

FILE

CITIZEN POWER

Public Policy Research Education and Advocacy

RECEIVED-DOCKETING DIV

2009 OCT 23 AM 11:06

PUCO

12

October 22, 2009

Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

Re: Case No. 07-646-EL-UNC

Dear Docketing Division:

Enclosed please find for filing an original and (12) twelve copies of the *Motion of Citizen Power, Inc., to Intervene, Memorandum in Support, and Motion to Practice Pro Hac Vice Before the Commission.*

If you have any questions, please contact me at (412) 421-7029.

Sincerely,



Theodore S. Robinson, Esquire  
Staff Attorney  
Citizen Power  
2121 Murray Avenue  
Pittsburgh, PA 15217

Attachment

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         Ar         Date Processed 10/23/09

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission-Ordered )  
Workshop Regarding Smart Metering )  
Deployment. )

Case No. 07-646-ELC/INC

PUCO

2009 OCT 23 AM 11:08

RECEIVED-DOCKETING DIV

---

MOTION OF CITIZEN POWER, INC., TO INTERVENE, MEMORANDUM IN  
SUPPORT AND MOTION TO PRACTICE PRO HAC VICE BEFORE  
THE COMMISSION

---

Theodore S. Robinson  
Citizen Power  
2121 Murray Avenue  
Pittsburgh, PA 15217  
Telephone: (412) 421-7029  
Fax: (412) 421-6162  
e-mail: [robinson@citizenpower.com](mailto:robinson@citizenpower.com)

October 22, 2009

Counsel for Citizen Power

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission-Ordered )  
Workshop Regarding Smart Metering )  
Deployment. )

Case No. 07-646-EL-UNC

---

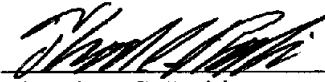
MOTION TO INTERVENE OF CITIZEN POWER, INC.

---

Citizen Power, Inc., (“Citizen Power”) hereby respectfully moves the Public Utilities Commission of Ohio (“Commission”), pursuant to R.C. 4903.221 and Section 4901-1-11 of the Ohio Administrative Code, to intervene in the above-captioned case, with the full powers and rights granted by the Commission specifically, by statute and by the provisions of the Ohio Administrative Code to intervening parties.

Citizen Power is a not-for-profit research, education and advocacy organization (i.e. under Section 501 (c) (3) of the U. S. Internal Revenue Code), with offices in Ohio and Pennsylvania. A more detailed description of Citizen Power, the reasons for its intervention, and why such intervention should be granted by the Commission are set forth in the Memorandum in Support.

Respectfully submitted,



---

Theodore S. Robinson  
Citizen Power  
2121 Murray Avenue  
Pittsburgh, PA 15217  
Telephone: (412) 421-7029  
FAX: (412) 421-6162  
e-mail: [robinson@citizenpower.com](mailto:robinson@citizenpower.com)

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission-Ordered )  
Workshop Regarding Smart Metering )  
Deployment. )

Case No. 07-646-EL-UNC

---

MEMORANDUM IN SUPPORT

---

Citizen Power respectfully submits that it should be permitted to intervene in this matter according to R.C. 4903.221 and the Commission's Rules and Regulations contained in Section 4901-1-11 of the Ohio Administrative Code. Moreover, Citizen Power should be permitted to intervene with the full powers and rights granted by the Commission specifically, by statute and by the provisions of the Ohio Administrative Code to intervening parties.

Citizen Power, Inc. is a not-for-profit research, education and advocacy organization (i.e. under Section 501 (c) (3) of the U. S. Internal Revenue Code), with offices in Ohio (at 2424 Dock Road, Madison, Ohio 44057), and Pennsylvania (at 2121 Murray Avenue, Pittsburgh, Pennsylvania 15217). Citizen Power has established an Energy Education Project with the primary mission of promoting energy policies that protect the environment and low-income customers. David Hughes is the Executive Director of Citizen Power, Kelli O'Neill and Ronald O'Connell are Directors of Citizen Power, and each is a customer of The Cleveland Electric Illuminating Company, an operating company of FirstEnergy.

