

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Update its) Case No. 20-859-EL-RDR
Storm Damage Recovery Rider Rates.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where AEP seeks approval to update its charge to consumers for storm damage expenses.¹ OCC is filing on behalf of all of AEP's 1.3 million residential utility customers.² If the PUCO were to approve the Application as filed, consumers would see an increase in their charges. Given the coronavirus emergency, the PUCO should defer this potential increase to customers and collect it from customers later, a reasonable period of time after the emergency has ended.

The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ See Application.

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

Respectfully submitted,

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/s/ William J. Michael
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MEMORANDUM IN SUPPORT

The PUCO will review the reasonableness of AEP’s request to collect from customers costs associated with storms that occurred in Ohio during calendar year 2019. If the Application is approved as filed, each of AEP’s residential customers will have to pay a one-month charge of \$1.29.³

In this time of hardship faced by consumers, with lost jobs, lower wages, and health concerns due to the coronavirus, consumers should not be forced to pay AEP *more* money to maintain their electric service. During this time of emergency, the proposed increased charges under the Storm Damage Recovery Rider should be deferred for later collection from customers for a reasonable period of time after the emergency has ended.

OCC has authority under law to represent the interests of all of AEP Ohio’s 1.3 million residential utility customers, 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 customers may be “adversely affected” especially if the customers were unrepresented in a proceeding where the rates they pay for electricity may be

³ See Application at Attachment 1.

increased because of AEP's storm-related expenses. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission 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 AEP's residential customers in order to ensure that they pay only charges that are just and reasonable. This interest is different from that of any other party and especially different from that of AEP, whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for 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. 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 residential utility customer advocate, OCC has a very real and substantial interest in this proceeding where the outcome could have an effect on the service and 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 already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission 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 involving claims the PUCO erred by denying OCC’s interventions, the Court found that the PUCO abused its discretion and that OCC should have been granted intervention in both proceedings.⁴

⁴ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20 (2006).

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 Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

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Ohio Consumers' Counsel

/s/ William J. Michael
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Assistant Consumers' Counsel

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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 13th day of May 2020.

/s/ William J. Michael

William J. Michael

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 Michael, William J. Mr.