

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Annual Alternative)
Energy Status & Compliance Report) Case No. 18-612-EL-ACP
Under Rule 4901:1-40-05, Ohio Admin.)
Code, for Ohio Power Company.)

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

In this case, Ohio Power Company (“AEP” or the “Utility”) submits its annual report on its compliance with renewable energy standards, which customers pay for. The Office of the Ohio Consumers’ Counsel (“OCC”) files this motion on behalf of AEP’s 1.3 million residential electric customers. The Public Utilities Commission of Ohio (“PUCO”) should grant OCC’s motion to intervene for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS’ COUNSEL

/s/ Christopher M. Healey _____
Christopher M. Healey (0086027)
Counsel of Record
Terry L. Etter (0067445)
Assistant Consumers’ Counsel

Office of the Ohio Consumers’ Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4213
Telephone [Healey]: 614-466-9571
Telephone [Etter]: 614-466-7964
Christopher.healey@occ.ohio.gov
Terry.etter@occ.ohio.gov
(Will accept service via email)

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Annual Alternative)
Energy Status & Compliance Report) Case No. 18-612-EL-ACP
Under Rule 4901:1-40-05, Ohio Admin.)
Code, for Ohio Power Company.)

MEMORANDUM IN SUPPORT

In this proceeding, AEP has filed its annual renewable energy status report for 2017. The report includes information about AEP’s compliance with statutory renewable energy requirements. AEP’s customers pay the costs that it incurs to comply with these requirements. OCC has authority under law to represent the interests of AEP’s residential utility customers 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 where the Utility is required to provide important information about its compliance with statutory renewable energy standards, which customers pay for. 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.

First, the nature and extent of OCC's interest is representing the residential customers of AEP in this case where AEP provides its required annual report on renewable energy. OCC's 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's advocacy for residential customers will include advancing the position that the rates consumers pay for electric service (including charges for renewable energy) should be no more than what is reasonable and lawful under Ohio law. 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 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” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a real and substantial interest in this case involving the Utility’s compliance with renewable energy standards, which affect the rates residential customers pay for electric service.

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 already has 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 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 (“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.¹

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.

¹ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 13-20 (2006).

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Christopher M. Healey

Christopher M. Healey (0086027)

Counsel of Record

Terry L. Etter (0067445)

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor

Columbus, Ohio 43215-4213

Telephone [Healey]: 614-466-9571

Telephone [Etter]: 614-466-7964

Christopher.healey@occ.ohio.gov

Terry.etter@occ.ohio.gov

(Will accept service via email)

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 10th day of May 2018.

/s/ Christopher M. Healey _____
Christopher M. Healey
Assistant Consumers' Counsel

SERVICE LIST

william.wright@ohioattorneygeneral.gov

stnourse@aep.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/10/2018 1:48:41 PM

in

Case No(s). 18-0612-EL-ACP

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.