

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

The Office of the Ohio Consumers’ Counsel,)	
)	
Complainant,)	
v.)	Case No. 16-0782-EL-CSS
)	
Ohio Power Company,)	
Respondent.)	

**NATIONWIDE ENERGY PARTNERS, LLC’S
REPLY TO THE OHIO CONSUMERS’ COUNSEL’S MEMORANDUM CONTRA
MOTIONS TO INTERVENE**

Nationwide Energy Partners, LLC (“NEP”) submits this reply to The Office of the Ohio Consumers’ Counsel’s (“OCC”) memorandum contra to NEP’s motion for limited intervention in this proceeding. OCC claims that: (1) NEP does not represent residential customers or Ohio Power Company (“AEP Ohio”) and thus does not have a valid interest in this proceeding; (2) NEP will unduly delay or prolong the case because it raises arguments that are being addressed in a Public Utilities Commission of Ohio (“Commission”) investigation proceeding; and (3) that OCC and AEP Ohio will adequately represent all of the interests that are affected by OCC’s Complaint.

None of OCC’s arguments have merit. First, NEP has a valid interest in this proceeding because both OCC and AEP Ohio seek tariff amendments through this proceeding that would prohibit and/or limit submetering in AEP Ohio’s service territory. Those amendments, if granted, will impair NEP’s business. For that reason alone, NEP has a valid interest for its limited intervention in this proceeding.

OCC claims that *In re Whitt*¹ “defeats” all motions to intervene, but OCC’s reliance on the *Whitt* case is misplaced. AEP Ohio has filed a motion with the Commission seeking approval to amend its tariff to prohibit and/or limit submetering. In support of its motion, AEP Ohio makes repeated references to NEP, claiming as the motivation for its tariff amendment the “‘new’ and ‘very unique’ business practices of NEP***.” (AEP Ohio Mem. Supp. at 7). AEP Ohio’s motion therefore recognizes that the proposed tariff amendment, if approved, will specifically affect NEP. Unlike OCC’s claimed interest in the *Whitt* case, NEP has a real and direct interest in this proceeding.

Second, OCC claims that hearing NEP’s arguments against AEP Ohio’s motion will somehow unduly prolong or delay this proceeding. OCC also claims that the Commission should avoid being burdened by “repetitive” arguments from other dockets. These claims are without merit. As NEP noted in its Memorandum Contra, this proceeding is simply an attempt to side-step the Commission’s investigation and restrict submetering in Ohio prior to the investigation’s conclusion. AEP Ohio conceded as much, noting that its proposed tariff amendment is an “alternative” to the submetering investigation that would “accomplish all of these objectives [i.e., prohibiting submetering in Ohio] without the Commission expressly exercising jurisdiction over any submetering landlords, condominium associations, or ‘submetering companies’ like AP&L and NEP.” (AEP Ohio Mem. Support. Mot. Tariff Amendment, at 5, 8). And as a practical matter, no delay will be incurred from raising arguments that this Commission may already be familiar with given the pending investigation into submetering.

¹ *Whitt v. Nationwide Energy Partners LLC*, Case No. 15-697-EL-CSS.

Third and last, OCC claims that it and AEP Ohio will adequately represent the interests of all parties affected by OCC's Complaint. This is not so. Through its Complaint, OCC asks the Commission to require AEP Ohio to amend its tariffs to "explicitly prohibit the resale and redistribution of electric service to residential customers by submetering entities or third party agents (other than landlords) that are operating as public utilities." (Compl. at 1). And in response to OCC's Complaint, AEP Ohio filed a Motion for Tariff Amendment seeking to enlarge the scope of relief sought by OCC through a tariff amendment that prohibits the submetering of electric service by a landlord, condominium association, like persons, or agents thereof, where the ultimate end-user may receive the electric service subject to an additional charge. It is clear that neither OCC nor AEP Ohio represent NEP's interests in this proceeding, especially when OCC and AEP Ohio seek to end submetering.

To conclude, Ohio Revised Code Section 4903.221 permits persons who may be "adversely affected" by a Commission proceeding to intervene. Undoubtedly, granting OCC and AEP Ohio's relief would adversely affect NEP by impairing its business of providing submetering and related support services and tools to apartment and condominium properties. NEP's request for limited intervention is warranted especially given the Supreme Court of Ohio's position that statutes and rules covering intervention should be "generally liberally construed in favor of intervention." *See In Re Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case Nos. 14-1693-EL-RDR et al., Entry (Sept. 15, 2015) at ¶ 13 (*citing Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 387 (2006)).

NEP's Motion for Limited Intervention in this proceeding should be granted.

Respectfully submitted,

/s/ Gretchen L. Petrucci

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties.

In addition, I hereby certify that a service copy of the foregoing document was sent by or on behalf of the undersigned counsel to the following parties of record this 1st day of June, 2016 via electronic transmission.

/s/ Gretchen L. Petrucci

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Summary: Reply to the Ohio Consumers' Counsel's Memorandum Contra Motions to Intervene electronically filed by Mrs. Gretchen L. Petrucci on behalf of Nationwide Energy Partners, LLC