

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation of Ohio's Retail Electric)	Case No. 12-3151-EL-COI
Service Market)	

**MOTION TO INTERVENE
BY THE
ADVANCED ENERGY ECONOMY OHIO**

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

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE OF THE
ADVANCED ENERGY ECONOMY OHIO**

I. Introduction

The Advanced Energy Economy Ohio (AEE Ohio) seeks intervention in this proceeding where an investigation of Ohio's retail electric service market, market access for alternative energy and energy efficiency, smart grid, and corporate separation is pending. AEE Ohio seeks to participate in this proceeding at the invitation of the Public Utilities Commission of Ohio ("PUCO" or "Commission") and because AEE Ohio and its members' interests may be adversely affected by rulings in these matters. This Commission investigation presents important issues regarding the continuing development of the Ohio electricity marketplace, the implementation of energy efficiency and alternative energy standards, and corporate separation issues that may affect customer participation in the Ohio market. These and other issues which are a part of this proceeding may directly impact AEE Ohio's interests in the implementation of energy efficiency, distributed generation, and alternative energy resources, and the interests of their members who reside in the Companies' service territories. These and other issues, which are a part of this proceeding, may directly impact the AEE Ohio's interests in positioning Ohio as a world-leader in the development and manufacturing of clean energy and associated technologies, and the interests of Advanced Energy Economy Ohio's members engaged in these industries. As such, AEE Ohio 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.”¹ 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.²

The Commission’s rules similarly provide that any person may intervene where “[t]he person has a real and substantial interest in the proceeding.”³ 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.”⁴

As the Ohio Supreme Court has held, intervention in Commission proceedings “ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission].”⁵ The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even

¹ R.C. 4903.221.

² R.C. 4903.221(B).

³ Ohio Adm. Code 4901-1-11(A)(2).

⁴ Ohio Adm. Code 4901-1-11(B).

⁵ *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.

under extenuating circumstances.⁶ AEE Ohio satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

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

AEE Ohio is entitled to intervene in this proceeding because AEE Ohio 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 AEE Ohio’s interests in the proceeding is real and substantial,⁷ as the issues involved herein are directly related to AEE Ohio’s interests in promoting energy efficiency and distributed generation, and will have direct economic impact on AEE Ohio’s members and mission in Ohio.

AEE Ohio is an Ohio-based organization representing a wide range of advanced energy businesses, with some members involved directly in renewable energy and related industries. AEE Ohio 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.⁸ AEE Ohio’s members have a financial interest in the development and expansion of the technology and equipment employed in distributed generation.

This proceeding presents issues that are directly relevant to the interests of AEE Ohio and its members. The Commission notes its responsibility to encourage market access for retail electric service, including both supply and demand-side products. AEE Ohio’s members are actively engaged in all facets of the development and installation of supply and demand side

⁶ 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).

⁷ R.C. 4903.221(B)(1).

⁸ For more information, please see the OBCCE website at: <http://ohiobusinesscouncil.com/>.

products. As such, the interests of AEE Ohio in this proceeding stem from the direct and indirect impacts specific issue outcomes will have on the energy capacity of the State of Ohio and surrounding areas.

Second, the desire of AEE Ohio to promote energy efficiency and distributed generation in Ohio is directly related to the issues of this case. Specifically, this case directly involves an investigation of market access available to 3rd party providers of energy efficiency products, and renewables et.al. The outcome of such an investigation impact AEE Ohio's members.

Third, AEE Ohio's intervention will not unduly prolong or delay the proceeding⁹ as this motion is being filed by the deadline set for intervention¹⁰ and AEE Ohio is able to comply with all case management deadlines established by the Commission and/or agreed to by the parties.

Fourth, intervention by AEE Ohio will significantly contribute to the full development of the record in this proceeding.¹¹ AEE Ohio will bring significant expertise to bear in this proceeding. AEE Ohio's members have extensive experience in all aspects of clean energy and renewable policy, energy efficiency, equipment and deployment. As such, AEE Ohio should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

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

AEE Ohio may also intervene in this proceeding because they satisfy each of the five factors listed in the PUCO rules demonstrating that they have a “real and substantial interest” in the proceeding.¹² The first four factors are identical to those set forth under §4903.221(B) and,

⁹ R.C. 4903.221(B)(3).

¹⁰ Ohio Adm. Code 4901-1-11(E).

¹¹ R.C. 4903.221(B)(4).

¹² Ohio Adm.Code 4901-1-11(B).

therefore, AEE Ohio should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, AEE Ohio's interests in this proceeding will not be fully represented by other parties¹³ because none of the other parties can adequately represent AEE Ohio's interests as an Ohio organization representing businesses involved in every aspect of the renewable and advanced energy industry. Therefore, AEE Ohio respectfully requests that its intervention and participation be granted in this case.

V. Conclusion

For the foregoing reasons, the Advanced Energy Economy Ohio respectfully request that their Motion to Intervene be granted, and AEE Ohio be authorized to participate as full parties to this proceeding.

Respectfully submitted,

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¹³ 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 and Memorandum in Support* has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on March 1, 2013.

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Summary: Motion Motion to Intervene on behalf of AEE Ohio electronically filed by Mr. Todd M Williams on behalf of Advanced Energy Economy Ohio