

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio Edison Company Pursuant to Rule 4901:1-39-05(C)(2)(c), Ohio Administrative Code, to Reallocate Funds Between Energy Efficiency and Conservation Programs.) Case No. 11-5818-EL-POR)))

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

The Application filed by Ohio Edison Company (“OE”) concerns the implementation of the energy efficiency and peak demand reduction (“PDR”) requirements of Senate Bill 221 (“S.B. 221”). As more fully discussed in the accompanying memorandum, the Ohio Environmental Council (“OEC”) has a real and substantial interest in this proceeding to ensure that energy efficiency resources and PDR 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. The interests of OEC, Ohio’s largest non-profit environmental advocacy organization, are not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved. OEC’s participation will not unduly delay the proceeding or unjustly prejudice any existing party.

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

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

Respectfully Submitted,

/s/ Cathryn N. Loucas

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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, OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of energy efficiency and PDR benchmarks. OEC has a real and substantial interest in assuring that these benchmarks are attained. The attainment or non-attainment of these benchmarks will have a direct effect on the air quality within Ohio and the amount of energy efficiency implemented as a result of S.B. 221. There can be no question that OEC has an interest in and may be adversely affected by the disposition of this case. Also, it should be noted from the outset, this application is inherently related to the Company’s portfolio cases currently before the Commission and in which OEC is a party.

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.” OEC has several distinct interests in the disposition of this case. First, OEC is interested in the

proper implementation of energy efficiency programs and the reasonable costs associated with those programs. Each decision made by the Commission relative to the energy efficiency requirements of SB 221 is of special interest to the OEC because of the direct impact that such decisions may have on the current and future implementation and effectiveness of S.B. 221, and thus, the further deployment of cleaner, more efficient energy production in Ohio.

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 OEC does not outline detailed legal arguments in this section, OEC maintains that OE’s’s Application should be properly scrutinized by interested parties to ensure that it complies with the letter and intent S.B. 221’s energy efficiency and PDR requirements.

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.” OEC has significant experience dealing with electric utilities questions before the Commission and will not seek to delay the proceeding. 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. OEC’s intervention will not unduly prolong or delay these proceedings; to the contrary, 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.” OEC has actively participated in the implementation of the efficiency, PDR, and renewable energy benchmarks established by S.B. 221 and in numerous other matters

before the Commission.¹ 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. As Ohio's leading environmental advocate, OEC will be able to assure that the environmental impacts of benchmark calculations are fully developed.

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." OEC's interest is not fully represented by the existing parties. 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.

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.

¹ See Case No. 99-1613-EL-ORD, and the OEC's May 5th 2000 application for rehearing, which include numerous well-sourced recommendations for the implementation of Ohio's environmental disclosure law from other jurisdictions; see Case No. 02-565-EL-ORD and the OEC's May 24th 2002 reply comments which encompassed efforts to create compromise in a Percentage Income Payment Plan Proceeding; and see Case No. 08-935-EL-SS0 and the OEC's submission of the direct testimony of Randy Gunn, on September 29th, 2008, which provided extensive and illuminating analysis on FirstEnergy's initially inadequate energy efficiency program portfolio filing.

² *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 electronic mail this 4th day of January, 2012.

/s/ Cathryn N. Loucas

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/4/2012 3:42:25 PM

in

Case No(s). 11-5818-EL-POR

Summary: Motion to Intervene electronically filed by Ms. Cathryn N. Loucas on behalf of The Ohio Environmental Council