

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application       )  
of Ohio Power Company to               ) Case No. 15-240-EL-RDR  
Update Its gridSMART Rider.       )

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

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Ohio Power Company ("Ohio Power" or "Utility") seeks to collect additional money from customers for its gridSMART program.<sup>1</sup> 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.

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<sup>1</sup> App. (February 2, 2015).

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

Jodi Bair, Counsel of Record  
(Reg. No. 0062921)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
(614) 466-9559 (Bair Direct)  
[jodi.bair@occ.ohio.gov](mailto:jodi.bair@occ.ohio.gov)  
(will accept service via email)

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**MEMORANDUM IN SUPPORT**

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On February 2, 2015, Ohio Power filed an Application to update the rider used to collect from customers the costs associated with the gridSMART program. Ohio Power’s filing reflects actual spending and collections in 2014 and projected spending through 2015. Customers have paid \$59 million to date on gridSMART.<sup>2</sup> In this Application, the Utility will seek an additional \$.53 per month from residential customers, bringing the total monthly gridSMART expenditure for the residential customer to \$1.04. OCC has authority under law to represent the interests of the approximately 1.2 million Ohio Power residential utility customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be

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<sup>2</sup> App. at Attachment 4.

“adversely affected” by this case, especially if Ohio Power’s residential customers were unrepresented in a proceeding involving the 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.<sup>3</sup>

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/ Jodi Bair

Jodi Bair, Counsel of Record  
(Reg. No. 0062921)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
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<sup>3</sup> 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 25<sup>th</sup> day of March 2015.

/s/ Jodi Bair

Jodi Bair

Assistant Consumers' Counsel

## **SERVICE LIST**

William Wright  
Chief, Public Utilities Section  
Attorney General's Office  
Public Utilities Commission of Ohio  
180 E. Broad St., 6<sup>th</sup> Floor  
Columbus, Ohio 43215  
[William.wright@puc.state.oh.us](mailto:William.wright@puc.state.oh.us)

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

Attorney Examiner:

[Sarah.parrot@puc.state.oh.us](mailto:Sarah.parrot@puc.state.oh.us)  
[Greta.see@puc.state.oh.us](mailto:Greta.see@puc.state.oh.us)



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