

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Update Its) Case No. 14-192-EL-RDR
gridSMART Rider.)

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case involving Ohio Power Company's collection of charges from customers for its gridSMART program.¹ The Public Utilities Commission of Ohio ("PUCO") should be considering whether the smart grid provides sufficient benefits for Ohioans commensurate with the costs that utilities seek to charge customers. Ohio Power seeks to raise the rate collected from residential customers through the gridSMART rider by \$1.01.² OCC is filing on behalf of Ohio Power's approximately 1.2 million residential electric utility customers. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ See Application (February 4, 2014).

² See id., Attachment 4.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-7964 (Etter Direct)

terry.etter@occ.ohio.gov

In the Matter of the Application of)
Ohio Power Company to Update Its) Case No. 14-192-EL-RDR
gridSMART Rider.)

⁴ See *id.*, Attachment 4.

rates they may pay for electricity. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO 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 Ohio Power's residential customers in this case involving a proposed increase in the rates they pay for electricity. This interest is different from 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 Ohio Power's rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. 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. The PUCO

should be considering whether the smart grid provides sufficient benefits for Ohioans commensurate with the costs that utilities seek to charge customers.

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 where Ohio Power is seeking to increase the rates residential customers pay under the rider.

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 PUCO 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.⁵

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 PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-7964 (Etter Direct)
terry.etter@occ.ohio.gov

⁵ 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 transmission this 10th day of March 2014.

/s/ Terry L. Etter
Terry L. Etter
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Chief, Public Utilities Section
Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad St., 6th Floor
Columbus, Ohio 43215
William.wright@puc.state.oh.us

Steven T. Nourse
Yazen Alami
Matthew J. Satterwhite
AEP Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
stnourse@aep.com
yalami@aep.com
mjsatterwhite@aep.com

Attorney Examiner:

Sarah.parrot@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/10/2014 2:53:38 PM

in

Case No(s). 14-0192-EL-RDR

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