

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**MOTION REQUESTING PERMISSION FOR EDMUND J. BERGER TO  
APPEAR *PRO HAC VICE*  
AND  
REQUEST FOR EXPEDITED RULING DURING CALENDAR-YEAR 2012**

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Pursuant to Ohio Adm. Code 4901-1-8(B), Ohio Adm. Code 4901-1-12, and Section 2(A) of Rule XII of the Supreme Court Rules for the Government of the Bar of Ohio, now comes Melissa R. Yost, admitted to practice of law in Ohio, and respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant Edmund J. Berger permission to appear *pro hac vice* in this proceeding on behalf of the Office of the Ohio Consumers’ Counsel (“OCC”). Melissa R. Yost also respectfully requests that the Commission grant this Motion on an expedited basis, before the end of calendar-year 2012.<sup>1</sup> The reasons that the Commission should grant Edmund J. Berger permission to appear *pro hac vice* are further set forth in the attached Memorandum in Support.

Respectfully submitted,  
/s/ Melissa R. Yost  
Melissa R. Yost  
Assistant Consumers’ Counsel  
Office of the Ohio Consumers’ Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
Telephone: (614) 466-1291  
[yost@occ.state.oh.us](mailto:yost@occ.state.oh.us)

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<sup>1</sup> In accordance with O.A.C. 4901-1-12(C), Melissa R. Yost certifies that no party objects to an expedited ruling.

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**MEMORANDUM IN SUPPORT**

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Section 2(A) of Rule XII of the Rules for the Government of the Bar of Ohio provides that “A tribunal<sup>2</sup> of this state may grant permission to appear pro hac vice to an out-of-state attorney who is admitted to practice in the highest court of a state \*\*\* of the United States or the District of Columbia \*\*\* and is in good standing to appear pro hac vice in a proceeding.”<sup>3</sup> The Commission’s rules provide that a “person authorized to practice law in other jurisdictions may be permitted to appear before the commission in a particular proceeding, upon motion of an attorney of this state.”<sup>4</sup>

Edmund J. Berger has been issued a certificate of *pro hac vice* registration in the state of Ohio.<sup>5</sup> Additionally, the following information is provided per Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio:

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<sup>2</sup> “A tribunal is defined as a court, legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party’s interests in a particular matter.” Section 1(A) of Rule XII of the Rules for the Government of the Bar of Ohio.

<sup>3</sup> “A proceeding is defined as an adjudicative matter pending before a tribunal.” Section 1(B) of Rule XII of the Rules for the Government of the Bar of Ohio.

<sup>4</sup> Ohio Adm. Code 4901-1-8(B).

<sup>5</sup> Attachment A.

- (a) Mr. Berger resides at 6035 Red Winesap Way, Dublin, OH 43016. Mr. Berger is employed by the Office of the Ohio Consumers' Counsel, 10 West Broad St., Suite 1800, Columbus, Ohio, 43215.<sup>6</sup>
- (b) Mr. Berger is license to practice law in Pennsylvania. He was admitted to practice on November 16, 1988. *See* Pennsylvania Attorney Registration No. 53407.
- (c) Please see the attached affidavit (Attachment B) stating that Mr. Berger has never been disbarred, that he is not under suspension nor has he resigned from the practice of law with discipline pending in any jurisdiction the attorney has ever been admitted.
- (d) Mr. Berger has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Section 2(A)(5) of Rule XII of the Rules for the Government of the Bar of Ohio.
- (e) Melissa R. Yost, Ohio Attorney Registration No. 0070914, an active Ohio attorney in good standing, has agreed to associate with Mr. Berger on this case.

The information above and Attachments A and B show that Mr. Berger meets the Supreme Court's requirements for *pro hac vice* practice in Ohio. Accordingly, the

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<sup>6</sup> Mr. Berger's e-mail address is as follows: [berger@occ.state.oh.us](mailto:berger@occ.state.oh.us).

Commission should grant Edmund J. Berger permission to appear *pro hac vice* for the purposes of representing the OCC in this proceeding on an expedited basis. And the request for expedited ruling should be granted with a ruling entered in calendar-year 2012.

Respectfully submitted,

/s/ Melissa R. Yost

Melissa R. Yost  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
Telephone: (614) 466-1291  
[yost@occ.state.oh.us](mailto:yost@occ.state.oh.us)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion* was served on the persons stated below via electronic service, this 12th day of December 2012.

/s/ Melissa R. Yost

Melissa R. Yost

### **SERVICE LIST**

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**THE SUPREME COURT *of* OHIO**  
OFFICE OF ATTORNEY SERVICES

IN THE MATTER OF THE APPLICATION OF

**Edmund Berger**

**FOR PRO HAC VICE REGISTRATION**

per Gov. Bar R. XII, Section 2(A)(3)

Certificate of  
PRO HAC VICE  
REGISTRATION

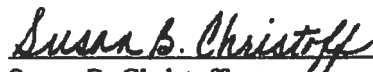
2012

Registration Number:  
PHV- 3261-2012

**Edmund Berger**

\_\_\_\_\_, having met the requirements of, and found to be in  
full compliance with, Section 2(A)(3) of Rule XII of the Rules for the Government of the Bar of  
Ohio, is hereby issued this certificate of pro hac vice registration in the state of Ohio.

To receive permission to appear pro hac vice in an Ohio proceeding, a motion requesting such  
permission must be filed with the tribunal in accordance with Section 2(A)(6) of Rule XII of the  
Rules for the Government of the Bar of Ohio.



Susan B. Christoff  
Director, Attorney Services

**Expires December 31, 2012**

IN THE MATTER OF THE MOTION OF

CASE NO. Case No. 11-5201-EL-RDRMelissa Yost

FOR PERMISSION TO APPEAR PRO HAC VICE

AFFIDAVIT OF  
OUT-OF-STATE ATTORNEY  
Gov. Bar R. XII, Section 2(A)(6)Edmund J. Berger being first duly cautioned, swears or affirms as follows:

- a. I have never been disbarred from the practice of law.
- b. I have been admitted to the practice of law in the following jurisdictions (attach additional jurisdictions if necessary):

Pennsylvania

c. Choose one:

- ☒ I am not currently suspended from the practice of law in any jurisdiction where I have been admitted to practice.
- ☐ I am currently suspended from the practice of law in the following jurisdictions:

d. Choose one:

- ☒ I have not resigned from the practice of law with discipline pending in any jurisdiction where I have been admitted to practice.
- ☐ I have resigned from the practice of law with discipline pending in the following jurisdiction(s):

  
 SIGNATURE OF APPLICANT
Sworn to or affirmed before me and subscribed in my presence the 12 day of December,in the state of Ohioand county of Franklin

**LARRY STEVEN SAUER, Attorney At Law**  
 NOTARY PUBLIC, STATE OF OHIO  
 My commission has no expiration date.  
 Section 147.03 R.C.

Affix stamp &amp; seal (required in Ohio).

  
 SIGNATURE OF NOTARY PUBLIC\*

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/12/2012 2:51:14 PM**

**in**

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

Summary: Motion Motion Requesting Permission for Edmund J. Berger to Appear Pro Hac Vice and Request for Expedited Ruling During Calendar-Year 2012 electronically filed by Patti Mallarnee on behalf of Yost, Melissa Ms.