

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 11-346-EL-SSO
Ohio Power Company for Authority to)	Case No. 11-348-EL-SSO
Establish a Standard Service Offer)	
Pursuant to § 4928.143, Ohio Rev. Code,)	
in the Form of an Electric Security Plan.)	
)	
In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of)	Case No. 11-350-EL-AAM
Certain Accounting Authority.)	

**MOTION TO INTERVENE
BY THE
OHIO BUSINESS COUNCIL FOR A CLEAN ECONOMY**

For the reasons set forth in the accompanying Memorandum in Support, the Ohio Business Council for a Clean Economy moves the Public Utilities Commission of Ohio for leave to intervene in the above-captioned cases pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, and to grant to the Ohio Business Council for a Clean Economy the full powers and rights specifically authorized by statute and by the provisions of the Ohio Administrative Code.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE
BY THE
OHIO BUSINESS COUNCIL FOR A CLEAN ECONOMY**

I. Introduction

The Ohio Business Council for a Clean Economy (“OBCCE” or “Business Council”) seeks intervention in this proceeding. The Ohio Power Company (“AEP” or “Company”) filed an application for approval by the Public Utilities Commission of Ohio (“PUCO” or “Commission”) in order to establish an ESP based on §4928.143, Ohio Rev. Code, and Rule 4901:1-35, Ohio Admin. Code, for a term commencing on June 1, 2012 and ending May 31, 2015.¹ The OBCCE seeks to participate in this proceeding because the interests of Business Council members may be adversely affected by the Commission’s rulings in this matter. These cases present several issues that may significantly affect in-state investment in the technology, equipment and environmental attributes associated with renewable and alternative energy sources. These and other issues, which are a part of this proceeding, may directly impact the

¹ AEP application at 2 (March 30, 2012).

OBCCE's interests in positioning Ohio as a world-leader in the development and manufacturing of clean energy and associated technologies, and the interests of Business Council members engaged in these industries. As such, OBCCE is entitled to intervene in this proceeding.

II. Legal Standard

Ohio law states that a party may intervene in a Commission proceeding if that party "may be adversely affected by a public utilities commission proceeding."² In the determination of whether a party may be adversely affected for purposes of intervention, the Commission is required to evaluate:

- (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 proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.³

The Commission's rules similarly provide that any person may intervene where "[t]he person has a real and substantial interest in the proceeding."⁴ The PUCO regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining whether a party may be "adversely affected," and also purport to add a fifth factor regarding "the extent to which the person's interest is represented by existing parties."⁵

As the Ohio Supreme Court recently held, intervention in Commission proceedings "ought to be liberally allowed so that the positions of all persons with a real and substantial

² R.C. 4903.221

³ R.C. 4903.221(B)

⁴ Ohio Adm. Code 4901-1-11(A)(2)

⁵ Ohio Adm. Code 4901-1-11(B).

interest in the proceedings can be considered by the [Commission].”⁶ The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even under extenuating circumstances.⁷ OBCCE satisfies these intervention standards and respectfully requests that its intervention be granted in these cases.

III. OBCCE is entitled to intervene under §4903.221 because the organization and its members “may be adversely affected” by the outcome of this proceeding.

OBCCE is entitled to intervene in this proceeding because the Business Council satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome. First, the nature and extent of the Business Council’s interests in the proceeding are real and substantial,⁸ as the issues involved herein are directly related to OBCCE’s interest in promoting the development and deployment of distributed generation in Ohio.

OBCCE is an Ohio-based organization representing a wide range of advanced energy businesses, with some members involved directly in renewable energy and related industries. OBCCE is the premier network of businesses and business leaders advancing renewable energy, energy efficiency and clean energy technology through effective communications, broad advocacy and business development.⁹ Business Council members have a financial interest in the development and expansion of the technology and equipment employed in distributed generation.

⁶ *Ohio Consumers’ Counsel v. Pub. Util Comm’n of Ohio* (2006), 111 Ohio St. 3d 384, 388, 2006 Ohio 5853, 856 N.E.2d 940.

⁷ See e.g. *In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party’s failure to file within the deadline).

⁸ R.C. 4903.221(B)(1)

⁹ For more information, please see the OBCCE website at: <http://ohiobusinesscouncil.com/>

This proceeding presents issues that are directly relevant to the interests of OBCCE and its members. For example, these cases propose a change in the Load Factor Rider¹⁰ and a new solar generation resource.¹¹ These changes may affect renewable energy businesses and distributed generation customers in Ohio. The interest of OBCCE in this proceeding stems from the direct and indirect impacts that will occur as a result of the outcome on these and other issues.

Second, the desire of the OBCCE to promote the development and growth of renewable energy and to address significant hurdles Ohio faces in meeting the growing energy needs of Ohio customers through clean, renewable energy and related technologies is directly related to the issues of these cases.¹²

Third, the Business Council's intervention will not unduly prolong or delay the proceeding¹³ as this motion and all future participation will be timely and filed by the set deadlines.¹⁴

Fourth, intervention by OBCCE will significantly contribute to the full development of the record in this proceeding.¹⁵ The Business Council will bring significant expertise to bear in this case. OBCCE's members have extensive experience in all aspects of clean energy and renewable policy, equipment and deployment. Therefore, the Business Council should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

IV. OBCCE may intervene because the Business Council and its members have a “real and substantial interest” in the proceeding as presented in Ohio Administrative Code 4901-1-11(B).

¹⁰ Powers Testimony at 8 (March 30, 2012).

¹¹ Id. at 13

¹² R.C. 4903.221(B)(2)

¹³ R.C. 4903.221(B)(3)

¹⁴ Attorney-Examiner Entry at 2 (¶8(b) (April 2, 2012).

¹⁵ R.C. 4903.221(B)(4)

The OBCCE may also intervene in this proceeding because the Business Council satisfies each of the five factors listed in the PUCO rules demonstrating that they have a “real and substantial interest” in the proceeding.¹⁶ The first four factors are identical to those set forth under §4903.221(B) and, therefore, the OBCCE should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, the Business Council’s interests in this proceeding will not be fully represented by other parties¹⁷ because none of the other parties can adequately represent OBCCE’s interests as an Ohio organization representing businesses involved in every aspect of the renewable and advanced energy industry. Therefore, the OBCCE respectfully requests that its intervention and participation be granted in this case.

V. Conclusion

For the foregoing reasons, the Ohio Business Council for a Clean Economy respectfully request that their Motion to Intervene be granted, that the OBCCE be authorized to participate as a party in this proceeding, and that the Commission consider and adopt the Business Council’s recommendations as submitted.

Respectfully submitted,

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¹⁶ Ohio Adm. Code 4901-1-11(B)

¹⁷ Ohio Adm. Code 4901-1-11(B)(5)

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Motion to Intervene* has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on April 20, 2012.

/s/ Todd M. Williams_____

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Summary: Motion Motion to Intervene electronically filed by Mr. Todd M Williams on behalf of Ohio Business Council for a Clean Economy