

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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The Ohio Environmental Council ("OEC") moves to intervene in the above captioned case, in which The Public Utilities Commission of Ohio ("the Commission") investigates Ohio's Retail Electric Market. As more fully discussed in the accompanying memorandum, 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.

Accordingly, the OEC hereby moves to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

WHEREFORE, the OEC respectfully requests that the Public Utilities Commission of Ohio grants the OEC's motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Trent A. Dougherty

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**MEMORANDUM IN SUPPORT OF  
MOTION TO INTERVENE  
BY THE  
OHIO ENVIRONMENTAL COUNCIL**

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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 whose mission is to secure a healthier environment for all Ohioans. Throughout its 40-year history, the OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. The OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of energy efficiency and AER benchmarks. The OEC has a real and substantial interest in The Commission’s Investigation. The Commission’s Investigation studies important issues involving corporate separation and market participation that may impact the future health, viability and implementation of SB221, as well as energy efficiency, renewable and alternative energy deployment in the state. These issues will directly affect Ohio’s air quality and environment. Therefore, the OEC has a substantial interest in assuring an effective assessment of the Retail Electric Service Market.

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 interest in the disposition of this case. Having been intricately involved in the passage of SB 221, the OEC is particularly interested in the achievement of maximum cost-effective energy efficiency and renewable energy implementation, and the availability of these important resources in the emerging competitive market. The disposition of this case will influence how the state continues the goals of SB 221 and pursues energy efficiency 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 its environmental interests and mission.

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 the issues presented by the commission in this investigation are properly scrutinized by interested parties to ensure that it includes accurate assessments and analysis of renewable energy, energy efficiency, and alternative energy and its relation to Ohio’s retail market created by 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 Commission 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 efficiency 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 the retail energy market structure are fully developed.

The OEC also satisfies the intervention requirements outlined in the Commission'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."<sup>1</sup> 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: March 1, 2013

/s/ Trent A. Dougherty

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**Attorneys for the OEC**

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<sup>1</sup> *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 by first class or electronic mail this 1st day of March, 2013.

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Summary: Motion Motion to intervene and Memorandum in Support of the Ohio Environmental Council electronically filed by Mr. Trent A Dougherty on behalf of Ohio Environmental Council