

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation of Ohio's Retail Electric)	Case No. 12-3151-EL-COI
Service Market)	

**MOTION TO INTERVENE
OF OHIO POWER COMPANY**

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, Ohio Power Company ("AEP Ohio") hereby moves to intervene in this proceeding. The reasons supporting AEP Ohio's intervention are contained in the accompanying Memorandum in Support.

WHEREFORE, AEP Ohio respectfully requests that the Public Utilities Commission of Ohio ("Commission") grant this motion to intervene.

Respectfully submitted,

//s/ Steven T. Nourse

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
OF OHIO POWER COMPANY**

Section 4903.221, Revised Code provides, in pertinent part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. Subsection (B) of Section §4903.221, Revised Code 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.¹

In addition to requiring consideration of the above criteria, the Commission’s rules also require consideration of “[t]he extent to which the person’s interest is represented by existing parties” in deciding whether to permit intervention.² Further, the Supreme Court of Ohio has found that “intervention ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be

¹ Ohio Rev. Code Ann. § 4903.221(B)(1)-(4)

² See O.A.C. 4901-1-11(B)(1)-(5).

considered by the PUCO.”³ In considering AEP Ohio’s prospective intervention in light of the above criteria and precedent, the Commission should find that AEP Ohio’s intervention in this proceeding is appropriate.

AEP Ohio has a real and substantial interest in this proceeding that is not adequately represented by existing parties and is so situated that the disposition of this proceeding may adversely affect that interest.

As Ohio electric utilities make the transition from functional to structural corporate separation pursuant to the corporate separation laws set forth in SB 221 and 4928.17, Revised Code and in light of recent generation retirement announcements by Ohio-based utilities, the Commission, in its December 12, 2012 Entry in this docket, initiated an investigation regarding the health/strength/vitality of Ohio’s retail electric service market and actions that the Commission may take to enhance the health/strength/vitality of that market. To aid its investigation, the Commission seeks comments on a broad range of topics, from the design of the existing retail electric service market to the implementation of corporate separation.

AEP Ohio has a real and substantial interest in this proceeding because the outcome of this case may affect Ohio’s retail electric service market, a market in which AEP Ohio participates. As one of the largest utilities providing electric services in Ohio, AEP Ohio has a real and substantial interest in the design, operation, and the role of an EDU in Ohio’s retail electric service market. Thus, AEP Ohio has a real and substantial interest in this proceeding that may be adversely affected by the Commission’s decision in this case.

³ *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387, 2006-Ohio-5853, ¶20 (2006).

In addition, the Commission's decision in this matter may have an adverse affect on EDU's that have completed or are currently undergoing corporate separation pursuant to the requirements of SB 221 and Section 4928.17, Revised Code. For example, the currently-established rights and obligations of a fully separate entity's competitive and non-competitive affiliates may be affected by the outcome of this proceeding.

Consequently, with AEP Ohio continuing its transition to full structural corporate separation, it has a further real and substantial interest in this proceeding.

AEP Ohio's intervention will not unduly prolong or delay this proceeding and will contribute to the development of a full record.

This motion to intervene precedes any intervention deadline including the submission of initial comments. Therefore, AEP Ohio's intervention should not unduly prolong or delay this proceeding. Given its experience in the marketplace and understanding of the issues raised in this proceeding, AEP Ohio will significantly contribute to the full development of the issues to aid in the Commission's investigation.

For the foregoing reasons, AEP Ohio respectfully requests that the Commission grant this motion to intervene and that AEP Ohio be made a party of record to this proceeding.

Respectfully submitted,

//s/Steven T. Nourse

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon the below-named counsel via electronic mail this 20th day of February, 2013.

//s/ Steven T. Nourse

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Summary: Motion to Intervene electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company