

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of                    )  
Ohio Power Company for Approval of        )     Case No. 20-734-EL-AEC  
A Reasonable Arrangement.                    )

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

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On March 9, 2020, Governor DeWine declared a state of emergency to protect the health and safety of Ohioans from the dangerous effects of the coronavirus pandemic. These are extraordinary times, with severe health risks to Ohio families, closing businesses, lost jobs and wages, and more in AEP's service area and throughout our great State. At this time of Governor DeWine's strong leadership rallying Ohioans to fight back against the virus, the PUCO's initiative in declaring an emergency to shield Ohioans from utility disconnections, door-to-door energy sales and more, is vitally important.

As part of the PUCO's continued efforts, on March 12, 2020, it opened a docket and ordered the utilities to "ensure that utility service to customers is maintained during the state of emergency."<sup>1</sup> The PUCO directed all utility companies to review their service disconnection policies, practices, and tariffs and promptly seek approval to suspend requirements that may "impose a service continuity hardship on residential and non-residential customers" or "create unnecessary COVID-19 risks associated with social contact."<sup>2</sup>

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<sup>1</sup> *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (March 12, 2020).

<sup>2</sup> Entry at ¶6(a).

AEP filed its Plan on March 17, 2020, an amended Plan on March 24, 2020, and a second amended Plan on April 9, 2020. The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene to protect the interest of 1.3 million residential customers who will be impacted by, and will be asked to pay for, AEP's twice amended Plan.<sup>3</sup> The PUCO should grant OCC's motion to intervene for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Ambrosia E. Wilson

William Michael (0070921)

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<sup>3</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

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**MEMORANDUM IN SUPPORT**

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In the coming months and potentially years, many Ohioans will struggle to pay their utility bills. Those Ohioans with financial challenges will include customers who have historically paid their bills in full and on time but who may be unable to continue doing so following the economic fallout of the coronavirus pandemic. Ohio businesses and families will face financial burdens that were unforeseeable just a few months ago.

In its second amended Plan, AEP is requesting a “Reasonable Arrangement” under R.C. 4905.31 to temporarily reset minimum demand charges at lower usage levels for commercial and industrial customers.<sup>4</sup> This means that these commercial and industrial customers will receive a discount on their electric bills. AEP has expressed its intention to be made whole for these corporate discounts, by charging *all* customers (including residential customers) for the revenues it (AEP) has forgone by offering the discount.<sup>5</sup> AEP’s proposal to hold itself harmless will result in cost-shifting between customer classes, with residential customers paying these costs of electricity for corporate customers. That is inappropriate. As a result of lost wages, unemployment, and other financial hardships resulting from the coronavirus emergency, the PUCO should guard

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<sup>4</sup> See, e.g., AEP’s Second Amended Application at 5-9.

<sup>5</sup> See, e.g., AEP’s Second Amended Application at 5-9.

against making residential customers pay AEP's make-whole charges related to corporate electricity discounts.

The Office of the Ohio Consumers' Counsel ("OCC") has statutory authority to represent the interests of AEP's residential electric utility customers under R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a Public Utilities Commission ("PUCO") proceeding is entitled to seek intervention in that proceeding. The interests of AEP's residential customers may be "adversely affected" by this case, especially if these customers are unrepresented in a proceeding that will examine AEP's proposals for charges to residential consumers, including the charges described above. 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 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 residential customers in this case where AEP is proposing to add charges to their electric bills, including the charges described above. This interest is different from that of any other party, and especially different from that of AEP whose advocacy includes the financial interest of its

shareholders. Additionally, the PUCO specifically requested input from “interested persons” to provide the PUCO with suggestions that it should consider to avoid the imposition of a service continuity hardship on customers or the creation of unnecessary risks associated with social contact.<sup>6</sup> As the state representative of the residential customers of AEP that are affected by the COVID-19 virus and state of emergency, the OCC is an “interested person.”

Second, OCC’s advocacy for residential customers will include advancing the position that residential customers should not be billed unjust and unreasonable charges as a result of AEP’s emergency plan. 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

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<sup>6</sup> Entry at ¶10.

real and substantial interest where the PUCO will determine how to best protect AEP's customers during this emergency and how much customers will later pay for AEP's second amended emergency plan.

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.

Further, the Supreme Court of Ohio ("Court") 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>7</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Court for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

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<sup>7</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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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 17th day of April 2020.

/s/ Ambrosia E. Wilson  
Ambrosia E. Wilson  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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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 Wilson, Ambrosia E.