**Before**

**The Public Utilities Commission of Ohio**

In the Mater of the Application of )

Ohio Power Company for Authority to )

Establish a Standard Service Offer ) Case No. 13-2385-EL-SSO

Pursuant to §4928.143, Revised Code, )

in the Form of an Electric Security Plan. )

In the Matter of the Application of )

Ohio Power Company for Approval of ) Case No. 13-2386-EL-AAM

Certain Accounting Authority. )

**Industrial Energy Users-Ohio’s**

**Memorandum Contra**

**Paulding Wind Farm II LLC’s**

**Motion to Intervene**

Samuel C. Randazzo (Counsel of Record)

Joseph E. Oliker

Frank P. Darr

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

joliker@mwncmh.com

fdarr@mwncmh.com

mpritchard@mwncmh.com

**March 11, 2014 Attorneys for Industrial Energy Users-Ohio**

**Before**

**The Public Utilities Commission of Ohio**

In the Mater of the Application of )

Ohio Power Company for Authority to )

Establish a Standard Service Offer ) Case No. 13-2385-EL-SSO

Pursuant to §4928.143, Revised Code, )

in the Form of an Electric Security Plan. )

In the Matter of the Application of )

Ohio Power Company for Approval of ) Case No. 13-2386-EL-AAM

Certain Accounting Authority. )

**Industrial Energy Users-Ohio’s**

**Memorandum Contra**

**Paulding Wind Farm II LLC’s**

**Motion to Intervene**

Pursuant to Rule 4901-1-12, Ohio Administrative Code (“O.A.C.), Industrial Energy Users-Ohio (“IEU-Ohio”) hereby files its Memorandum Contra to the Motion to Intervene filed by Paulding Wind Farm II LLC (“Paulding”) in the above-captioned matters on March 7, 2014. As discussed in additional detail below, Paulding fails to meet the requirements for intervention under Section 4903.221, Revised Code, and Rule 4901-1-11(B), O.A.C. Therefore, the Public Utilities Commission of Ohio (“Commission”) should deny Paulding’s Motion to Intervene. Alternatively, if the Commission does not deny Paulding’s Motion to Intervene, it should only grant Paulding limited intervention pursuant to Rule 4901-1-11(D), O.A.C.

# Standard of Review

Section 4903.221, Revised Code, provides that the Commission shall consider the following four criteria in ruling upon 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.

Rule 4901-1-11(B)(5), O.A.C., also specifies that the Commission will consider “[t]he extent to which the person's interest is represented by existing parties” when deciding whether to grant intervention.

# Argument

In its Motion to Intervene, Paulding states that its only interest in this case is “in ensuring the operation of Rider AER, as proposed by AEP Ohio in its filing.”[[1]](#footnote-1) Paulding states that it supplies Ohio Power Company (“AEP-Ohio”) with renewable energy resources, which AEP-Ohio in turn recovers through the Alternative Energy Rider (“AER”).[[2]](#footnote-2) As discussed below, Paulding’s interest in the continuation of the AER is already adequately represented in this case and therefore Paulding will not significantly contribute to the full development and equitable resolution of the factual issues in the proceeding.

## Paulding’s interest in continuation of the AER is already adequately represented by AEP-Ohio

AEP-Ohio has a significant interest in the continuation of the AER. Section 4928.64, Revised Code, requires AEP-Ohio to secure a portion of the standard service offer (“SSO”) supply through alternative energy resources. The AER allows AEP-Ohio to recover the costs of securing the alternative energy resources. Thus, AEP-Ohio is significantly interested in the continuation of this rider as indicated by its request in its application to continue the AER, without modification.[[3]](#footnote-3) Thus, Paulding’s interest in the continuation of the AER is already adequately represented by other parties to the proceeding.

## Paulding’s intervention will not significantly contribute to the full development and equitable resolution of the factual issues

As discussed above, because Paulding’s sole interest is already adequately represented, Paulding’s intervention will not significantly contribute to the full development and equitable resolution of this proceeding. Additionally, in AEP-Ohio’s last electric security plan (“ESP”) proceeding, there was no opposition to the continuation of AEP-Ohio’s AER.[[4]](#footnote-4) Thus, because AEP-Ohio is already advocating for the same result as Paulding, and because it is unlikely to be a challenged issue, Paulding’s intervention in this proceeding will not significantly contribute to the full development and equitable resolution of the proceeding.

## If the Commission grants Paulding intervention, it should only be done on a limited basis

If the Commission grants Paulding’s Motion to Intervene, it should only be done on a limited basis to ensure that Paulding’s participation does not unduly delay the proceeding. Rule 4901-1-11(D)(1), O.A.C., states that the Commission, or an attorney examiner may:

Grant limited intervention, which permits a person to participate with respect to one or more specific issues, if the person has no real and substantial interest with respect to the remaining issues or the person's interest with respect to the remaining issues is adequately represented by existing parties.

As discussed above, Paulding’s interest in the continuation of the AER is already adequately represented by AEP-Ohio. Accordingly, Paulding’s Motion to intervene should either be denied or granted on a limited basis, which would allow Paulding to support the continuation of the AER should AEP-Ohio choose not to do so.

