

In the Matter of the Application of)
Ohio Power Company for Authority to) Case No. 16-1852-EL-SSO
Establish a Standard Service Offer)
Pursuant to R.C. 4928.143, in the Form of)
an Electric Security Plan.)

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

¹ See R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

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Establish a Standard Service Offer)
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an Electric Security Plan.)

In the Matter of the Application of Ohio)
Power Company for Approval of Certain) Case No. 16-1853-EL-AAM
Accounting Authority.)

On December 20, 2013, AEP Ohio filed an application to establish an electric security plan under R.C. 4928.143 in Case Nos. 13-2385-EL-SSO, et al. (“ESP III Case”). The ESP III Case Application included a Purchase Power Agreement (“PPA”) involving the Utility’s share of Ohio Valley Electric Corporation’s (“OVEC”) generation. The PUCO modified and approved the application in an Opinion and Order issued on February 25, 2015.

On October 3, 2014, AEP Ohio filed an application in Case Nos. 14-1693-EL-RDR, et al. (“PPA Case”) looking to expand the PPA to more generation units. On March 31, 2016, the PUCO approved a stipulation in the PPA Case that, among other things, required AEP Ohio to file to extend and modify the ESP approved in the ESP III Case. OCC was granted intervention and participated in both proceedings. On May 13, 2016, and in accordance with the aforementioned stipulation, AEP Ohio filed in the ESP III Case to extend and modify its ESP. On September 7, 2016, the PUCO directed AEP Ohio to refile its May 13, 2016 ESP application and testimony in the above-captioned matters.

OCC has statutory authority to represent the interests of all AEP Ohio's 1.2 million residential utility customers. OCC moves to intervene so that it can represent the interests of residential customers in this proceeding.²

Any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding.³ The interests of Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding that sets the rates that they pay for electric service. Thus, this element of the intervention standard is satisfied.

The PUCO is required 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.⁴

First, the nature and extent of OCC's interest is representing AEP Ohio's 1.2 million residential customers in this case involving an ESP that will set rates residential customers pay for electric service. Also, AEP Ohio's proposals for subsidizing power plants may be disruptive to the competitive market, further harming consumers. This

² See R.C. Chapter 4911.

³ R.C. 4903.221.

⁴ R.C. 4903.221(B).

interest is different than 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 the rates consumers pay should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. For example, OCC will analyze whether or not AEP Ohio's proposal is consistent with state policy under R.C. 4928.02. Therefore, OCC's position is 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.

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."⁵ As the advocate for residential utility customers, OCC has a very real and substantial interest in this case because AEP Ohio proposes rates to charge residential customers for electric service.

⁵ Ohio Adm. Code 4901-1-11(A)(2).

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.

The PUCO shall consider “[t]he extent to which the person’s interest is represented by existing parties.”⁶ 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.

Further, 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.⁷

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.

⁶ Ohio Adm. Code 4901-1-11(B)(5).

⁷ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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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 5th day of October 2016.

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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 Michael, William J. Mr.