

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Ohio Power)
Company,)
)
Complainant,)
)
v.) Case No. 06-890-EL-CSS
)
Consolidated Electric Cooperative, Inc.,)
)
Respondent.)

ENTRY

The attorney examiner finds:

- (1) On July 10, 2006, Ohio Power Company (Ohio Power) filed a complaint alleging violations of the Certified Territory Act by Consolidated Electric Cooperative, Inc. (Consolidated).
- (2) On August 11, 2006, Consolidated filed an answer and affirmative defenses to the complaint.
- (3) By Entry dated August 31, 2006, the city of Delaware (Delaware) was granted intervention in this proceeding and a prehearing was set for September 20, 2006.
- (4) On September 19, 2006, Delaware and Consolidated filed a motion to consolidate this proceeding with Case No. 06-1070-EL-CSS, *In the Matter of the Complaint of the city of Delaware vs. Columbus Southern Power Company*. On January 24, 2007, the Commission dismissed Case No. 06-1070-EL-CSS, therefore the motion to consolidate is moot.
- (5) On September 1, 2006, Industrial Energy Users-Ohio (IEU) filed a motion to intervene for the limited purpose of briefing the legal issue raised by the complaint. IEU states that its members are among the ultimate customers for whom the complaint could impact the availability of suppliers, that no other party adequately represents its members and that its participation would not cause undue delay or prejudice any party. On

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician QB Date Processed 1-24-07

September 19, 2006, American Municipal Power-Ohio Inc. (AMP-OHIO) filed to intervene. AMP-OHIO states that the outcome of this proceeding would have a direct and substantial impact on its member municipalities' ability to enter into agreements for electric service within their corporate limits. AMP-OHIO adds that its participation would not delay the proceeding nor cause any prejudice to a party.

- (6) Ohio Power filed memorandum contra to the motions to intervene. Ohio Power argues that because IEU does not claim that any of its members are within the boundaries of the city of Lexington, IEU's interest is limited to the potential precedent that may be set by this case. In regard to the AMP-OHIO intervention, Ohio Power argues that intervention should be denied because AMP-OHIO does not represent the city of Lexington, nor do its members have a direct interest in the proceeding. Ohio Power offers that both IEU and AMP-OHIO should only be allowed to file post-hearing amicus briefs. IEU and AMP-OHIO filed replies to the memorandum contra.
- (7) The attorney-examiner recognizes that the Commission does not ordinarily grant intervention in cases where the substantial interest alleged is the potential precedent of the ruling. However, this proceeding involves legal issues that directly impact the availability of electric suppliers to the members of the entities that are requesting intervention. The participation of IEU and AMP-OHIO will not delay the case, nor prejudice any party, but will provide the Commission with a more complete record as to the direct impact of its decision in this case. IEU motion to intervene for the limited purpose of briefing the legal issue raised by the complaint should be granted. AMP-OHIO's motion to intervene should be granted.
- (8) The procedural schedule for this case should be as follows:

January 29, 2007, filing of testimony
February 12, 2007, filing of rebuttal testimony
March 13, 2007, hearing

It is, therefore,

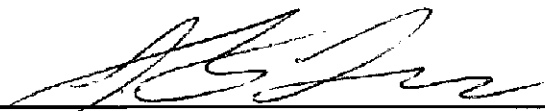
ORDERED, That IEU's and AMP-OHIO's motions to intervene are granted in accordance with finding 7. It is, further,

ORDERED, That Delaware's and Consolidated's motion to consolidate is denied in accordance with finding 4. It is, further,

ORDERED, that the procedural schedule shall be as delineated in finding 8. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

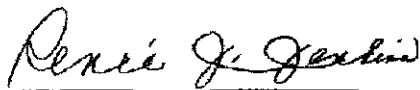


By: Steven Lesser
Attorney Examiner

RJG;geb

Entered in the Journal

JAN 24 2007



Renee J. Jenkins
Secretary