

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)	
of Ohio Power Company to)	Case No. 20-1603-EL-ATA
Amend its Tariff.)	

In the Matter of the Application of)	Case No. 20-1604-EL-AAM
Ohio Power Company for Approval of)	
Certain Accounting Authority.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ where Ohio Power Company ("AEP") is proposing a renewable energy credit purchase program that will impact standard service offer ("SSO") customers.² AEP's proposal is related to the end of renewable energy mandates under House Bill 6. OCC is filing on behalf of the 1.3 million residential utility customers of AEP. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion are further set forth in the attached memorandum in support.

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

² AEP Application at 1-2 (Oct. 16, 2020).

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien
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In the Matter of the Application of)
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AEP is proposing a “Green Tariff,” described as a Renewable Energy Credit (REC) purchase program, which allows participating customers on AEP’s standard service offer to purchase RECs in 100-kilowatt hour (kWh) blocks.³ Participating customers choose the amounts of RECs they want to purchase on a block pricing basis as established in AEP’s REC pricing.⁴ According to AEP, increased shopping by AEP Ohio customers (resulting in fewer SSO customers to pay the REC bill) and HB 6 (which lowered renewable mandates from 2020 through 2026 and eliminated them thereafter) have caused a large increase in its inventory of RECs well beyond what is needed for compliance with the renewable energy mandates established by SB 221.⁵ AEP wants to sell off the REC inventory through this voluntary Green Tariff program which is intended to reduce the REC inventory and the ultimate price tag that other SSO customers will pay

⁴ *Id.* In the example given by AEP, a participating customer using 1000 kWh a month could purchase 10 blocks from the Green Tariff (for equivalent monthly usage), at a price of \$9.00 per month.

1

for the RECs.⁶ OCC has authority under law to represent the interests of all the 1.3 million residential utility customers of AEP 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” by this case, especially if customers were unrepresented in a proceeding that implements a renewable energy credit purchase program impacting standard service offer 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 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 consumers with regard to AEP’s proposal to create a so-called Green Tariff. 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, among other things, advancing the position that what customers pay for electricity should be no more

⁶ *Id.*

than what is just and reasonable. OCC's position is therefore directly related to the merits of this case, which 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 advocating that residential standard service offer consumers who participate in the Green Tariff should achieve the largest cost reduction possible.

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), which OCC already has addressed and which 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 ("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.⁷

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

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

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 10th day of November 2020.

/s/ Amy Botschner O'Brien
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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 Botschner-O'Brien, Amy