

**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 Unique Economic)	Case No. 17-1827-EL-AEC
Development Arrangement for Ohio)	
Data Center Campuses)	

**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT
OF INDUSTRIAL ENERGY USERS-OHIO**

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September 8, 2017

Attorneys for Industrial Energy Users-Ohio

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MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO

Industrial Energy Users-Ohio ("IEU-Ohio") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to R.C. 4903.221 and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matter with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

On September 1, 2017, Vadata, Inc. ("Vadata"), an affiliate of Amazon, jointly filed with Ohio Power Company ("AEP-Ohio") an application for a unique economic arrangement. The application states that it will not create an explicit delta revenue, but would nonetheless provide Vadata with a discount off AEP-Ohio's applicable rates charged on a kilowatt hour basis. Many of these kWh-based rates are tied to explicit revenue requirements. Thus, regardless of whether the application would create explicit delta revenue, it still has the potential to shift revenue responsibility to other customers paying the kWh-based rates. IEU-Ohio's members include customers of AEP-Ohio who pay these kWh-based rates. Accordingly, the application has the potential to affect the rates paid by IEU-Ohio's members.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay this proceeding and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in the proceeding. The interests of IEU-Ohio will not be adequately represented by other parties to the proceeding and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

Respectfully submitted,

/s/ Matthew R. Pritchard

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MEMORANDUM IN SUPPORT

In support of this Motion to Intervene, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at http://www.ieu-ohio.org/member_list.aspx. IEU-Ohio's members purchase substantial amounts of electric and related services from Ohio's electric distribution utilities ("EDU").

IEU-Ohio's members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end, IEU-Ohio has worked and will continue to work to produce legislative, regulatory, and market outcomes that are consistent with the State policy contained in R.C. 4928.02.

R.C. 4903.221 provides:

Any other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding, provided:

(A) That such other person files a motion to intervene with the commission no later than:

(1) Any specific deadline established by order of the commission for purposes of a particular proceeding; or, if no such deadline is established;

(2) Five days prior to the scheduled date of hearing. The public utilities commission may, in its discretion, grant motions to intervene which are filed after the deadlines set forth in divisions (A)(1) and (2) of this section for good cause shown.

(B) That the commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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 proceedings;

(4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

See, also, Rule 4901-1-11, OAC. Under R.C. 4903.221 and the Commission's rule, the Commission is to liberally grant intervention. *Ohio Consumers' Counsel v. Pub. Utils. Comm'n of Ohio*, 111 Ohio St. 3d 384 (2006).

Under the applicable requirements, IEU-Ohio should be granted intervention.

Initially, IEU-Ohio has a real and substantial interest inasmuch as this proceeding may directly or indirectly impact the provision of electric service to IEU-Ohio members' manufacturing facilities. Although the application states that approval of the reasonable arrangement will not create explicit delta revenue, it would nonetheless provide Vadata with a discount off AEP-Ohio's applicable kilowatt hour-based rates. Many of these kWh-based rates are tied to explicit revenue requirements. Thus, regardless of whether the application would create explicit delta revenue, it still has the potential to shift revenue responsibility to other customers paying the kWh-based rates. IEU-Ohio's members include customers of AEP-Ohio who pay these kWh-based rates. Accordingly, IEU-Ohio

is so situated that the disposition of this proceeding may adversely affect its ability to protect that interest.¹

IEU-Ohio's participation will not unduly prolong or delay this proceeding. By rule, intervention should be filed within twenty days of the filing of the application. See Rule 4901:1-38-03(E) and Rule 4901:1-38-05(F). This matter was initiated on September 1, 2017. Thus, IEU-Ohio's motion to intervene is timely under Commission rules applicable to this proceeding. Further, IEU-Ohio has familiarity with the Commission's rules and practices such that it will not unduly delay or prolong the proceeding.

Further, IEU-Ohio can significantly contribute to the full development and equitable resolution of the factual and other issues in the proceeding. As a well-versed participant in energy matters before the Commission including the prosecution of reasonable arrangements, the experience of IEU-Ohio in the Ohio energy market will contribute to the development of issues related to this application.

Finally, the interests of IEU-Ohio will not be adequately represented by other parties to the proceeding.

Based on these representations, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties. Therefore, the Commission should grant its Motion to Intervene.

¹ At the time this intervention was filed, counsel for IEU-Ohio was arranging with counsel for Vadata to secure an unredacted version of the application and supporting materials. Due to the limited information available to it, IEU-Ohio's statement of interest is stated generally at this time.

Respectfully submitted,

/s/ Matthew R. Pritchard

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion to Intervene and Memorandum in Support of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 8th day of September 2017, *via* electronic transmission.

/s/ Matthew R. Pritchard

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**ON BEHALF OF THE STAFF OF THE PUBLIC
UTILITIES COMMISSION OF OHIO**

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Summary: Motion to Intervene and Memorandum in Support of Industrial Energy Users-Ohio
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