

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for	)	
Establishment of a Reasonable	)	Case No. 16-2020-EL-AEC
Arrangement Between U.S. Steel	)	
Seamless Tubular Operations, LLC.,	)	
Lorain Tubular Operations and The Ohio	)	
Edison Company.	)	

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

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The Office of the Ohio Consumers' Counsel ("OCC") moves<sup>1</sup> to intervene in this case where a mercantile customer, U.S. Steel Seamless Tubular Operations LLC and Lorain Tubular Operations ("Applicant"), seeks discounted rates that may be subsidized by one million customers of Ohio Edison Company ("Ohio Edison" or "Utility"). In this type of case the Public Utilities Commission of Ohio ("PUCO") considers various factors including a balance between the benefits of economic development (enabled under the reasonable arrangement) 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. And parties may file comments and objections to a unique arrangement application within twenty days of the filing of the application. The reasons for granting OCC's motion to intervene are set forth in the attached Memorandum in Support.

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<sup>1</sup> OCC is the statutory representative, under R.C. Chapter 4911, of residential customers.

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Willis

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**MEMORANDUM IN SUPPORT**

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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 a proceeding where the mercantile customer seeks electricity discounts, that may 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.

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 are in representing residential consumers in this case where a mercantile customer proposes a discount that other customers may pay. This interest is different than that of any other party.

Second, OCC's advocacy for residential consumers will include advancing the position that rates customers pay should be no more than what is lawful and reasonable. OCC's position is therefore directly related to the merits of the reasonable arrangement proposed in this case.

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 may fund the economic development discounts being sought by the mercantile customer.

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.<sup>2</sup> 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.<sup>3</sup> The Court found that the PUCO abused its discretion in denying OCC’s intervention and that OCC should have been granted intervention.<sup>4</sup>

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.

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<sup>2</sup> R.C. Chapter 4911.

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

<sup>4</sup> *Id.*

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Willis

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(0020847)

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(Will accept service via email)

### **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 28<sup>th</sup> day of October, 2016.

/s/ Maureen R. Willis

Maureen R. Willis

Senior Regulatory Attorney

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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 Willis, Maureen R Mrs.