

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Approval of an Economic Development)	Case No. 18-0450-EL-AEC
Arrangement between AK Steel)	
Corporation and Duke Energy Ohio, Inc.)	

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

In this case, AK Steel Corporation ("applicant" or "mercantile customer") seeks approval of a reasonable arrangement that would provide it a \$25.8 million discount (over seven years) for its electric service, with the discount likely paid for by other customers. In this type of case, the PUCO considers various factors, including a balance between the benefits of the economic development project and the cost to Ohioans who subsidize the program.

Under Ohio Adm. Code 4901:1-38-05(F), the Office of the Ohio Consumers' Counsel ("OCC") and other interested parties may intervene and file comments and objections to the application filed in this case (the "Application"). OCC is filing on behalf of the approximately 629,000 residential utility customers of Duke Energy Ohio, Inc. ("Duke" or the "Utility") who will be asked to subsidize AK Steel's discount.¹ The Public Utilities Commission of Ohio (the "PUCO") should grant OCC's motion to intervene in this case for the reasons set forth in the attached memorandum in support.

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

Respectfully submitted,

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OHIO CONSUMERS' COUNSEL

/s/ Christopher M. Healey

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MEMORANDUM IN SUPPORT

AK Steel Corporation seeks approval of an arrangement that would reduce the amount it pays for electric service—and potentially increase charges to the residential customers of Duke Energy. Under the applicant's proposal, Duke would collect \$25 million less money and other customers, including residential consumers, are being asked to fund the \$25 million rate discount. OCC has authority under law to represent the interests of Duke's 629,000 residential utility consumers 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 consumers may be "adversely affected" by this case, especially if customers were unrepresented in a proceeding where the mercantile customer's proposed electricity discounts will likely be subsidized by Duke's other customers. 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 proceedings; and
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

OCC meets these criteria. First, the nature and extent of OCC's interest is representing residential consumers in this case where a mercantile customer's rate discount will likely be paid for by other customers. This interest is different from that of any other party and especially different from that of the Utility whose advocacy includes the financial interest of stockholders.

Second, OCC will advocate for residential consumers by advancing the position that rates should be no more than what is reasonable and permissible under Ohio law.² OCC's position is therefore directly related to the merits of the proposal before the PUCO in this case.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will contribute to the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to fully developing and equitably resolving the factual issues. OCC's intervention will provide the PUCO with information relating to the interests of the residential consumers that Duke likely will seek to charge for the discount given to the mercantile customer. OCC will obtain and develop information that the PUCO should consider to equitably and lawfully decide the case in the public interest.

² R.C. 4905.22.

OCC also satisfies the intervention criteria in the Ohio Administrative Code, which are subordinate to the criteria 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 residential utility consumer advocate, OCC has a real and substantial interest in this case where the outcome could increase the rates that residential customers pay.

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), which OCC has already addressed, and which 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 because it has been uniquely designated as the statutory representative of Ohio's residential utility consumers.³ That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio ("Court") 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.⁴

³ R.C. Chapter 4911.

⁴ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 2006-Ohio-5853, 13-20 (2006).

The Ohio Consumers' Counsel 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 consumers, the PUCO should grant OCC's motion to intervene.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Intervene has been served upon the below-named persons via electronic transmission this 30th day of March 2018.

/s/ Christopher M. Healey
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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 Healey, Christopher Mr.