

In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration.))))	Case No. 11-5568-EL-POR
In the Matter of the Application of Ohio Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration.))))	Case No. 11-5569-EL-POR

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Columbus Southern Power Company and Ohio Power Company ("AEP Ohio" or "the Companies") have filed a joint application concerning their 2012-2014 Energy Efficiency and Peak Demand Reduction (EE/PDR) Program Portfolio Plan ("EE/PDR Portfolio Plan"). This EE/PDR Portfolio Plan is to be implemented so that the Companies meet the energy efficiency benchmarks contained in R.C. 4928.66.¹ OCC is filing on behalf of the residential utility customers of AEP Ohio. The reasons the Public Utilities Commission of Ohio ("Commission" or "PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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

Respectfully submitted,

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In the Matter of the Application of)
Columbus Southern Power Company for) Case No. 11-5568-EL-POR
Approval of its Program Portfolio Plan)
and Request for Expedited Consideration.)

In the Matter of the Application of Ohio)
Power Company for Approval of its) Case No. 11-5569-EL-POR
Program Portfolio Plan and Request for)
Expedited Consideration.)

These cases involve the review of the reasonableness and lawfulness of the EE/PDR Portfolio Plan jointly submitted by the Companies on November 29, 2011. A joint Stipulation and Recommendation (“Stipulation”) was also filed in this proceeding on November 29, 2011. The Stipulation sets forth the EE/PDR Portfolio Plan for the companies for the 2012-2014 period. OCC is a signatory party to the Stipulation on behalf of residential customers.

OCC has authority under law to represent the interests of the residential utility customers of AEP Ohio pursuant to R.C. Chapter 4911. In addition, 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 a proceeding evaluating the Companies’ EE/PDR Portfolio Program. 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 residential customers of AEP Ohio in this case involving the Companies' EE/PDR Portfolio Plan. Moreover, OCC is a signatory party, for residential customers, to the Stipulation submitted in these cases.² 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 customers should be provided effective and efficient programs, and that program costs are reasonable. 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' rates and service quality in Ohio.

² *In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, Case No. 11-5568, et al, Stipulation and Recommendation (November 29, 2011).

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 the case 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 the case 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 this case residential programs and residential rates for customers served by the Companies 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 deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.³

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,

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

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* electronic service this 9th day of December 2011.

/s/ Kyle L. Kern _____

Kyle L. Kern

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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Kern, Kyle L.