

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter Of The Application for)	Case No.	14-0862-EL-EEC
Approval of Transmission and)		14-0863-EL-EEC
Distribution Projects of Ohio Edison)		14-0864-EL-EEC
Company, The Cleveland Electric)		
Illuminating Company, and The Toledo)		
Edison Company.)		

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where residential customers will be affected by the request of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (together "First Energy" or "the Utility") to count the energy efficiency and peak demand reduction savings achieved through transmission and distribution projects that reduce line losses towards the Utility's energy efficiency benchmark requirements for 2013.¹ OCC is filing on behalf of all the 1,858,000 residential utility customers of FirstEnergy. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Edmund "Tad" Berger

Edmund "Tad" Berger, Counsel of Record

Michael J. Schuler

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone Berger: (614) 466-1292

Telephone Schuler: (614) 466-9547

Edmund.Berger@occ.ohio.gov

Michael.Schuler@occ.ohio.gov

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter Of The Application for)	Case No.	14-0862-EL-EEC
Approval of Transmission and)		14-0863-EL-EEC
Distribution Projects of Ohio Edison)		14-0864-EL-EEC
Company, The Cleveland Electric)		
Illuminating Company, and The Toledo)		
Edison Company.)		

MEMORANDUM IN SUPPORT

This case involves FirstEnergy’s request to count the energy efficiency and peak demand reduction savings achieved through transmission and distribution projects that reduce line losses towards the Utility’s energy efficiency benchmark requirements for 2013. OCC has authority under law to represent the interests of all the 1,858,000 residential utility customers of FirstEnergy, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding in which energy efficiency and peak demand reduction savings are assessed and the benchmark requirements established in R.C. 4928.66 may be modified. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

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

First, the nature and extent of OCC's interest is representing the residential customers of FirstEnergy in this case involving the assessment of energy efficiency and peak demand reduction savings achieved, especially those achieved through transmission and distribution projects. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that customers should receive the benefits from energy efficiency and peak demand reduction programs. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of energy efficiency and peak demand reduction programs in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where the impact of energy efficiency and peak demand reduction benefits from transmission and distribution projects (on FirstEnergy’s energy efficiency benchmark requirements for 2013) will be determined.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.²

² See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Edmund "Tad" Berger
Edmund "Tad" Berger, Counsel of Record
Michael J. Schuler
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone Berger: (614) 466-1292
Telephone Schuler: (614) 466-9547
Edmund.Berger@occ.ohio.gov
Michael.Schuler@occ.ohio.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* electronic transmission, this 9th day of June, 2014.

/s/ Edmund "Tad" Berger
Edmund "Tad" Berger
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Ohio Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad St., 6th Fl.
Columbus, OH 43215
William.wright@puc.state.oh.us

Carrie M. Dunn
FirstEnergy Service Corporation
76 S. Main Street
Akron, OH 44308
cdunn@firstenergycorp.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/9/2014 3:57:20 PM

in

Case No(s). 14-0862-EL-EEC, 14-0863-EL-EEC, 14-0864-EL-EEC

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Berger, Tad Mr.