the Matter of the Application of )  
Columbus Southern Power Company )  
for Approval of a Mechanism to Recover )  
Costs in Relation to the Department of ) Case No. 11-148-EL-RDR  
Development's Update to the Percentage )  
of Income Payment Plan Plus and )  
Deferral of Costs )

PUCO

In the Matter of the Application of )  
Ohio Power Company for Approval )  
of a Mechanism to Recover Costs in ) Case No. 11-149-EL-RDR  
Relation to the Department of )  
Development's Update to the Percentage )  
of Income Payment Plan Plus and )  
Deferral of Costs )

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

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in these cases where Columbus Southern Power Company ("CSP") and Ohio Power Company ("OP") (collectively "AEP" or "Companies") seek approval to implement a new Percentage of Income Payment Plan ("PIPP") uncollectible rider to collect from customers the incremental costs imposed on the Companies with the new electric Percentage of Income Payment Plan (PIPP) Plus program administered by the Ohio Department of Development ("ODOD").<sup>1</sup>

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<sup>1</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

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OCC is filing on behalf of all the approximately 1,277,000 residential utility customers of AEP. The reasons the Public Utilities Commission of Ohio ("Commission" or "PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

A handwritten signature in cursive script, reading "Richard C. Reese", is written over a horizontal line.

Richard C. Reese, Counsel of Record  
Assistant Consumers' Counsel

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**MEMORANDUM IN SUPPORT**

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In this Application, AEP is seeking Commission approval to establish a new nonbypassable distribution rider, to collect from customers the incremental uncollectible expenses associated with the new PIPP Plus program administered by the ODOD. OCC has authority under Ohio law to represent the interests of all the approximately 1,277,000 residential utility customers of AEP 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 customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding which could result in an increase in AEP's

customers rates in the amount of \$3.65 million annually<sup>2</sup>. 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.

First, the nature and extent of OCC's interest is representing the residential customers of AEP in this case involving the implementation of a new uncollectible rider related to ODOD's PIPP Plus program. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the Commission should consider any uncollectible expenses associated with AEP's implementation of ODOD's PIPP Plus program subject to ratemaking standards.<sup>3</sup> OCC's position is therefore directly related to the merits of this case that is pending

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<sup>2</sup> Application at 3.

<sup>3</sup> AEP recently filed an Application for a rate increase. The rate case proceeding is the appropriate proceeding to address AEP's proposed rider. See *In re the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively AEP Ohio) for an Increase in Electric Distribution Rates*, Case No. 11-351-EL-AIR et al., Application (January 27, 2011).

before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. 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.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

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 Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where AEP's residential customers may be saddled with yet another rider to their monthly bills.

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

Ohio Adm. 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 in that it uniquely has been designated as the state representative of the interests of Ohio's

residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, 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.<sup>4</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of AEP's approximately 1,277,000 residential customers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



Richard C. Reese, Counsel of Record  
Assistant Consumers' Counsel

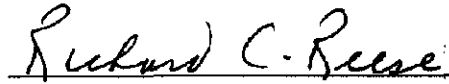
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<sup>4</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion to Intervene by the Office of the Ohio Consumers' Counsel* was served on the persons stated below via regular U.S. mail, postage prepaid, this 3rd day of February 2011.



Richard C. Reese  
Assistant Consumers' Counsel

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