

In the Matter of the Commission’s)
Review of the Ohio Power Company’s) Case No. 18-109-EL-UNC
Distribution Investment Rider Work)
Plan for 2018.)

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case where Ohio Power Company (“AEP Ohio”) proposes a work plan for spending \$200 million of customers’ money on its distribution system.¹ OCC files this Motion to Intervene on behalf of AEP Ohio’s approximately 1.3 million residential electric distribution consumers.² The reasons the Public Utilities Commission of Ohio (“PUCO”) should grant this Motion are set forth in the attached Memorandum in Support.

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² See R.C. Chapter 4911, R.C. 4903.221, Ohio Adm. Code 4901-1-11.

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On February 25, 2015, the PUCO approved an Electric Security Plan for AEP Ohio, which included a Distribution Investment Rider (“DIR”).³ The DIR is a charge customers pay for incremental capital spending, above and beyond what is already included in base rates, for distribution infrastructure to maintain and improve customers’ distribution service reliability.⁴ AEP Ohio develops a DIR work plan annually on its own, rather than working with PUCO Staff or other parties to develop a plan, so long as it meets or exceeds its reliability standards.⁵ AEP Ohio’s proposed DIR Work Plan for 2018 presents a blueprint for how it will collect and use \$200 million of consumers’ money to maintain and improve consumer distribution service reliability. OCC has statutory authority to represent the interests of AEP Ohio’s 1.3 million residential electric distribution consumers.⁶

⁶ R.C. Chapter 4911.

Any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding.⁷ The interests of Ohio’s residential consumers may be “adversely affected” if they were unrepresented in a proceeding examining a plan to spend \$200 million of their money on reliability programs for AEP Ohio’s distribution system. Thus, this element of the intervention standard articulated 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;
- (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 AEP Ohio’s residential consumers in this case that will determine how \$200 million of their money will be spent to maintain and improve distribution service reliability. OCC’s interest in this case is that the charges consumers pay should be just and reasonable, and that consumers are entitled to reliable electric service. This interest is different from that of any other party and is especially different from that of AEP Ohio, whose advocacy includes the financial interests of its stockholders.

Second, OCC will advocate the position that AEP Ohio’s residential customers should pay rates that are no more than what is reasonable and lawful under Ohio law.

⁷ R.C. 4903.221.

OCC will also advocate that AEP Ohio's residential customers are entitled to reliable and affordable electric utility service under R.C. 4928.02. Therefore, OCC's position is directly related to the merits of this case 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 this case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria – which OCC satisfies – in the Ohio Revised Code). To intervene, a party must show that it has a “real and substantial interest” in the proceeding.⁸ As the advocate for Ohio's residential utility consumers, OCC has a very real and substantial interest in this proceeding involving AEP Ohio's DIR work plan that will determine how \$200 million of consumers' money will be spent.

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 has demonstrated above that it 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

⁸ Ohio Adm. Code 4901-1-11(A)(2).

concede the lawfulness of this criterion, OCC satisfies this criterion because it has been uniquely designated as the representative of the interests of Ohio's residential utility consumers. This 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 intervention. 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.⁹

OCC meets the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11, and the precedent established by the Court for intervention. On behalf of Ohio's residential consumers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

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/s/ Terry L. Etter

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⁹ 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 mail, this 28th day of February 2018.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

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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 Etter, Terry L.