# CONCLUSION

For the reasons discussed above, the Commission should deny Paulding’s Motion to Intervene or, alternatively, should only grant Paulding limited intervention.

Respectfully submitted,

/s/ Matthew R. Pritchard

Samuel C. Randazzo (Counsel of Record)

Joseph E. Oliker

Frank P. Darr

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

joliker@mwncmh.com

fdarr@mwncmh.com

mpritchard@mwncmh.com

**Attorneys for** **Industrial Energy Users-Ohio**

**Certificate of Service**

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio’s Memorandum Contra Paulding Wind Farm II LLC’s Motion to Intervene* was served upon the following parties of record this 11th day of March 2014 via electronic transmission, hand-delivery or first class mail, U.S. postage prepaid.

/s/ Matthew R. Pritchard

Matthew R. Pritchard

Steven T. Nourse

Matthew J. Satterwhite

American Electric Power Corporation

1 Riverside Plaza, 29th Floor

Columbus, Ohio 43215-2373

stnourse@aep.com

mjsatterwhite@aep.com

Daniel R. Conway

Porter Wright Morris & Arthur

Huntington Center

41 South High Street

Columbus, Ohio 43215

dconway@porterwright.com

**On Behalf of Ohio Power Company**

William L. Wright

Werner Margard

Devin Parram

Katherine Johnson

Assistant Attorneys’ General

180 E. Broad Street, 6th Floor

Columbus, Ohio 43215-3793

William.wright@puc.state.oh.us

werner.margard@puc.state.oh.us

Devin.Parram@puc.state.oh.us

katherine.johnson@puc.state.oh.us

**On Behalf of the Staff of the Public**

**Utilities Commission of Ohio**

David F. Boehm

Michael L. Kurtz

Jody Kyler Cohn

Boehm, Kurtz & Lowry

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

dboehm@BKLlawfirm.com

mkurtz@BKLlawfirm.com

jkylercohn@BKLlawfirm.com

**On Behalf of the Ohio Energy Group**

Maureen R. Grady

Assistant Consumers’ Counsel

Office of the Ohio Consumers’ Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

[grady@occ.state.oh.us](mailto:grady@occ.state.oh.us)

**On Behalf of the Office of the Ohio Consumers’ Counsel**

Rocco D’Ascenzo

Duke Energy Ohio, Inc.

139 East Fourth Street

Cincinnati, Ohio 45202

Rocco.D’Ascenzo@duke-energy.com

**On Behalf of Duke Energy Ohio, Inc.**

Barth E. Royer

Bell & Royer Co,, LPA

33 South Grant Avenue

Columbus, Ohio 43215-3927

BarthRoyer@aol.com

Gary A. Jeffries

Dominion Resources Services, Inc.

501 Martindale Street, Suite 400

Pittsburg, PA 15212-5817

Gary.A.Jeffries@dom.com

**On Behalf of Dominion Retail, Inc. d/b/a Dominion Energy Solutions**

Richard L. Sites

Ohio Hospital Association

155 East Broad Street, 15th Floor

Columbus, Ohio 43215-3620

ricks@ohanet.org

Thomas J. O’Brien

Dylan T. Borchers

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215-4291

tobrien@bricker.com

dborchers@bricker.com

**On Behalf of The Ohio Hospital Association**

Phillip B. Sineneng

Thompson Hine LLP

41 South High Street, Suite 1700

Columbus, Ohio 43215

PhilipSineneng@ThompsonHine.com

**On Behalf of Duke Energy Retail Sales, LLC and Duke Energy Commercial Asset Management, Inc.**

Mark A. Whitt

Andrew J. Campbell

Gregory L. Williams

Whitt Sturtevant LLP

The KeyBank Building, Suite 1590

88 East Broad Street

Columbus, Ohio 43215

whit@whitt-sturtevant.com

campbell@whitt-sturtevant.com

williams@whitt-sturtevant.com

Vincent Parisi

Lawrence Friedeman

Matthew White

Interstate Gas Supply, Inc.

