

**PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio	)	
Power Company for Authority to	)	
Establish a Standard Service Offer	)	Case No. 13-2385-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,	)	
in the Form of an Electric Security Plan.	)	
	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 13-2386-EL-AAM
Accounting Authority.	)	
	)	

---

**MOTION TO INTERVENE BY  
THE NATURAL RESOURCES DEFENSE COUNCIL**

---

Pursuant to Ohio Revised Code (“ORC”) § 4903.221 and Ohio Administrative Code (“OAC”) 4901-1-11, the Natural Resources Defense Council (“NRDC”) respectfully moves to intervene in the above-captioned proceedings with the full powers and rights granted to intervening parties. As explained more thoroughly in the attached Memorandum in Support, NRDC has a real and substantial interest in the above-captioned proceedings. Additionally, the interests of NRDC are not adequately represented by any other party to this matter, and its participation in these proceedings will contribute to a just and expeditious resolution of the issues and questions presented. Further, NRDC’s participation will not unduly delay the proceeding or prejudice any other party.

NRDC respectfully requests that this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

Dated: March 5, 2014

Respectfully submitted,

Samantha Williams  
Staff Attorney  
Natural Resources Defense Council  
20 N Wacker Drive, Suite 1600  
Chicago, IL 60606  
(312) 651.7930  
[swilliams@nrdc.org](mailto:swilliams@nrdc.org)

**PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio	)	
Power Company for Authority to	)	
Establish a Standard Service Offer	)	Case No. 13-2385-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,	)	
in the Form of an Electric Security Plan.	)	
	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 13-2386-EL-AAM
Accounting Authority.	)	
	)	

---

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY  
THE NATURAL RESOURCES DEFENSE COUNCIL**

---

**I. Introduction**

Ohio Revised Code (“ORC”) § 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“Commission”) makes certain determinations. The Natural Resources Defense Council (“NRDC”) seeks intervention in these proceedings regarding the Ohio Power Company’s (“AEP”) application to establish a standard service offer in the form of an electric security plan (“Application”). The Commission’s rulings on the issues presented as part of these proceedings may directly impact NRDC’s interests in protecting public health and the environment, and the interests of its members who reside in AEP’s service territories and/or live near AEP’s power generation sources. NRDC and its members’ interests are not adequately represented by the other parties hereto. As such, NRDC is entitled to intervene in the above-captioned proceedings.

## 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.”<sup>1</sup> In determining whether a party may be adversely affected for purposes of intervention, the Ohio Revised Codes require the Commission 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; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.<sup>2</sup>

The Commission’s own rules similarly provide that any person may intervene where “[t]he person has a real and substantial interest in the proceeding.”<sup>3</sup> These rules 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 add a fifth factor regarding “the extent to which the person’s interest is represented by existing parties.”<sup>4</sup>

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 interest in the proceedings can be considered by the [Commission].”<sup>5</sup> The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even under extenuating circumstances.<sup>6</sup> NRDC satisfies these liberal intervention

---

<sup>1</sup> R.C. 4903.221.

<sup>2</sup> R.C. §4903.221(B)

<sup>3</sup> Ohio Adm. Code 4901-1-11(A)(2).

<sup>4</sup> Ohio Adm. Code 4901-1-11(B).

<sup>5</sup> *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.

<sup>6</sup> 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).

standards, as well as the four factors identified in the Ohio Revised Codes and the five factors in the Commission's rules, and thus respectfully requests that it be granted intervention in the above-captioned proceedings.

**III. NRDC is entitled to intervene under §4903.221 because the organization and its members “may be adversely affected” by the outcome of these proceedings.**

NRDC is entitled to intervene in these proceedings because NRDC satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome.

First, as is required by Ohio state law,<sup>7</sup> the nature and extent of NRDC's interest in these proceedings is real and substantial, as the issues involved herein are directly related to NRDC's interests in promoting energy efficiency, and will have direct economic, public health, and environmental impacts on NRDC's members and its mission in Ohio. In particular, NRDC is a national, non-profit environmental organization that has worked for its 40 year history to, among other things, promote energy efficiency and renewable energy sources, and to protect air and water quality. NRDC has more than 10,600 members in Ohio, many of whom reside in AEP's service area and/or live near AEP's existing power generating facilities. NRDC's interest in these proceedings is to ensure that AEP's Application adequately protects and promotes cost-effective clean and efficient energy in Ohio. NRDC is also interested in the effective implementation of Am. Sub. SB No. 221 (“SB 221”), which sets out energy efficiency and alternative energy requirements for electric distribution utilities. AEP's Application addresses issues regarding AEP's responsibilities under SB 221, and NRDC's interest in these proceedings is to ensure that the environment and consumers are adequately protected through the implementation of the energy efficiency and alternative energy standards.

---

<sup>7</sup> R.C. 4903.221(B)(1).

