

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s Review)
of the Ohio Power Company’s) Case No. 16-0024-EL-UNC
Distribution Investment Rider Work Plan)
for 2016.)

**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 (“AEP Ohio”) proposes a Distribution Investment Rider (“DIR”) work plan to spend over \$200 million of customers’ money to maintain and improve distribution service reliability.¹ OCC files this Motion to Intervene on behalf of AEP Ohio’s approximately 1.3 million residential electric distribution consumers.² The OCC sets forth the reasons that the Public Utilities Commission of Ohio (“PUCO”) should grant this Motion in the attached Memorandum in Support.

¹ See Case No. 16-0024-EL-UNC, Notice of Ohio Power Company’s Commission-Requested Distribution Investment Rider Work Plan (January 8, 2016).

² See R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

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/s/ Jodi Bair

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MEMORANDUM IN SUPPORT

On February 25, 2015, the PUCO approved an Electric Security Plan for AEP Ohio (“ESP III”), which included a Distribution Investment Rider (“DIR”).³ The DIR is a charge for incremental capital spending for distribution infrastructure to maintain and improve customers’ distribution service reliability. OCC has statutory authority to represent the interests of AEP Ohio’s 1.3 million residential electric distribution consumers.⁴

Any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding.⁵ The interests of Ohio’s residential consumers may be “adversely affected” by the potential increase in charges for distribution service that may flow from this case, especially if such consumers were unrepresented in a proceeding examining a plan to spend over \$200 million of their money. AEP Ohio’s proposed DIR Work Plan for 2016 presents a blueprint for how it will collect and use over \$200 million of consumers’ money to maintain and improve consumer distribution

³ *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO, Opinion and Order at 47 (February 25, 2015).

⁴ R.C. Chapter 4911.

⁵ R.C. 4903.221.

service reliability. Thus, this element of the intervention standard articulated 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 AEP Ohio's residential consumers. Here, AEP Ohio seeks the PUCO's approval of a consumer-funded DIR work plan that will determine how over \$200 million of consumers' money will be spent to maintain and improve distribution service reliability. OCC's interest, that consumers are charged just and reasonable rates for reliable electric service is different than that of any other party and is especially different than that of AEP Ohio whose advocacy includes the financial interests of its stockholders.

Second, OCC's advocacy for residential consumers will include advancing the position that AEP Ohio's rates should be no more than what is reasonable and lawful under Ohio law and that residential consumers are entitled to reliable and affordable electric utility service under R.C. 4928.02. Therefore, OCC's position is directly related to the merits of this case 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 this 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 must show that it has a "real and substantial interest" in the proceeding.⁶ As the advocate for Ohio's residential utility consumers, OCC has a very real and substantial interest in this proceeding. AEP Ohio seeks approval of a DIR work plan that will determine how over \$200 million of consumers' money will be spent to maintain and improve distribution service reliability.

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 has demonstrated above that it 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 because it has been uniquely designated as the representative of the interests of Ohio's residential utility

⁶ Ohio Adm. Code 4901-1-11(A)(2).

consumers. This 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 intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention in both proceedings.⁷

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's residential consumers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

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OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

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⁷ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20 (2006).

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* electronic mail, this 19th day of February 2016.

/s/ Jodi Bair
Jodi Bair
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Bair, Jodi Ms.