

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Power Company to Adjust Its Economic) Case No. 12-688-EL-RDR
Development Cost Recovery Rider Rates)
Pursuant to Rule 4901:1-38-08(A)(5) of)
the Ohio Administrative Code.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the Ohio Power Company ("AEP Ohio" or "Company")¹ has requested an increase in the amount that customers pay through the Economic Development Cost Recovery Rider ("EDR") pursuant to Ohio Adm. Code 4901:1-38-08(A)(5). OCC is filing on behalf of all the approximately 1.2 million residential electric distribution customers of AEP Ohio.² 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.

¹ The Commission approved the merger of Columbus Southern Power and Ohio Power Company effective December 31, 2011. *See* March 7, 2012 Entry in PUCO Case No. 10-2376-EL-UNC. The surviving entity (after the merger) is referenced as the Ohio Power Company or AEP Ohio.

² *See* R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ *Melissa R. Yost*

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MEMORANDUM IN SUPPORT

AEP Ohio is requesting that the Commission grant it authority to increase the amount that customers pay through the Economic Development Cost Recovery Rider (“EDR”). Specifically, AEP Ohio states that it is seeking an increase in the EDR rates because of “unrecovered costs resulting from the delta revenues (plus carrying costs) associated with the Company’s reasonable arrangements with Ormet, Eramet, Globe, and Timken.”³

OCC does not comment here on AEP Ohio’s math in calculating the amounts that the Commission has authorized to be collected from residential and other customers to provide electricity discounts for economic development; however, AEP Ohio has yet to address in this case the ramifications of the PUCO’s rejection of AEP Ohio’s Stipulation regarding its recent electric security plan.⁴ AEP Ohio filed its Application in this case one day before the PUCO rejected AEP’s Stipulation for an electric security plan.

³ Application at 2.

⁴ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO and 11-348-EL-SSO et al., Entry on Rehearing at 12 (Feb. 23, 2012).

OCC has authority under law to represent the interests of all the approximately 1.2 residential electric distribution customers of AEP 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 customers may be “adversely affected” by this case, where rates may be set to collect money from them. 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 Ohio in this case involving the Company requesting that its customers pay a higher rate. 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 rates that AEP Ohio’s residential customers pay for electric service should be no more than what is reasonable and lawful under Ohio law, for service that is

adequate under Ohio law. OCC's position is therefore directly related to the merits of this case that is pending 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 Ohio is requesting authority to increase the rate that its residential customers pay for economic development.

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 deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁵

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 Ohio residential customers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ Melissa R. Yost

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⁵ 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* was served on the persons stated below via regular U.S. mail service, postage prepaid, this 13th day of March 2012.

/s/ Melissa R. Yost_____

Melissa R. Yost

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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Yost, Melissa R. Ms.