

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Aligning Electric	)	Case No. 10-3126-EL-UNC
Distribution Utility Rate Structure With	)	
Ohio's Public Policies to Promote	)	
Competition, Energy Efficiency, and	)	
Distributed Generation.	)	

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

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The Ohio Environmental Council ("OEC") moves to intervene in this case in which the Public Utilities Commission of Ohio ("Commission") seeks comment on potential changes to Ohio's electric distribution utilities' rate structures. As more fully discussed in the accompanying memorandum in support, the OEC has a real and substantial interest in this proceeding. The Commission's entry establishes a process to gather additional facts, solicit presentations from diverse viewpoints, and encourage public comment on questions of policy in order to fully evaluate potential rate structure modifications. 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/ William T. Reisinger

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**Attorneys for the OEC**

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**MEMORANDUM IN SUPPORT**

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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 has been an active participant in energy efficiency and other matters before the Commission. The OEC has a real and substantial interest in commenting in this proceeding to ensure that a modified rate structure allows utilities to conduct business while achieving optimal energy efficiency. Further, the OEC wants to ensure that utilities are not discouraged from implementing energy conservation measures.

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. First, as a general proposition, the OEC is interested in the achievement of maximum cost-effective energy efficiency by Ohio utilities. The Commission’s modifications to utility rate structures could either favorably or

adversely affect utilities' efforts to save energy. The OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact these rate structure modifications could have on utilities' energy efficiency programs, and thus on Ohio's air quality and environment.

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 section, the OEC maintains that the Commission's modifications to Ohio rate structures should be properly scrutinized by interested parties to ensure that they reflect sound energy policy.

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 issues at the Commission and will not seek to unduly delay the proceeding. The OEC's intervention will not unduly prolong or delay these proceedings.

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 Ohio's energy efficiency standards and in related matters before the Commission. As an active participant in cases before the Commission, the OEC has accrued expertise that will contribute to the full development of the legal questions and desired public policy outcomes involved in this proceeding. Finally, as Ohio's leading environmental advocate, the OEC will be able to assure that the environmental impacts of proposed rate structure modifications 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 any existing party. The OEC is the leading advocate for Ohio's environment. No other party to this proceeding has the mission of securing a healthy environment 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."<sup>1</sup> 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/ William T. Reisinger  
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<sup>1</sup> *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

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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 12<sup>th</sup> day of January, 2011.

/s/ William T. Reisinger

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