

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Portfolio Status)	
Report Under Rule 4901:1-39-05(C), Ohio)	Case No. 11-1299-EL-EEC
Administrative Code, by Columbus)	
Southern Power Company.)	
)	
In the Matter of the Annual Portfolio Status)	
Report Under Rule 4901:1-39-05(C), Ohio)	Case No. 11-1300-EL-EEC
Administrative Code, by Ohio Power)	
Company.)	

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in these proceedings where the status of utility company energy efficiency and peak demand reduction programs, including programs that rely on residential customer participation, is reported for evaluation and comment. Program status reports are important indicators of utility company efforts to achieve their compliance with benchmarks in Ohio law for energy efficiency and peak demand reduction.

OCC is filing on behalf of all of the approximately 1.2 million residential electric distribution customers of Columbus Southern Power Company and Ohio Power Company (collectively, "Companies").¹ The reasons the Public Utilities Commission of

¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Ohio (“Commission” or “PUCO”) should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS’ COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record
Assistant Consumers’ Counsel

Office of the Ohio Consumers’ Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (614) 466-8574

etter@occ.state.oh.us

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Portfolio Status)	
Report Under Rule 4901:1-39-05(C), Ohio)	Case No. 11-1299-EL-EEC
Administrative Code, by Columbus)	
Southern Power Company.)	
)	
In the Matter of the Annual Portfolio Status)	
Report Under Rule 4901:1-39-05(C), Ohio)	Case No. 11-1300-EL-EEC
Administrative Code, by Ohio Power)	
Company.)	

MEMORANDUM IN SUPPORT

These cases involve the review of the reasonableness and lawfulness of the Companies' energy efficiency and peak demand reduction program portfolio plans. OCC has authority under law to represent the interests of all of the Companies' approximately 1.2 million residential electric distribution customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in 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 customers may be "adversely affected" by this case, especially if the customers were unrepresented in proceedings where the status of programs employed by the Companies to meet statutory benchmark requirements is at issue. The programs presented in this status report include the Companies' recent energy efficiency efforts which involve significant residential customer participation. 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 is representing the Companies' residential customers in these cases where their interest in programs related to controlling their energy usage and their costs is at issue. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that programs directed at residential customers should be cost-effective and properly maximize opportunities to achieve significant customer energy savings. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' energy efficiency and peak demand reduction programs in Ohio.

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

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information

that the PUCO should consider for equitably and lawfully deciding these cases in the public interest.

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 advocate for residential utility customers, OCC has a very real and substantial interest in these cases where residential energy efficiency programs and their effect on customers are at stake.

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 already has 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 in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, 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.²

² See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20 (2006).

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 Ohio residential customers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-8574
etter@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene by the Office of the Ohio Consumers' Counsel* was served on the persons stated below via electronic mail, this 1st day of April 2011.

/s/ Terry L. Etter
Terry L. Etter
Assistant Consumers' Counsel

SERVICE LIST

William L. Wright
Assistant Attorney General
Chief, Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215-3793
william.wright@puc.state.oh.us

Matthew Satterwhite
American Electric Power Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215-2373
mjsatterwhite@aep.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/1/2011 1:35:53 PM

in

Case No(s). 11-1299-EL-EEC, 11-1300-EL-EEC

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Mrs. Mary V. Edwards on behalf of Etter, Terry L. and Office of the Ohio Consumers' Counsel