Second,<sup>8</sup> because of the potential impacts on NRDC and its members in Ohio, NRDC wants to ensure that AEP's Application meets the applicable legal requirements, adequately protects the environment, and promotes energy efficiency and peak demand reduction measures in Ohio. NRDC intends to present evidence and argument in support of policies that would promote aggressive implementation of cost-effective energy efficiency and peak demand reductions for AEP's customers. Such arguments are plainly related to the issues of these proceedings, particularly those addressing AEP's responsibilities under SB 221.

Third,<sup>9</sup> NRDC's intervention will not unduly prolong or delay these proceedings as this motion is being filed by the deadline set for intervention. NRDC is also committed to complying with all case management deadlines established by the Commission and/or agreed to by the parties, as well as to the efficient disposition of the issues raised in these proceedings.

Fourth, intervention by NRDC will greatly contribute to the full development of the record in these proceedings.<sup>10</sup> NRDC will bring significant expertise to bear in these proceedings, including staff and consultants who have extensive experience in resource planning, analyzing the potential for cost effective energy efficiency, and in the laws and regulations regulating energy production. Further, NRDC has intervened and/or provided testimony on these issues in similar proceedings in a number of states including Illinois, Minnesota, Wisconsin, New York, Oregon, California, New Jersey, and Iowa, and has been granted intervention in numerous cases before the Commission. NRDC has regularly presented testimony before the U.S. Congress and various state legislatures related to the electric utility industry, including energy efficiency, renewable energy, nuclear energy, and coal generation. As such, NRDC should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

---

<sup>8</sup> R.C. 4903.221(B)(2).

<sup>9</sup> R.C. 4903.221(B)(3).

<sup>10</sup> R.C. 4903.221(B)(4).

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

NRDC may also intervene in these proceedings because it satisfies each of the five factors listed in the PUCO rules demonstrating that it has a “real and substantial interest” in these cases.<sup>11</sup> The first four factors are identical to those set forth under §4903.221(B) and, therefore, NRDC should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, NRDC’s interests in these proceedings will not be fully represented by other parties.<sup>12</sup> No other parties can adequately represent NRDC’s interests as a national environmental organization that is interested in environmental protection, clean energy, and the promotion of energy efficiency and peak demand reduction as the most reasonable and prudent way for AEP to maintain and diversify essential electric services.<sup>13</sup> Because no other party to these proceedings advocates from a national platform at the intersection of these three issues, no other party can represent NRDC’s interests.

**V. Conclusion**

For the foregoing reasons, NRDC respectfully request that its motion be granted, and that NRDC be authorized to participate as a full party in the above-captioned proceedings.

Dated: March 5, 2014

Respectfully submitted,

Samantha Williams, Staff Attorney  
Natural Resources Defense Council  
20 N Wacker Drive, Suite 1600  
Chicago, IL 60606  
(312) 651.7930  
[swilliams@nrdc.org](mailto:swilliams@nrdc.org)

---

<sup>11</sup> Ohio Adm.Code 4901-1-11(B).

<sup>12</sup> Ohio Adm. Code 4901-1-11(B)(5).

<sup>13</sup> R.C. 4928.02 states: “It is the policy of this state...to ensure diversity of electricity supplies and suppliers...”

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Motion to Intervene and Memorandum in Support*, submitted on behalf of the Natural Resources Defense Council, was served by electronic mail, upon the following Parties of Record, this 5<sup>th</sup> day of March, 2014.

/s/ Samantha Williams

---

Samantha Williams

Deb J. Bingham  
Office of the Ohio Consumers' Counsel  
10 W. Broad St., 18th Fl.  
Columbus OH 43215  
Phone: 614-466-1311  
Fax: 614-466-9475  
[bingham@occ.state.oh.us](mailto:bingham@occ.state.oh.us)

Colleen L. Mooney  
OPAE  
231 West Lima Street  
Findlay OH 45840  
Phone: 614-488-5739  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)

Tyler A. Teuscher  
The Dayton Power and Light Company  
1065 Woodman Dr.  
Dayton OH 45432  
Phone: 937-259-7184  
[Tyler.teuscher@dplinc.com](mailto:Tyler.teuscher@dplinc.com)

Steven T. Nourse  
American Electric Power Service Corporation  
1 Riverside Plaza, 29th Floor  
Columbus OH 43215  
Phone: (614) 716-1608  
Fax: (614) 716-2950  
[stnourse@aep.com](mailto:stnourse@aep.com)

Sandra Coffey  
Public Utilities Commission of Ohio  
180 E. Broad St.  
Columbus OH 43215  
Phone: (614) 728-2516  
Fax: (614) 728-8373  
[sandra.coffey@puc.state.oh.us](mailto:sandra.coffey@puc.state.oh.us)

Jacob A. McDermott  
FirstEnergy  
76 S. Main St  
Akron OH 44313  
Phone: (330)384-5038  
Fax: (330)384-3875  
[jmcdermott@firstenergy.com](mailto:jmcdermott@firstenergy.com)

