

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of	)	
the Operational Benefits Assessment	)	Case No. 18-1618-EL-RDR
of the gridSMART Deployment of	)	
Ohio Power Company.	)	

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

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Consumers should receive the benefits of the hundreds of millions of dollars they have been charged for gridSMART deployment. The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case to determine gridSMART's operational savings that customers will receive.<sup>1</sup> OCC is filing on behalf of the 1.3 million residential utility customers of Ohio Power Company ("AEP Ohio"). The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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<sup>1</sup> See R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Terry L Etter

Terry L. Etter (0067445), Counsel of Record  
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**MEMORANDUM IN SUPPORT**

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Ohioans pay hundreds of millions of dollars every year on projects that are supposed to modernize the electric grid and improve electric service. This case concerns the audit of the operational savings – estimated at \$200 million<sup>2</sup> – that are to benefit consumers on their electric bills for Phase 1 and Phase 2 of gridSMART that the PUCO previously ordered.<sup>3</sup> This audit is necessary to increase the \$400,000 quarterly operational savings credit that AEP Ohio customers have received on their monthly bills since March 1, 2018.<sup>4</sup> OCC has authority under law to represent the interests of all 1.3 million AEP Ohio residential utility customers, 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 customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding to determine the amount of operational benefits that will be credited on customers’ bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

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<sup>2</sup> See Case No. 13-1939-EL-RDR, Opinion and Order (February 1, 2017), ¶52.

<sup>3</sup> *Id.*, ¶66.

<sup>4</sup> See Case No. 17-1156-EL-RDR, Tariff filing (February 28, 2018).

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

First, the nature and extent of OCC's interest is representing AEP Ohio's residential customers in this case involving the amount of operational benefits that will be credited to customers' bills. This interest is different from that of any other party and especially different from 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 customers should receive all the operational benefits that are due to them from gridSMART. 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 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 to determine the amount of gridSMART operational benefits that will be credited to 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 already has 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 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.<sup>5</sup>

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<sup>5</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

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)  
Ohio Consumers' Counsel

/s/ Terry L Etter  
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### **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 22<sup>nd</sup> day of February 2019.

/s/ Terry L Etter  
Terry L. Etter  
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 Etter, Terry L.