

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	Case No. 13-1939-EL-RDR
Power Company to Initiate Phase 2 of its)	
gridSMART Project and to Establish the)	
gridSMART Phase 2 Rider)	
)	

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

The Ohio Environmental Council ("OEC"), pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11, hereby moves to intervene in the above captioned proceeding. OEC has a real and substantial interest in this proceeding, and the interests of OEC, Ohio's largest state-focused environmental advocacy organization, are not represented by any existing party. Further, OEC's participation in this proceeding will contribute to a just and expeditious resolution of the issues involved, and will not unduly delay the proceeding or unjustly prejudice any existing party.

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

Respectfully Submitted,

/s/ Trent A. Dougherty

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MEMORANDUM IN SUPPORT

Ohio Revised Code 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 healthy air, land, and water for all who call Ohio home. Throughout its 44-year history, OEC has been a leading advocate for fresh air, clean water, and sustainable 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 resource standard. The effective deployment of smart grid technology and its impact on the attainment or non-attainment of energy efficiency goals will have a direct effect on the air quality within Ohio and Ohio’s contribution to climate change. There can be no question that OEC has an interest in and may be adversely affected by the disposition of this case.

Ohio Revised Code Section 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 “[t]he nature and interest.” OEC, as an environmental advocacy organization, has a special interest in the outcome of this case due to the direct impact that decisions on the cost /benefit analysis of Ohio Power’s Phase 2 gridSMART

Project will have on the current and future deployment and effectiveness of smart grid technology, and through that, increased energy efficiency and conservation.

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, here, outline detailed legal arguments, OEC maintains that Phase 2 of the gridSMART Project should be properly scrutinized to ensure that (1) it complies with the letter and intent of Ohio’s Clean Energy laws; and (2) its environmental benefits are fully analyzed in relation to the Project’s costs.

Third, pursuant to R.C. 4903.221(B)(3), the Commission shall consider “[w]hether 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, thus, not unduly prolong or delay these proceedings.

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 regulations established by S.B. 221 and numerous other proceedings before the Commission. 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.

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 dedicated to 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 consistent 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."¹ The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate, or one customer group, to the exclusion of others.

WHEREFORE, As OEC meets all the criteria established for intervention, OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

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¹ *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by electronic mail this 22nd day of October, 2013.

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Summary: Motion Motion to Intervene and Memorandum in Support of Ohio Environmental Council electronically filed by Mr. Trent A Dougherty on behalf of Ohio Environmental Council