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September 28, 2009

PUCO



Ms. Renee Jenkins
Public Utilities Commission of Ohio
Administration/Docketing
180 East Broad Street, 13th Floor
Columbus, OH 43215-3793

RE: PUCO Case No. 09-1100-EL-EEC, Motion to Intervene Filed on behalf of the Ohio Consumers' Counsel, Motion to Intervene Filed on Behalf of the Ohio Environmental Council

Dear Ms. Jenkins:

The Ohio Manufacturers' Association respectfully requests that the Commission deny the Ohio Consumers' Counsel's (OCC) and the Ohio Environmental Council's (OEC) motions to intervene in the joint application of the Cleveland Electric Illuminating Company (Company) and the Lubrizol Corporation for a special arrangement with a mercantile customer and exemption from payments of costs included in Rider DSE-2.

While the Company is thorough in its memoranda contra to the OCC's and OEC's motions to intervene, it is worth repeating that neither party has an interest in the case sufficient to justify their intervention.

The customers the OCC represents have no interest in industrial energy efficiency programs since paragraph E(6)(f) of the Company's stipulation entered into in Case No. 08-9354-EL-SSO requires that cost recovery of industrial programs will come from the industrial tariffs. Further, the OCC's statement that "all consumers will suffer from the economic and environmental consequences resulting from less energy savings that is intended by R.C. 4928.66(A)(10)" is misleading (OCC Motion to Intervene, Memorandum in Support, Section (II), page 2.). The energy efficiency and demand reduction benchmarks are requirements for the utility – not aspirations. If the utility does not get the energy efficiency from one industrial project, it will have to make it up from another. Since the stipulation keeps the utility from charging residential customers for industrial programs, and since it is likely impossible to achieve the energy efficiency and demand reduction benchmarks from one class of customers, the most likely group harmed by failed industrial programs is industrial customers. Therefore, the OCC's charge misses the mark as residential customers have little to fear in the development, application, or operation of industrial energy efficiency programs.

The interest the OEC represents in its memorandum of support (in summary, that the energy efficiency and demand reduction benchmarks are met with verifiable savings) is adequately represented by the Commission through its Verification and Measurement partner. The Company makes the excellent point that allowing a party to intervene whose only interest is in V&M would negate the need to hire the

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independent program evaluator (Company memorandum contra the OEC's motion to intervene, paragraph (III)(A), page 4.).

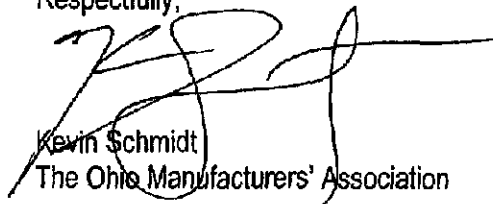
Further, the OMA respectfully suggests that allowing parties whose interest in the case is questionable to intervene would put a chill on participation by industrial customers. Many manufacturers are struggling to stay in business at this time as orders for products are at historic lows. Manufacturers increasingly are looking inward and attempting to retool or redesign their processes to become more efficient so they can continue to compete today and be positioned well in the future. These changes include the installation of "vanilla" energy efficiency products such as lighting or motors, but also include significant process changes and new ways of thinking about production.

The OCC represents that sensitive information will be protected through trade secrets laws (OCC Reply to Memoranda Contra, paragraph (II)(B)(3)(c), page 7.). However, as history has shown, what is or is not a trade secret is open to interpretation. The current economy has forced many manufacturers to become creative in how they make products. These changes may or may not qualify as trade secrets and many manufacturers would be happy to never find out if they do or do not. The mere fact that uninterested parties may gain access to its strategies, changes, or modifications may be enough for a manufacturer who has just looked at the brink and found a way to stay in business to forgo the benefits of participating in energy efficiency programs.

Finally, granting a party's request for intervention in this matter whose interests are not clear and compelling, and who has little or no technical background on point will unduly prolong and delay the proceeding without providing significant contributions to the full development and equitable resolution of factual issues. The OEC and the OCC do not represent manufacturers. While they may have a general understanding of industrial energy efficiency programs, the uniqueness of the mercantile provision at the heart of this matter reduces the applicability of this experience. Requiring manufacturers to respond to lengthy and detailed discovery requests by parties without, or with little relevant background or skill will add costs to the process without benefit. Satisfying a disinterested, albeit well financed, party's curiosity is an inefficient expenditure of scarce resources for manufacturers and does not benefit the process as a whole.

The OMA respectfully urges the Commission to keep these applications clean. As the Company points out in its memoranda contra, and as the OMA has noted above, the OCC and OEC do not have an interest in this proceeding. Granting their participation may result in struggling manufacturers forgoing benefits available to them in order to protect changes and improvements that have kept them competitive in this economy.

Respectfully,



Kevin Schmidt
The Ohio Manufacturers' Association