

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Update Its) Case No. 18-1371-EL-RDR
Enhanced Service Reliability Rider.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case¹ that will determine the amount Ohioans are charged for vegetation management that is supposed to "enhance" reliability of their electric service, but does not. Although Ohio Power Company ("AEP Ohio") spent more than \$36.7 million of customer money through its Enhanced Service Reliability Rider ("ESRR") in 2017,² its reliability got worse for consumers.³ And the money collected from customers through the ESRR is in addition to the money AEP Ohio collects from customers for reliability through base rates.

OCC is filing on behalf of AEP Ohio's 1.3 million residential utility customers. In this case, AEP Ohio seeks to return to customers more than \$8.9 million it had

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

² See Application (August 31, 2018), Schedule 1.

³ Both the number and duration of AEP Ohio's outages were worse in 2017 compared to 2016. AEP Ohio's average duration of interruptions increased from 143.45 minutes in 2016 to 146.02 minutes in 2017, and the average number of interruptions per customer increased from 1.08 in 2016 to 1.15 in 2017. See Rule 10 Reports in Case Nos. 17-890-EL-ESS and 18-992-EL-ESS at 2. Also, the number of customer minutes interrupted attributable to "trees/vegetation" and trees inside the right-of-way increased from 4.2 million in 2016 to 4.3 million in 2017. See 2016 Rule 10 Report at 6a:1 and 2017 Rule 10 Report at 30.

overcharged them during 2017.⁴ If the application is approved, customers will be charged nearly 7% less than they are now through the ESRR.⁵ The reasons the Public Utilities Commission of Ohio (“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/ Terry L Etter
Terry L. Etter (0067445), Counsel of Record
Assistant Consumers’ Counsel

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

⁴ See Application, Schedule 1.

⁵ See *id.* at Schedules 2 and 3.

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Update Its) Case No. 18-1371-EL-RDR
Enhanced Service Reliability Rider.)

MEMORANDUM IN SUPPORT

This case relates to AEP Ohio’s ESRR, which resulted from AEP Ohio’s electric security plan cases.⁶ The ESRR is one of the more than 20 current riders AEP Ohio uses to charge customers in addition to base rates.⁷ Although the Ohio General Assembly required utility service to be adequate for consumers as a matter of law under R.C. 4905.22, AEP Ohio is allowed to charge customers more money for operation and maintenance costs associated with “a proactive, cycle-based vegetation management program.”⁸

The charges to customers through the ESRR are in addition to amounts collected from consumers for vegetation management through base rates.⁹ Accordingly, the electric bills of AEP Ohio’s residential customers include two charges vegetation management: one in base rates; and the other in the ESRR. OCC has authority under law

⁶ Case No. 08-917-EL-SSO; Case No. 11-346-EL-SSO; Case No. 13-2385-EL-SSO.

⁷ See Ohio Power Company, 8th Revised Sheet No. 104-1D, available at <http://www.puco.ohio.gov/emplibrary/files/docketing/tariffs/Electric/Ohio%20Power%20Company/PUCO%2020%20Distribution.pdf>.

⁸ See Case No. 13-2385-EL-SSO, Opinion and Order (February 25, 2015) at 47.

⁹ See Case No. 08-917-EL-SSO, Opinion and Order (March 18, 2009) at 33 (finding that the costs of the cycle-based vegetation management program “are incremental to the current Distribution Vegetation Management Program and the costs embedded in distribution rates”).

to represent the interests of all the 1.3 million residential utility customers of AEP Ohio, pursuant to 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 to determine the amounts, in addition to base rates, customers pay through the ESRR for AEP Ohio’s vegetation management program. 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;
- (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 AEP Ohio’s residential customers in this case involving the amount to be charged customers for vegetation management, in addition to what is already collected from customers for vegetation management through base rates. 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's advocacy for residential customers will include advancing the position that rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate 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 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 very real and substantial interest in this case to determine the amount charged to customers for "enhanced" reliability through the ESRR (in addition to what they already pay for reliability through base rates).

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 (“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.¹⁰

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/ Terry L Etter
Terry L. Etter (0067445), Counsel of Record
Assistant Consumers’ Counsel

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

¹⁰ 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 1st day of October 2018.

/s/ Terry L Etter _____

Terry L. Etter

Assistant Consumers' Counsel

SERVICE LIST

William.wright@ohioattorneygeneral.gov

stnourse@aep.com

Attorney Examiners:

Sarah.parrot@puc.state.oh.us

Great.see@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/1/2018 12:32:52 PM

in

Case No(s). 18-1371-EL-RDR

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.