

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO

In the Matter of the Joint Application for)
Establishment of a Unique Arrangement) Case Nos. 10-1461-EL-AEC
Between The Ohio Power Company and)
Severstal Wheeling, Inc.)

In the Matter of the Joint Application for) Case No. 10-1458-EL-AEC
Establishment of a Unique Arrangement)
Between The Ohio Power Company and)
Severstal Wheeling, Inc.)

**MOTION TO INTERVENE AND COMMENTS IN SUPPORT
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of more than 600,000 residential utility consumers of the Ohio Power Company, moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant the OCC's intervention in the above-captioned cases. In these cases Severstal Wheeling, Inc. ("Severstal") has applied for approval of a unique arrangement between itself and Ohio Power.

The unique arrangement is to be in place for a maximum period of 13 months.¹ Under the proposed arrangement Severstal is to take service from Ohio Power at market prices for energy and capacity.² Severstal will pay all the applicable transmission and distribution charges under Schedule GS-4, for a load up to 150 MW.³ Severstal has asserted that the flexibility provided under the arrangement will enable it to restart its

¹ Severstal Application at ¶6A.

² Severstal Application at ¶6B.

³ Id.

production facilities in Wheeling, which will potentially create 525 jobs in Ohio.⁴

Severstal alleges as well that there will be hundreds of additional indirect jobs, increasing economic development and increasing state, local, and school revenues.⁵ Severstal further alleges that the proposed unique arrangement will not produce any delta revenues for Ohio Power's customers to pay.⁶ Severstal asks that the Commission find its proposal to be just and reasonable and approve the arrangement by October 22, 2010.

On October 4, 2010, the Commission issued an Entry advising that motions to intervene and comments and objections be filed October 14, 2010. Additionally the Commission ruled that if it believes the application "may be unjust or unreasonable" after reviewing comments or objections, it will hold a hearing to be scheduled by separate ruling.

The reasons for granting OCC's motion to intervene are set forth in the attached Memorandum in Support, in which OCC also conveys its support for the unique arrangement between Severstal and Ohio Power, provided that, as alleged by Severstal, the unique arrangement has "zero delta revenue" impact on residential customers of Ohio Power. The Commission should approve the application.

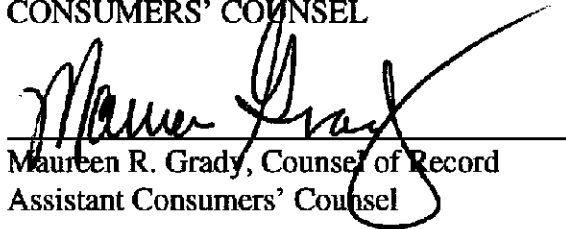
⁴ Severstal Application at ¶7.

⁵ Id.

⁶ Severstal Application at ¶7.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
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MEMORANDUM IN SUPPORT AND COMMENTS

OCC moves to intervene in the above-captioned docket in order to represent the interests of more than 600,000 residential electric customers of Ohio Power. OCC supports the approval of the unique arrangement provided that the approval of the arrangement will not require Ohio Power residential customers to fund any delta revenues. Severstal alleges that this is in fact the case, where it states that "this market based unique arrangement results in zero delta revenue. Therefore, there will be no recovery necessary from the rest of Ohio Power's customer base."⁷

I. ARGUMENT

A. Intervention

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, pursuant to R.C. Chapter 4911. R.C. 4903.221 provides, in

⁷ Application at ¶7.

part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially if the consumers are unrepresented in a proceeding where the Commission is reviewing a unique arrangement between an electric distribution utility and one of its industrial customers. Here the application proposes to impact customers of Ohio Power, directly, and indirectly, through job creation. The application also alleges that customers will not have to fund the discount provided under the unique arrangement. Both of these issues may affect the residential customers of Ohio Power. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on 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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest lies in representing residential consumers, and toward ensuring that Ohio Power's residential customers have the opportunity to review the facts -- all of the facts -- of this unique arrangement. This interest is different than that of any other party, and is especially different than that of Severstal or Ohio Power whose advocacy includes their own financial interests.

Second, OCC's advocacy for consumers will include advancing the position that this unique arrangement should benefit customers of Ohio Power by creating jobs, and OCC supports the arrangement, provided that there will be no delta revenues collected from customers for this arrangement, as represented by Severstal. In other words it is a win-win situation for Ohio Power's residential customers. OCC's position is therefore directly related to the merits of such a proposal in this case.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to fully developing and equitably resolving the case.

OCC also satisfies the intervention criteria in the Ohio Administrative Code, which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code. To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a real and substantial interest in this case where the outcome could have the effect of increasing the jobs and providing indirect benefits to residential customers.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC has already addressed, and that OCC satisfies.

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 OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion because

OCC has been uniquely designated as the statutory representative of the interests of Ohio's residential utility consumers.⁸ That interest is different from, and not represented by, any other entity in Ohio.

Three years ago the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.⁹

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of the Company's residential consumers, the Commission should grant the OCC's Motion to Intervene.

B. The Merits of the Application

OCC welcomes the opportunity to support economic development efforts in the State of Ohio and seeks to work cooperatively with both companies and utilities to make economic development in Ohio a reality. This proposed economic development arrangement presents a win-win situation for the utility, Severstal, and for the customers of Ohio Power who are not being asked to subsidize the discounted market rate. Under this unique arrangement there are alleged direct and indirect benefits created while at the same time there is no economic burden shifted onto residential customers. The Commission should expeditiously approve the application, provided that, as alleged by

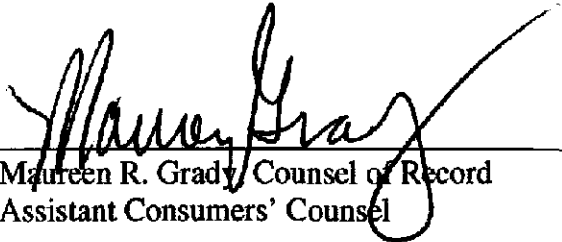
⁸ R.C. Chapter 4911.

⁹ *Ohio Consumers' Counsel v. Public Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

Severstal, the unique arrangement has the "zero delta revenue" impact on residential customers of Ohio Power.

Respectfully submitted,

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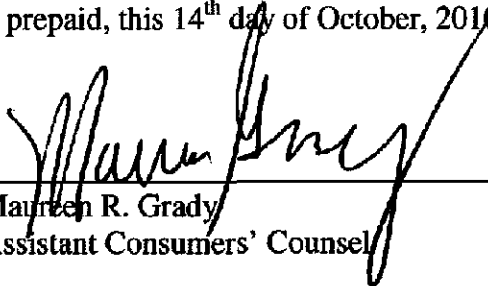


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Intervene and Comments In Support has been served upon the below-named persons via regular U.S. Mail Service, postage prepaid, this 14th day of October, 2010..


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