Mark Yurick  
Taft Stettinuis & Hollister LLP  
65 E. State Street Suite 1000  
Columbus OH 43215  
Phone: 614-221-4000  
Fax: 614-221-4012  
[myurick@taftlaw.com](mailto:myurick@taftlaw.com)

Teresa Orahood  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, OH 43215-4291  
[torahood@bricker.com](mailto:torahood@bricker.com)



Kimberly W. Bojko  
Carpenter Lipps & Leland LLP  
280 North High Street 280 Plaza Suite 1300  
Columbus OH 43215  
Phone: 614-365-4100  
Fax: 614-365-9145  
[Bojko@CarpenterLipps.com](mailto:Bojko@CarpenterLipps.com)

Philip B Sineneng  
Thompson Hine LLP  
41 S. High Street Suite 1700  
Columbus OH 43215  
Phone: 614-469-3200  
Fax: 614-469-3361  
[philip.sineneng@thompsonhine.com](mailto:philip.sineneng@thompsonhine.com)

Mark A. Whitt (Counsel of Record)  
Andrew J. Campbell  
Gregory L. Williams  
Whitt Sturtevant LLP  
The KeyBank Building 88 East Broad Street  
Suite 1590  
Columbus OH 43215  
Phone: (614) 224-3913  
[whitt@whitt-sturtevant.com](mailto:whitt@whitt-sturtevant.com)  
[campbell@whitt-sturtevant.com](mailto:campbell@whitt-sturtevant.com)  
[williams@whitt-sturtevant.com](mailto:williams@whitt-sturtevant.com)

Howard Petricoff  
Vorys, Sater, Seymour, and Pease LLP  
52 E. Gay Street P.O. Box 1008  
Columbus, OH 43216-1008  
Phone: 614-464-5414  
Fax: 614-464-6350  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)

Marissa J. Bach  
Hess Energy Marketing, LLC  
One Hess Plaza  
Woodbridge NJ 07030  
Phone: 732-750-6814  
Fax: 732-750-6670  
[mbach@hess.com](mailto:mbach@hess.com)

Dianne Kuhnell  
Duke Energy Business Services  
139 E. Fourth Street EA025  
P.O. Box 960  
Cincinnati OH 45201  
Phone: (513)287-4337  
Fax: (513)287-4386  
Dianne. [kuhnell@duke-energy.com](mailto:kuhnell@duke-energy.com)

Michael L. Kurtz  
Boehm Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)

Matthew R. Pritchard  
McNees Wallace & Nurick  
21 East State Street #1700  
Columbus OH 43215  
Phone: 614-469-8000  
Fax: 614-469-4653  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)

Trent A Dougherty  
Ohio Environmental Council  
1207 Grandview Ave. Suite 201  
Columbus OH 43212  
Phone: 614-487-7506  
Fax: 614-487-7510  
[Trent@theoec.org](mailto:Trent@theoec.org)

Michael R. Smalz  
Ohio Poverty Law Center  
555 Buttles Avenue  
Columbus OH 43215  
Phone: 614-824-2502  
Fax: 614-221-7625  
[msmalz@ohiopoveritylaw.org](mailto:msmalz@ohiopoveritylaw.org)

Daniel R. Conway  
Porter Wright Morris & Arthur  
Huntington Center  
41 S. High Street  
Columbus, Ohio 43215  
dconway@porterwright.com

Rocco O. D'Ascenzo  
Duke Energy Ohio  
139 East Fourth Street  
1303-Main  
Cincinnati, Ohio 45202  
Rocco.D'Ascenzo@duke-energy.com

Vincent Parisi  
Lawrence Friedeman  
Matthew White  
INTERSTATE GAS SUPPLY, INC.  
6100 Emerald Parkway  
Dublin, Ohio 43016  
vparisi@igsenergy.com  
lfriedeman@igsenergy.com  
[mwhite@igsenergy.com](mailto:mwhite@igsenergy.com)

Joseph Clark  
21 E. State Street, 19<sup>th</sup> Floor  
Columbus, OH 43215  
Phone: 614-220-4369  
Fax: 614-220-4674  
[joseph.clark@directenergy.com](mailto:joseph.clark@directenergy.com)

Derrick P. Williamson  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Blvd., Suite 101  
Mechanicsburg PA 17050  
Phone: (717) 795-2740  
dwilliamson@spilmanlaw.com

Nicholas McDaniel  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212  
P: 614-488-3301  
F: 614-487-7510  
NMcDaniel@elpc.org

Lisa M. Hawrot  
Spilman Thomas & Battle, PLLC  
Century Centre Building  
1233 Main Street, Suite 4000  
Wheeling WV, 2600-8731  
Phone: (304) 230-6973  
lhawrot@spilmanlaw.com

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

**Commission of Ohio Docketing Information System on**

**3/5/2014 6:08:02 PM**

**in**

**Case No(s). 13-2385-EL-SSO**

Summary: Motion To Intervene and Memorandum in Support of the Natural Resources  
Defense Council electronically filed by Samantha Williams on behalf of Natural Resources  
Defense Council