

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company to Administer)	Case No. 17-1382-EL-UNC
Undistributed Funds for Public Purpose.)	

**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 where the Public Utilities Commission of Ohio ("PUCO") will decide how \$16 million of undistributed funds from the global settlement with Ohio Power Company ("AEP" or "Utility") will be used for a public purpose. OCC is filing on behalf of the 1.2 million residential utility customers of AEP. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE WESTON (#0016973)
OHIO CONSUMERS' COUNSEL

/s/ William J. Michael

William J. Michael (0070921)
Counsel of Record

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone [Michael]: (614) 466-1291
william.michael@occ.ohio.gov
(Will accept service via email)

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company to Administer)	Case No. 17-1382-EL-UNC
Undistributed Funds for Public Purpose)	

MEMORANDUM IN SUPPORT

On June 1, 2017, AEP filed a letter initiating this docket where the PUCO will determine the public purpose on which approximately \$16,387,616.69, less reasonable administrative costs, will be spent. The dollars to be spent are from the Joint Stipulation and Recommendation reached in several cases (“Global Settlement”).¹ Specifically, they are funds left over after AEP implements the FAC Credit to customers based on Paragraph IV.D of the Global Settlement.² OCC was a signatory party to the Global Settlement. OCC has authority under law to represent the interests of all 1.2 million residential utility customers of AEP, under 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 “adversely affected” by this case, especially if the customers were unrepresented in a proceeding in which over \$16 million of undistributed

¹ Case Nos. 10-2929-EL-UNC, 11-346-EL-SSO, 11-348-EL-SSO, 11-349-EL-AAM, 11-350-EL-AAM, 14-1186-EL-RDR, 11-4920-EL-RDR, 11-4921-EL-RDR, 09-872-EL-FAC, 09-873-EL-FAC, 11-5906-EL-FAC, 12-3133-EL-FAC, 13-572-EL-FAC, 13-1286-EL-FAC, 13-1892-EL-FAC, 15-1022-EL-UNC, and 16-1105-EL-UNC.

² The FAC Credit is \$100 million and is returned to SSO customers who remain AEP distribution customers. Undistributed funds, less reasonable administrative costs, remaining because customers are no longer AEP distribution customers must be used for a public purpose as determined by the PUCO. Global Settlement, Paragraph IV.D.

refunds will be spent on a public purpose. 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 the residential customers of AEP in this case involving spending over \$16 million of undistributed refunds associated with former Standard Service Offer customers of AEP Ohio. This 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 AEP's customers' money should be spent on an appropriate public purpose, and that administrative costs should be prudently and reasonably incurred. 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 how the over \$16 million will be spent.

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 determining an appropriate public purpose for \$16 million of undistributed refunds associated with former Standard Service Offer customers of AEP Ohio.

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 the PUCO will determine how to spend over \$16 million of undistributed refunds associated with former Standard Service Offer customers of AEP Ohio on a yet to be determined public purpose.

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.³

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 WESTON (#0016973)
OHIO CONSUMERS' COUNSEL

/s/ William J. Michael

William J. Michael (0070921)
Counsel of Record

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone [Michael]: (614) 466-1291

william.michael@occ.ohio.gov

(Will accept service via email)

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

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 6th day of July 2017.

/s/ William J. Michael
William J. Michael
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Attorney General's Office
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
william.wright@ohioattorneygeneral.gov

Steven T. Nourse
American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
stnourse@aep.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/6/2017 2:17:30 PM

in

Case No(s). 17-1382-EL-UNC

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.