

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission)	
Review of the Capacity Charges)	
of Ohio Power Company and)	Case No. 10-2929-EL-UNC
Columbus Southern Power Company.)	

MOTION OF NFIB/OHIO TO INTERVENE

The Ohio Chapter of The National Federation of Independent Business (“NFIB/Ohio”), respectfully moves the Public Utilities Commission of Ohio, pursuant to R.C. 4903.221 and O.A.C. 4901-1-11, for leave to intervene in this proceeding. As is more fully set forth in the accompanying memorandum, NFIB/Ohio represents over 24,000 small-business owners and energy consumers of varying size and industry class in Ohio, with the typical small-business member employing twenty-five or fewer, and having gross annual revenue of less than one million dollars. NFIB/Ohio represents independent businesses on public policy and other issues important to its members. This proceeding represents such a matter of great importance to NFIB/Ohio’s members. NFIB/Ohio’s members have a real and substantial interest in AEP-Ohio’s proposed basis of compensation for capacity costs, and are so situated that disposition of this proceeding may, as a practical matter, impair or impede their ability to protect their interests.

On March 7, 2012, the Commission directed that an evidentiary record be developed as to a state compensation mechanism and invited “interested parties” to develop that evidentiary record. On March 14, 2012, the Attorney Examiner established March 30, 2012 as the deadline to file motions to intervene. NFIB’s Motion is therefore timely filed under this case schedule.

The specific grounds in support of this motion are more particularly set forth in the accompanying memorandum attached hereto and incorporated herein.

Respectfully submitted,

/s/ Roger P. Sugarman

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**NFIB/OHIO'S MEMORANDUM
IN SUPPORT OF ITS MOTION TO INTERVENE**

I. Argument

The rules of the Commission mandate intervention, upon timely motion made pursuant to O.A.C. 4901-1-11(A), following a showing that:

- (2) the person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

NFIB/Ohio satisfies each requirement of this rule (see also R.C. 4903.221(B)).

NFIB/Ohio has a “real and substantial interest in the proceeding” before this Commission – a proceeding which will determine whether and to what extent to change the basis for compensation for capacity costs to a cost-based mechanism. The interests of NFIB/Ohio center on competition and the resulting costs which will be incurred by their members. NFIB/Ohio has long championed the position that fostering competitive markets and limiting government intervention will free entrepreneurs to create jobs, make capital investments, and take risks that help grow their businesses. It should be unquestioned that the interests of NFIB/Ohio and its members are not currently represented by any existing party.

Alternatively, the rules of this Commission provide for permissive intervention under O.A.C. 4901-1-11(B), upon timely motion, following consideration of:

- (1) The nature of the person's interests;
- (2) The extent to which the person's interest is represented by existing parties;
- (3) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceedings; and,
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

Even were the Commission to determine that NFIB/Ohio does not satisfy the requirements for mandatory intervention, NFIB/Ohio nevertheless satisfies these requirements for permissive intervention. The nature of its interests are well known; the distinction of NFIB/Ohio's interests from those of other parties are clear; NFIB/Ohio will contribute to a just and expeditious resolution of the issues involved; and, granting intervention will not delay this proceeding, or cause prejudice to any existing party.

NFIB/Ohio's participation will help develop a full and complete record upon which the Commission may ultimately base its decision. Under the Commission's standards and statutory requirements for both mandatory and permissive intervention, NFIB/Ohio's participation with respect to the issues presented in this docket is therefore appropriate.

II. Conclusion

For all the foregoing reasons, NFIB respectfully requests that its Motion for Intervention be granted, consistent with the considerations, provisions and requirements of R.C. 4903.221(B) and O.A.C. 4901-1-11.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION OF NFIB/OHIO TO INTERVENE AND MEMORANDUM IN SUPPORT was served by regular U.S. mail, postage prepaid, or electronic mail, this 29th day of March, 2012, upon the following parties, or their counsel of record to this action:

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Summary: Motion of NFIB/Ohio to Intervene electronically filed by Mr. Roger P. Sugarman on behalf of The National Federation of Independent Business