

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of P.H.)	Case No. 10-1061-EL-EEC
Gladfelter Company and Columbus Southern)	
Power Company to Incorporate Energy)	
Efficiency Capabilities of Power Boiler #6)	
into Columbus Southern Power Company's)	
Energy Efficiency Program)	

**MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL**

The Ohio Environmental Council ("OEC") moves to intervene in this case, in which P.H. Gladfelter Company ("Glatfelter") and Columbus Southern Power Company ("AEP") seek approval for a Joint Arrangement whereby Glatfelter intends to commit energy efficiency and peak demand reduction ("EE/PDR") savings to AEP, for no compensation, pursuant to R.C. 4928.66(A)(2)(d). Further, the Application makes Gladfelter's EE/PDR commitment to AEP contingent upon Gladfelter receiving renewable ("REC") certification for the same boiler upgrade from which it will reap EE/PDR savings.

As more fully discussed in the accompanying memorandum, the OEC has a real and substantial interest in this proceeding to ensure that EE/PDR resources and renewable energy resource projects are deployed in this state according to the clear requirements and timetables provided by S.B. 221 and to ensure that this Application is properly scrutinized in light of the letter and intent of S.B. 221. If granted leave to intervene, the OEC intends to pursue discovery on several issues raised in the Application, including questions regarding the type of efficiency project to be undertaken and whether the EE/PDR project described should qualify for REC certification. The interests of the OEC, Ohio's largest non-profit environmental advocacy

organization, are not represented by any existing party. The OEC's participation in this proceeding will contribute to a just and expeditious resolution of the issues involved, without unduly delaying the proceeding or unjustly prejudicing any existing party.

Accordingly, the OEC hereby moves to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

WHEREFORE, the OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/ Will Reisinger
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MEMORANDUM IN SUPPORT

R.C. Section 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” The OEC is a non-profit, charitable organization comprised of a network of over 100 affiliated member groups whose mission is to secure a healthier environment for all Ohioans. Throughout its 40-year history, the OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. The OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of EE/PDR and renewable benchmark requirements. The OEC has a real and substantial interest in assuring that those benchmarks are properly calculated. There can be no question that the OEC has an interest in and may be adversely affected by the disposition of this case.

R.C. 4903.221(B) outlines four factors that the Commission shall consider when ruling on a motion to intervene in a proceeding. First, pursuant to R.C. 4903.221(B)(1), the Commission shall consider “the nature and extent of the prospective intervenor’s interest.” The OEC has several distinct interests in the disposition of this case. As a general matter, the OEC is interested in the achievement of maximum cost-effective energy efficiency and renewable

energy implementation in Ohio. This Application proposes what may be a unique, or unprecedented, interpretation of R.C. 4928.66 and R.C. 4928.64. Consequently, the disposition of this case will influence how future applications to commit EE/PDR resources are considered, and may also impact how REC applications are evaluated. The OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact these decisions could have on Ohio's air quality.

Second, pursuant to R.C. 4903.221(B)(2), the Commission shall consider "the legal position advanced by the prospective intervenor and its probable relation to the merits of the case." Although the OEC does not outline detailed legal arguments in this memorandum, the OEC maintains that the Application should be properly scrutinized by the Commission and interested parties to ensure that it complies with the EE/PDR and renewable energy provisions within S.B. 221. Importantly, Glatfelter seeks to commit EE/PDR savings resulting from a boiler fan replacement to AEP for compliance with AEP's EE/PDR benchmarks:

"In accordance with Section 4928.64(A)(1), Revised Code, Glatfelter seeks approval of this Joint Application to commit the electric energy efficiencies from its Power Boiler #6 to CSP for the purpose of and contingent upon the Commission's certification of Power Boiler #6 as a renewable energy generating resource."¹

This paragraph, while confusing to the OEC, appears to suggest that Glatfelter will commit its EE/PDR savings from boiler #6 only if the Commission also certifies boiler #6 as a renewable resource. It is not clear from the Application what the Boiler #6 project entails, whether it is a generation efficiency upgrade, whether it should qualify as a renewable project, and whether it is appropriate for the Commission to certify a single process as both an EE/PDR resources and a renewable energy resource.

¹ Application at 2.

Third, pursuant to R.C. 4903.221(B)(3), the Commission shall consider “whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.” The OEC has significant experience dealing with electric utilities questions before the Commission and will not seek to unduly delay the proceeding. The OEC has been consistently involved in the development and enactment of S.B. 221 and the associated rules, including as a party in numerous cases before the Commission. The OEC’s intervention will not unduly prolong or delay these proceedings; to the contrary, the OEC’s expertise and unique interest will add value to the development of this case.

Fourth, pursuant to R.C. 4903.221(B)(4), the Commission shall consider “whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.” The OEC has actively participated in the implementation of the efficiency and renewable energy benchmarks established by S.B. 221 and in numerous other matters before the Commission. As an active participant in cases before the Commission, the OEC has developed expertise that will contribute to the full development of the legal questions involved in this proceeding. Finally, as Ohio’s leading environmental advocate, the OEC will be able to assure that the environmental impacts of benchmark calculations are fully developed.

The OEC also satisfies the intervention requirements outlined in the Commission’s rules. The criteria for intervention established by O.A.C. 4901-1-11(A) are identical to those provided by R.C. 4903.221, with the exception that the rules add a fifth factor that the Commission shall consider when ruling on a motion to intervene. Pursuant to O.A.C. 4901-1-11(A)(5), the Commission shall consider “the extent to which the [intervenor’s] interest is represented by existing parties.” The OEC’s interest is not fully represented by the existing parties. The OEC is the leading advocate for Ohio’s environment. No other party to this proceeding has the mission

of securing healthy air for all Ohioans, and no other party has been a continuous participant in cases before the Commission for the specific purpose of furthering this mission.

Finally, we point out that it is the Commission's stated policy "to encourage the broadest possible participation in its proceedings."² The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

The OEC meets all the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5) and therefore should be granted intervenor status in this proceeding.

WHEREFORE, the OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/ Will Reisinger
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² *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class or electronic mail this 6th day of August, 2010.

/s/ Will Reisinger

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Summary: Motion Motion to Intervene with Memorandum in Supprt electronically filed by Mr. Will Reisinger on behalf of Ohio Environmental Council