6100 Emerald Parkway

Dublin, Ohio 43016

vparisi@igsenergy.com

lfriedeman@igsenergy.com

mswhite@igsenergy.com

**On Behalf of Interstate Gas Supply, Inc.**

Kimberly W. Bojko

Mallory M. Mohler

Carpenter Lipps & Leland LLP

280 Plaza, Suite 1300

280 North High Street

Columbus, Ohio 43215

Bojko@carpenterlipps.com

Mohler@carpenterlipps.com

**On Behalf of OMA Energy Group**

Mark A. Hayden

Jacob A. McDermott

Scott J. Casto

First Energy Service Company

76 South Main Street

Akron, Ohio 44308

haydenm@firstenergycorp.com

jmcdermott@firstenergycorp.com

scasto@firstenergycorp.com

**On Behalf of FirstEnergy Solutions Corp.**

Colleen L. Mooney

Cathryn N. Loucas

Ohio Partners for Affordable Energy

231 West Lima Street

Findlay, Ohio 45839-1793

cmooney@ohiopartners.org

cloucas@ohiopartners.org

**On Behalf of Ohio Partners for Affordable Energy**

Mark S. Yurick

Zachary D. Kravitz

Taft, Stettinius & Hollister LLP

65 East State Street, Suite 1000

Columbus, Ohio 43215

myurick@taftlaw.com

zkravitz@taftlaw.com

**On Behalf of The Kroger Co.**

Judi L. Sobecki

The Dayton Power and Light Company

1065 Woodman Drive

Dayton, Ohio 45432

judi.sobecki@aes.com

**On Behalf of The Dayton Power and Light Company**

Joseph M. Clark

Direct Energy

21 East State Street, 19th Floor

Columbus, Ohio 43215

joseph.clark@directenergy.com

**On Behalf of Direct Energy Services, LLC and Direct Energy Business, LLC**

Trent Dougherty

Ohio Environmental Council

1207 Grandview Avenue, Suite 201

Columbus, Ohio 43212-3449

tdougherty@theOEC.org

John Finnigan

Senior Regulatory Attorney

Environmental Defense Fund

128 Winding Brook Lane

Terrace Park, Ohio 45174

jfinnigan@edf.org

**On Behalf of the Ohio Environmental Council and Environmental Defense Fund**

Michael R. Smalz

Ohio Poverty Law Center

555 Buttles Avenue

Columbus, Ohio 43215-1137

msmalz@ohiopovertylaw.com

Peggy P. Lee

Southeastern Ohio Legal Services

964 E. State Street

Athens, Ohio 45701

plee@oslsa.org

**On Behalf of the Appalachian Peace and Justice Network**

M. Howard Petricoff

Gretchen L. Petrucci

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

P.O. Box 1008

Columbus, Ohio 43216-1008

mhpetricoff@vorys.com

glpetrucci@vorys.com

David I Fein

Vice President, State Government Affairs-East

Exelon Corporation

10 South Dearborn Street, 47th Floor

Chicago, IL 60603

david.fein@exeloncorp.com

Cynthia Fonner Brady

Assistant General Counsel

Exelon Business Services Company

4300 Winfield Road

Warrenville, IL 60555

cynthia.brady@constellation.com

Lael Campbell

Exelon

101 Constitution Avenue, NW

Washington, DC 20001

Lael.Campbell@constellation.com

**On Behalf of Constellation NewEnergy, Inc. and Exelon Generation Company, LLC**

M. Howard Petricoff

Gretchen L. Petrucci

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

P.O. Box 1008

Columbus, Ohio 43216-1008

mhpetricoff@vorys.com

glpetrucci@vorys.com

**On Behalf of the Retail Energy Supply Association**

Nicholas McDaniel

Environmental Law & Policy Center

1207 Grandview Avenue, Suite 201

Columbus, Ohio 43212

NMcDaniel@elpc.org

**On Behalf of the Environmental Law and Policy Center**

Lisa M. Hawrot

Spilman Thomas & Battle, PLLC

Century Centre Building

1233 Main Street, Suite 4000

P.O. Box 831

Wheeling, WV 26003-8731

lhawrot@spilmanlaw.com

Derrick Price Williamson

Spilman Thomas & Battle, PLLC

1100 Bent Creek Blvd., Suite 101

Mechanicsburg, PA 17050

dwilliamson@spilmanlaw.com

Steve W. Chriss

Senior Manager, Energy Regulatory Analysis

Wal-Mart Stores, Inc.

2001 SE 10th Street

Bentonville, AR 72716-0550

Stephen.Chriss@walmart.com

**On Behalf of Wal-Mart Stores East, LP and Sam’s East, Inc.**

Samantha Williams

Natural Resources Defense Council

20 N. Wacker Drive, Suite 1600

Chicago, IL 60606

swilliams@nrdc.org

**On Behalf of the Natural Resources Defense Council**

Stephanie M. Chmiel

Thompson Hine LLP

41 S. High Street, Suite 1700

Columbus, Ohio 43215

Stephanie.Chmiel@ThompsonHine.com

**On Behalf of Border Energy Electric Services, Inc**.

Gregory J. Poulos

EnerNOC, Inc.

471 E. Broad Street, Suite 1520

Columbus, Ohio 43215

gpoulos@enernoc.com

**On Behalf of EnerNOC, Inc.**

J. Thomas Siwo

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215-4291

tsiwo@bricker.com

**On Behalf of Paulding Wind Farm II LLC**

Sarah Parrot

Attorney Examiner

Public Utilities Commission of Ohio

180 East Broad Street, 12th Floor

Columbus, OH 43215

sarah.parrot@puc.state.oh.us

**Attorney Examiner**

1. Paulding’s Motion to Intervene at 2. [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. Direct Testimony of Andrea Moore at 3-4. [↑](#footnote-ref-3)
4. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO, *et al.*, Opinion and Orderat 18 (Aug. 8, 2012). [↑](#footnote-ref-4)