Citizen Power has a long history of involvement in electric regulatory matters. In the period from 1986 through 1989, Citizen Power, then known as “Concerned Citizens,” intervened in the Perry 1 and Beaver Valley 2 investigations concerning the prudence of the construction costs for the two nuclear power plants, and the case concerning the base rates of Cleveland Electric Illuminating Company. Citizen Power also intervened before the FERC in the FirstEnergy merger case (Docket No. ER 97-413). Furthermore, Citizen Power was granted intervention and actively participated in the FirstEnergy Transition Case before this Commission (Case Nos. 99-1212-EL-ETP, 99-1213-EL-ETP, and 99-1214-EL-ETP), the FirstEnergy ESP Case (Case No. 08-935-EL-SSO), and the FirstEnergy MRO Case (08-936-EL-SSO).

Citizen Power has a direct, real, and substantial interest in this proceeding. The above-captioned proceeding was initiated on May 30, 2007 in order to start a workshop process to investigate smart metering and advanced metering infrastructure (“AMI”). On January 21, 2009, the Commission directed (in Docket No. 07-551-EL-AIR) The Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (“the Companies”) to create a study of AMI and Smart Grid technology and deployment options in conjunction with staff and to file the study in this docket. As part of its mission, Citizen Power has advocated for affordable energy and energy efficiency in multiple regulatory and legal proceedings. The Commission’s rulings on the issues in this docket will not only have short-term rate impacts on residential customers, but the information developed may also influence future smart meter development, possibly impacting both the affordability of residential electric service and the environment. Thus,

the interests of Citizen Power may be “adversely affected” by these proceedings, satisfying the intervention standard in R.C. 4903.221.

Citizen Power also meets the standard for intervention under R.C. 4903.221(B), which provides that the Commission shall consider in ruling on an intervention application:

- (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.

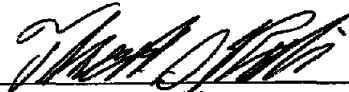
First, as evidenced above, the nature and extent of Citizen Power’s interest in these proceedings are substantial. As an advocate for affordable energy, especially concerning low-income customers, Citizen Power has a specific interest that the overall cost of electricity is as low as possible. In addition, the development of smart grid and AMI technology may have significant environmental impacts. Citizen Power has an interest in having the least cost methods be used to achieve the maximum positive environmental impact. Second, Citizen Power’s legal position is that any rates that result from this docket should be reasonable. Third, the intervention of Citizen Power will not unduly prolong or delay the proceeding. Fourth, Citizen Power will contribute to the just, equitable, and expeditious resolution of the issues that are raised in these proceedings.

Citizen Power also meets the standard for intervention under Section 4901-1-11(B)(1)-(4) of the Ohio Administration Code, which is almost identical to the criteria under R.C. 4903.221(B). 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 Citizen Power does not concede the lawfulness of this factor, Citizen Power satisfies this criterion in that it is specifically concerned about the impact of the program upon residential low-income customers’ rates and the potential environmental impacts of the program.

For the reasons stated above, Citizen Power requests the Commission grant Citizen Power’s motion to intervene.

Respectfully submitted,




---

Theodore S. Robinson  
Citizen Power  
2121 Murray Avenue  
Pittsburgh, PA 15217  
Telephone: (412) 421-7029  
FAX: (412) 421-6162  
e-mail: [robinson@citizenpower.com](mailto:robinson@citizenpower.com)



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion to Intervene, Memorandum in Support* and the attached *Motion to Admit Pro Hac Vice* was served electronically or by regular U.S. Mail upon the parties of record identified below in these cases on this 22<sup>nd</sup> day of October, 2009.

  
\_\_\_\_\_  
Theodore S. Robinson, Esq.

