

In the Matter of the Application for)
Approval of an Amendment to a Contract) Case No. 15-0327-EL-AEC
for Electric Service Between Ohio Power)
Company and Globe Metallurgical, Inc.)

The Office of the Ohio Consumers' Counsel ("OCC") moves¹ the Public Utilities Commission of Ohio ("PUCO") to grant OCC intervention in this case where a mercantile customer, Globe Metallurgical, Inc. ("Applicant"), recently sought and obtained an extension² to continue an electricity discount from Ohio Power ("AEP Ohio" or "Utility") that is subsidized by 1.4 million customers. In this type of case, the PUCO considers various factors including a balance between the benefits of economic development programs and the cost to Ohioans who may be asked to subsidize the electric discount.

Under R.C. 4903.221 and Ohio Adm. Code 4901:1-38-05(F), interested parties may file a motion to intervene. OCC seeks intervention because Applicant requested and received an extension of its current discount in this case while a new case³ is pending for

³ *In the Matter of the Application of Globe Metallurgical, Inc. for Approval of a Reasonable Arrangement for its Beverly, Ohio Plant*, Case no. 16-0737-EL-AEC), Application (April 11, 2016).

approval of a new discount.⁴ The current PUCO-approved discount expired on May 31, 2016. The reasons for granting OCC's motion to intervene are set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

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⁴ O.A.C 4901:1-38-05 governs the granting of any new discount.

In the Matter of the Application for)
Approval of an Amendment to a Contract) Case No. 15-327-EL-AEC
for Electric Service Between Ohio Power)
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OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, 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 consumers meet this standard, in this proceeding where the mercantile customer seeks electricity discounts from the Utility that will be subsidized in whole or part by the Utility's customers. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

- (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 are in representing residential consumers in this case where a mercantile customer proposes to continue a discount that other customers would subsidize. This interest is different than that of any other party.

Second, OCC's advocacy for residential consumers will include advancing the position that rates should be no more than what is lawful and reasonable. OCC's position is therefore directly related to the merits of such a proposal in this case. Among other things, consumer protection should include that subsidies paid by consumers to AEP for discounts to the Applicant after May 31st should be counted toward future subsidies, if any, that consumers are required to pay for Applicant and AEP as a result of PUCO Case No. 16-0737-EL-AEC.

Third, OCC's intervention will not unduly prolong or delay the proceeding. 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 fully developing and equitably resolving the factual issues. The case resolution should include a balance between economic development and setting reasonable rates (per R.C. 4928.02(A)) to residential customers who would fund the economic development discounts.

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 residential utility consumer advocate, OCC has a real and substantial interest in this case where the outcome could have the effect of increasing the rates paid by residential customers.

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 already 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 because OCC has been uniquely designated as the statutory representative of Ohio’s residential utility consumers.⁵ 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 intervention in both proceedings.⁶ The Court found that the PUCO abused its discretion in denying OCC’s intervention and that OCC should have been granted intervention.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 the Utility’s residential consumers, the PUCO should grant the OCC’s Motion to Intervene.

⁵ R.C. Chapter 4911.

⁶*Ohio Consumers’ Counsel v. Public Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

⁷*Id.*

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Intervene has been served upon the below-named persons via electronic transmission this 29th day of June, 2016.

/s/ Jodi Bair

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/29/2016 5:03:04 PM

in

Case No(s). 15-0327-EL-AEC

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.