

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking)	Case No. 17-882-EL-UNC
Approval of Ohio Power Company's)	
Generation Transition Docket.)	

**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") starts the Generation Transition Docket under paragraph III.D.12 of the Joint Stipulation and Recommendation from its PPA Rider case ("Settlement").¹ Ohio Power's proposal may affect service quality and the rates that the Utility's residential customers pay for electric service.² 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 PUCO Case No. 14-1693-EL-RDR; see also Joint Stipulation and Recommendation filed December 14, 2015. OCC was an intervenor and active participant in Case No. 14-1693-EL-RDR.

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

Respectfully submitted,

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OHIO CONSUMERS' COUNSEL

/s/ William J. Michael

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MEMORANDUM IN SUPPORT

On March 30, 2017, Ohio Power initiated this case by filing a letter in the docket updating the PUCO about recent generation developments and plans for implementing the Settlement. Ohio Power indicates that the Stuart Station will be retired in June 2018. AEP Generation Resources, which is affiliated with Ohio Power, owns 26% of Stuart Station Units 1 – 4. Ohio Power also states that it is selling its 330 – megawatt share of the Zimmer Plant to Dynegy. AEP Generation Resources will purchase Dynegy's 312-megawatt share of the Conesville Plant, providing AEP a 92% ownership share in the Conesville Plant. Ohio Power plans to engage an independent third party in 2017 to perform an analysis on how to establish renewable energy companies in Ohio and transition the current power plant workforce to renewable energy jobs. Ohio Power plans on making further filings in this docket regarding generation matters.³ OCC has authority under law to represent the interests of 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

³ See March 30, 2017 Letter from S. Nourse to Chairman Haque.

Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding wherein service quality and the rates that they pay for electric service may be effected. 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 generation facilities. This may affect service quality and 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 residential customers' rates and service quality may be affected.

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 "[t]he 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.⁴

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 WESTON (0016973)
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/s/ William J. Michael
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⁴ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

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 26th day of April 2017.

/s/ William J. Michael

William J. Michael

Assistant Consumers' Counsel

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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 Michael, William J. Mr.