

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio )  
Power Company for Authority to )  
Establish a Standard Service Offer ) Case No. 13-2385-EL-SSO  
Pursuant to R.C. 4928.143, in the Form of )  
an Electric Security Plan. )

In the Matter of the Application of Ohio )  
Power Company for Approval of Certain ) Case No. 13-2386-EL-AAM  
Accounting Authority. )

ENTRY

The attorney examiner finds:

- (1) Ohio Power Company d/b/a AEP Ohio (AEP Ohio) is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.
- (2) On December 20, 2013, AEP Ohio filed an application for a standard service offer pursuant to R.C. 4928.141. The application is for an electric security plan in accordance with R.C. 4928.143.
- (3) By entry issued January 24, 2014, the procedural schedule was established, including deadlines to file motions for intervention and to file intervenor and Staff testimony. In accordance with the January 24, 2014 Entry all motions to intervene were due by March 7, 2014, intervenor testimony was due on May 6, 2014 and Staff testimony was due May 20, 2014.
- (4) On April 25, 2014, Ohio Energy Professionals Association (EPO) filed a motion to intervene out of time. EPO is a trade group of licensed power brokers and consultants who advise Ohio businesses on the procurement of energy in the competitive market. EPO states that it is a new organization and the organization did not hold its first formal membership meeting until April 10, 2014.
- (5) EPO asserts that it is the only organization whose primary role is to interpret the products offered by competitive retail electric service providers. On that basis, EPO claims that ensuring the

continued operation of Ohio's competitive energy market is vital to EPO's membership. As such, EPO asserts that it has a real and substantial interest in these proceedings.

- (6) On May 6, 2014, AEP Ohio filed a memorandum contra EPO's motion to intervene. AEP Ohio submits that EPO failed to demonstrate extraordinary circumstances to justify its late request for intervention. AEP Ohio notes that the association's articles of incorporation were effective January 31, 2014, a month before the deadline for intervention. Further, AEP Ohio claims that granting EPO's request for intervention would prejudice AEP Ohio, as EPO would not be subject to discovery like all the other intervenors and, would be disruptive, and unnecessarily complicate the proceedings. In addition, AEP Ohio submits that adding a party at this late date would cause AEP Ohio to bear additional expenses in terms of testimony, discovery, settlement negotiations, etc. For these reasons, AEP Ohio requests that the Commission deny EPO's request for intervention.
- (7) On May 13, 2014, EPO filed a reply to the memorandum contra. EPO contends that while the association was a legal entity prior to the intervention deadline, the association had not held a membership meeting to ascertain and promote the common business interest of the membership. Further, EPO offers that the incorporating members were otherwise occupied with the business matters necessary to establish a non-profit organization. In response to AEP Ohio's claims of a lack of extraordinary circumstances, EPO answers that it is in a unique position to represent Ohio's licensed energy brokers and consultants, whom EPO asserts are vital to the continued development of a mature and beneficial electric market.
- (8) EPO's motion to intervene asserts a real and substantial interest that is not represented by any other party to these matters. Further, the motion asserts that the disposition of these proceedings may impair or impede EPO's ability to protect that interest. Furthermore, EPO, as an association of licensed energy brokers and consultants, represents a unique interest not otherwise represented by the other parties to these proceedings. In accordance with Ohio Adm.Code 4901-1-11, the Commission will consider untimely motions to intervene

only under extraordinary circumstances. In this instance, the attorney examiner finds that extraordinary circumstances exists where EPO was engaged in the formation of the association and required some time to determine the direction from its membership. Given that EPO's motion to intervene otherwise meets the intervention criteria set forth in R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the attorney examiner finds that the motion is reasonable and should be granted. Given the timing of EPO's intervention, EPO takes the record in this matter as it stands and may participate in these proceedings on a going forward basis. Further, recognizing that the deadline for discovery has passed, AEP Ohio may depose EPO at a mutually agreeable time.

- (9) On April 23, 2014, motions for admission pro hac vice were filed by Derrick P. Williamson and Tai C. Shadrack to appear on behalf of Wal-Mart Stores East, LP, and Sam's East, Inc. No memoranda contra the motions were filed. The attorney examiner finds that the motions are reasonable and should be granted.

It is, therefore,

ORDERED, That EPO's motion to intervene is granted, as set forth in finding (8). It is, further,

ORDERED, That AEP Ohio may depose EPO at a mutually agreeable time. It is, further,

ORDERED, That the motions for admission pro hac vice filed by Derrick P. Williamson and Tai C. Shadrack be granted in accordance with finding (9). It is, further,

ORDERED, That a copy of this Entry be served upon all parties and other interested persons of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Greta See

---

By: Greta See  
Attorney Examiner

jrj/vrm

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**5/21/2014 12:09:54 PM**

**in**

**Case No(s). 13-2385-EL-SSO, 13-2386-EL-AAM**

Summary: Attorney Examiner Entry granting EPO's motion to intervene and the two motions for admission pro hac vice; electronically filed by Vesta R Miller on behalf of Greta See, Attorney Examiner, Public Utilities Commission of Ohio