

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking)	
Approval of Ohio Power Company's)	Case No. 14-1693-EL-RDR
Proposal to Enter into an Affiliate Power)	
Purchase Agreement in the Power)	
Purchase Agreement Rider.)	

In the Matter of the Application of Ohio)	
Power Company for Approval of Certain)	Case No. 14-1694-EL-AAM
Accounting Authority.)	

**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 Ohio Power Company ("Ohio Power" or "Utility") proposes that its monopoly customers guarantee and pay a profit for the deregulated power plants held by an AEP affiliate company. Ohio Power's proposal will affect the rates that the Utility's residential customers pay for electric service.¹ OCC is filing on behalf of all the 1.2 million residential utility customers of Ohio Power. 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,

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MEMORANDUM IN SUPPORT

On October 3, 2014, Ohio Power filed an Application looking to expand its yet unapproved purchased power agreement proposed in its electric security plan case, Case No. 13-2385-EL-SSO. The PPA included in Ohio Power's electric security plan filing included only the Utility's share of Ohio Valley Electric Corporation's ("OVEC") generation.² In the present Application, Ohio Power is intending to include the generation from the following generation units: Cardinal Plant Unit 1; Conesville Units 4, 5 and 6; Stuart Plant Units 1, 2, 3 and 4 (AEPGR owns 26 percent); Zimmer Plant (AEPGR owns 25.4 percent).³ In its weather normalized forecast, Ohio Power admits that in the early years of its proposal, the costs of operating and maintaining these generating facilities will exceed the revenues earned from selling the generation output into the wholesale market.⁴ The excess costs will be charged to Ohio Power's customers though a non-bypassable rider. OCC has authority under law to represent the interests of

² Direct Testimony of William Allen at 3 (October 3, 2014).

³ Direct Testimony of William Allen at Exhibit WAA-2 (October 3, 2014).

⁴ Direct Testimony of Kelly Pearce at Exhibit KDP-2 (October 2, 2014).

all the 1.2 million residential utility customers of Ohio Power, 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 which sets the rates that they pay for electric service. 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 Ohio Power in this case involving a PPA that will allow the Utility to charge customers for its uneconomic generation facilities. This will affect the rates that residential customers pay for electric service. 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 "rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law." For example, OCC will analyze whether Ohio Power's proposal is consistent with Ohio's state policy under R.C. 4928.02. 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 public utilities' rates, and service quality 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 Ohio Power proposes a PPA that will affect rates charged to residential customers for electric service.

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.⁵

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.

⁵ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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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 29th day of October 2014.

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