**SERVICE LIST**

Mark S. Yurick  
John W. Bentine  
Chester Wilcox & Saxbe LLP  
65 East State Street, Suite 1000  
Columbus, OH 43215-4215

On Behalf of American Municipal Power-  
Ohio Inc.

John J. Finnigan, Jr.  
Duke Energy Ohio, Inc.  
139 East Fourth Street, Room 25 AT11  
Cincinnati, OH 45201-0960

On Behalf of Duke Energy Ohio, Inc.

Michael D. Dortch  
Kravitz, Brown & Dortch, LLC  
85 East State Street, Suite 200  
Columbus, OH 43215-4277

On Behalf of Duke Energy Ohio, Inc. and  
CURRENT Group LLC

David Rinebolt  
Colleen Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
PO Box 1793  
Findlay, OH 45839-1793

On Behalf of Ohio Partners for Affordable  
Energy

Ann Hotz  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, 18<sup>th</sup> Floor  
Columbus, OH 43215

On Behalf of Office of the Ohio  
Consumers' Counsel

Kathy Kolich  
Senior Attorney  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308

On Behalf of Ohio Edison, The Cleveland  
Electric Illuminating Company and The  
Toledo Edison Company

Steven T. Nourse  
Marvin Resnik  
American Electric Power Company  
1 Riverside Plaza  
Columbus, OH 43215

On Behalf of American Electric Power  
Company

Samuel C. Randazzo  
Lisa G. McAlister  
Joseph M. Clark  
McNees Wallace & Nurick  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, OH 43215-4228

On Behalf of Industrial Energy Users-Ohio

William L. Wright  
Thomas W. McNamee  
Assistant Attorneys General  
Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, OH 43215-3793

On Behalf of the Staff of the Public  
Utilities Commission of Ohio

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission-Ordered )  
Workshop Regarding Smart Metering )  
Deployment. )

Case No. 07-646-EL-UNC

---

**MOTION TO ADMIT THEODORE S. ROBINSON TO PRACTICE  
PRO HAC VICE BEFORE THE COMMISSION**

---

**I. MOTION FOR ADMISSION PRO HAC VICE**

Pursuant to Rule 4901-1-08(B) of the Ohio Administrative Code, William M. Ondrey Gruber (0005950), an attorney licensed to practice in the State of Ohio, respectfully petitions the Public Utilities Commission of Ohio ("Commission") to permit Theodore S. Robinson to practice *pro hac vice* before the Commission in the above-referenced proceedings. Mr. Robinson represents Citizen Power, a non-profit corporation registered in Ohio and Pennsylvania and working for safe, clean and affordable energy.

**II. MEMORANDUM IN SUPPORT**

Mr. Robinson graduated from the University of Pittsburgh School of Law in May 2006, *cum laude*, and has been an active member of the Pennsylvania Bar since December of 2006, Member No. 203852. Mr. Robinson's representation of Citizen Power includes the support of Citizen Power's activities related to the State of Ohio's

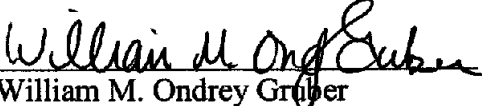
utility services, including those relating to activities that the Commission has jurisdiction over. Mr. Robinson's contact information is:

Theodore S. Robinson  
Citizen Power, Inc.  
2121 Murray Avenue  
Pittsburgh, PA 15217  
Tel: (412) 421-7029  
Fax: (412) 421-6162  
robinson@citizenpower.com

### III. CONCLUSION

For the reasons set forth above, William M. Ondrey Gruber requests that Theodore S. Robinson be permitted to practice before the Commission in the aforementioned proceedings.

Respectfully submitted,

  
William M. Ondrey Gruber  
Attorney-at-Law  
(Registration No. 0005950)  
2714 Leighton Road  
Shaker Heights, Ohio 44120  
(216) 371-3570  
E-Mail: GruberWL@aol.com