

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL**

The Ohio Environmental Council (“OEC”) ,pursuant to Ohio Revised Code §4903.221 and Administrative Code §4901-1-11, moves to intervene in the above captioned case, in which the Public Utilities Commission of Ohio (“PUCO”) will be reviewing the Alternative Energy Rider (“AER”) contained in the tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company (“the Companies”) will be reviewed. As more fully discussed in the accompanying memorandum in support, the OEC has a real and substantial interest in this proceeding. The interests of the OEC, Ohio’s largest non-profit environmental advocacy organization, are not represented by any existing party. The OEC’s participation in this proceeding will contribute to a just and expeditious resolution of the issues involved, without unduly delaying the proceeding or unjustly prejudicing any existing party.

WHEREFORE, the OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/Trent Dougherty

Cathryn Loucas, Counsel of Record

Trent A. Dougherty

Ohio Environmental Council

1207 Grandview Avenue, Suite 201

Columbus, Ohio 43212-3449

(614) 487-7506 - Telephone

(614) 487-7510 - Fax

cathy@theoec.org

trent@theoec.org

Attorneys for the OEC

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL**

I. MEMORANDUM IN SUPPORT

R.C. Section 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” The OEC is a non-profit, charitable organization comprised of a network of over 100 affiliated member groups and thousands of individual members whose mission is to secure a healthier environment for all Ohioans. Throughout its 42-year history, OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of advanced energy and renewable generation requirements. OEC has a real and substantial interest in assuring that the renewable generation benchmarks established by R.C. 4928.64(B)(2) are properly calculated and that robust, long-term sources of renewable electricity generation are sited in Ohio. The attainment or non-attainment of these benchmarks will have a direct effect on the air quality within Ohio and the amount of clean, renewable generation distributed in the state. There can be no question that OEC has an interest in and may be adversely affected by the disposition of this case.

R.C. 4903.221(B) outlines four factors that the Commission shall consider when ruling on a motion to intervene in a proceeding. First, pursuant to R.C. 4903.221(B)(1), the Commission shall consider “the nature and extent of the prospective intervenor’s interest.” The OEC has several distinct interests in the disposition of this case. First, OEC is interested in the achievement of maximum cost-effective advanced and renewable energy implementation. The disposition of this case will influence how the Companies pursue advanced and renewable energy resources. The OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact on the longevity of renewable energy in Ohio, and thus, this case could have on the emissions profile of Ohio’s generation fleet.

Second, pursuant to R.C. 4903.221(B)(2), the Commission shall consider “the legal position advanced by the prospective intervenor and its probable relation to the merits of the case.” Although the OEC does not outline detailed legal arguments in this section, the OEC maintains that review of AER as it relates to the 3% cost cap should be properly scrutinized by interested parties to ensure that it includes accurate assessments of the Companies’ advanced and renewable energy programs and calculations that comply with S.B. 221.

Third, pursuant to R.C. 4903.221(B)(3), the Commission shall consider “whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.” The OEC has significant experience dealing with electric utilities questions before the PUCO and will not seek to unduly delay the proceeding. The OEC has been consistently involved in the development and enactment of S.B. 221 and the associated rules, including as a party in numerous cases before the Commission. The

OEC's intervention will not unduly prolong or delay these proceedings; to the contrary, the OEC's expertise and unique interest will add value to the development of this case.

Fourth, pursuant to R.C. 4903.221(B)(4), the Commission shall consider "whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues." The OEC has actively participated in the implementation of the advanced and renewable energy benchmarks established by S.B. 221 and in numerous other matters before the Commission. As an active participant in cases before the Commission, the OEC has developed expertise that will contribute to the full development of the legal questions involved in this proceeding. Finally, as Ohio's leading environmental advocate, the OEC will be able to assure that the environmental impacts of resource planning are fully developed.

The OEC also satisfies the intervention requirements outlined in the PUCO's rules. The criteria for intervention established by O.A.C. 4901-1-11(A) are identical to those provided by R.C. 4903.221, with the exception that the rules add a fifth factor that the Commission shall consider when ruling on a motion to intervene. Pursuant to O.A.C. 4901-1-11(A)(5), the Commission shall consider "the extent to which the [intervenor's] interest is represented by existing parties." The OEC's interest is not fully represented by the existing parties. The OEC is the leading advocate for Ohio's environment. No other party to this proceeding has the mission of securing healthy air for all Ohioans, and no other party has been a continuous participant in cases before the Commission for the specific purpose of furthering this mission.

Finally, we point out that it is the Commission's stated policy "to encourage the broadest possible participation in its proceedings."¹ The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

The OEC meets all the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5) and therefore should be granted leave to intervene in this proceeding.

WHEREFORE, the OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

DATE: November 23, 2011

Respectfully Submitted,

/s/ Trent Dougherty
Cathryn Loucas, Counsel of Record
Trent A. Dougherty

Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
(614) 487-7506 - Telephone
(614) 487-7510 - Fax
cathy@theoec.org
trent@theoec.org
Attorneys for the OEC

¹ *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties via electronic mail this 23rd day of November, 2011.

/s/ Trent Dougherty

SERVICE LIST

William Wright
Chief, Public Utilities Section
Public Utilities Commission of Ohio
180 East Broad Street, 6th Floor
Columbus, Ohio 43215

David F. Boehm
Michael L. Kurtz
Jody M. Kyler
Boehm Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

Leila Vespoli
FirstEnergy Corporation
76 South Main Street
Akron, Ohio 44308

Michael K. Lavanga
Brickfield, Burchette, Ritts & Stone PC
1025 Thomas Jefferson Street NW
8th Floor West Tower
Washington, DC 20007

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

william.wright@puc.state.oh.us
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkyler@BKLawfirm.com
vespolil@firstenergycorp.com
mkl@bbrslaw.com
serio@occ.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/23/2011 12:40:50 PM

in

Case No(s). 11-5201-EL-RDR

Summary: Motion Motion to Intervene on Behalf of the Ohio Environmental Council
electronically filed by Mr. Trent A Dougherty on behalf of Ohio Environmental Council