

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of Vadata,)	
Inc. and Ohio Power Company for Approval of a)	Case No. 17-1827-EL-AEC
Unique Economic Development Arrangement for)	
Ohio Data Center Campuses.)	

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

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the 1.4 million residential consumers of Ohio Power ("AEP" or "Utility"), moves the Public Utilities Commission of Ohio ("PUCO") to grant the Consumers' Counsel's intervention in this case. The Joint Applicants, AEP and Vadata, Inc. (a mercantile customer and an affiliate of Amazon Web Services, Inc.), seek PUCO approval of an agreement to give discounted electric rates to Vadata for economic development. 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 fund the subsidy for the programs.

While Joint Applicants state that the arrangement will not create "delta revenues" (which is the PUCO's nomenclature for subsidies to be paid by other customers), the ratemaking effect of the Application is that AEP will collect less money as a result of its proposed discounts for the mercantile customer. And, under this circumstance, utilities such as AEP typically would collect more money from other customers to make up for rate discounts to a customer. The Application does not suggest any result otherwise for the rates that AEP will charge residential customers and others.

Under Ohio Adm. Code 4901:1-38-05(F), interested parties may file a motion to intervene. And parties may file comments and objections to an application for a unique arrangement within twenty days of the filing of the application. The reasons for granting this motion to intervene are set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Willis

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MEMORANDUM IN SUPPORT

The Consumers' Counsel moves to intervene under its legislative authority to represent residential utility consumers in Ohio, under 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 legislative standard, in a proceeding where AEP's proposed electricity discounts for the mercantile customer will likely be subsidized by AEP'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.

The Consumers' Counsel meets these criteria. First, the nature and extent of OCC's interest are in representing residential consumers in this case where a rate discount offered to a mercantile customer by AEP will likely be paid back to AEP through the electric bills of other customers. This interest is different than that of any other party.

Second, our advocacy for residential consumers will include advancing the position that rates should be no more than what is reasonable and permissible under Ohio law. The Consumers' Counsel's position is therefore directly related to the merits of such a proposal in this case.

Third, our intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will contribute to 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. Our intervention will provide the PUCO with information relating to the interest of the residential consumers that AEP likely will charge to fund rate discounts to another 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 it has been uniquely designated as the statutory representative of Ohio’s residential utility consumers.¹ That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed the Consumers’ Counsel’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.²

The Ohio Consumers’ Counsel 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 AEP’s residential consumers, the PUCO should grant this Motion to Intervene.

¹ R.C. Chapter 4911.

² See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Willis

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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 8th day of September, 2017.

/s/ Maureen R. Willis

Maureen R. Willis

Senior Regulatory Counsel

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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Willis, Maureen Mrs.