

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Long-Term</b>	)	
<b>Forecast Report of Ohio Power Company</b>	)	<b>Case No. 18-0501-EL-FOR</b>
<b>And Related Matters</b>	)	

<b>In the Matter of the Application Seeking</b>	)	
<b>Approval of Ohio Power Company's</b>	)	
<b>Proposal to Enter Into Renewable Energy</b>	)	<b>Case No. 18-1392-EL-RDR</b>
<b>Purchase Agreements for Inclusion in the</b>	)	
<b>Renewable Generation Rider.</b>	)	

<b>In the Matter of the Application of Ohio</b>	)	
<b>Power Company to Amend its Tariffs.</b>	)	<b>Case No. 18-1393-EL-ATA</b>

---

**MOTION TO INTERVENE BY SIERRA CLUB**

---

For the reasons set forth in the accompanying Memorandum in Support, Sierra Club moves the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above-captioned dockets pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, and asks that the Commission grant it the full powers and rights of intervention that are authorized by statute or by the provisions of the Ohio Administrative Code.

Dated: October 3, 2018

Respectfully submitted,

/s/ Richard C. Sahli  
Richard C. Sahli (Ohio Bar #0007360)  
Richard Sahli Law Office, LLC  
981 Pinewood Lane  
Columbus, Ohio 43230-3662  
Telephone: (614) 428-6068  
rsahli@columbus.rr.com

Tony Mendoza (pro hac vice motion  
pending)  
Staff Attorney

Sierra Club  
2101 Webster St., 13th Floor  
Oakland, CA 94612  
(415) 977-5589  
tony.mendoza@sierraclub.org

*Attorneys for Sierra Club*

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Long-Term Forecast Report of Ohio Power Company And Related Matters</b>	) ) )	
	)	<b>Case No. 18-0501-EL-FOR</b>
<b>In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter Into Renewable Energy Purchase Agreements for Inclusion in the Renewable Generation Rider.</b>	) ) ) ) )	
	)	<b>Case No. 18-1392-EL-RDR</b>
<b>In the Matter of the Application of Ohio Power Company to Amend its Tariffs.</b>	) )	
	)	<b>Case No. 18-1393-EL-ATA</b>

---

**MEMORANDUM IN SUPPORT OF SIERRA CLUB'S MOTION TO INTERVENE**

---

**I. Introduction**

Sierra Club seeks to intervene in these proceedings filed by Ohio Power Company ("AEP Ohio") that relate to renewable energy development in Ohio. In Case No. 18-0501-EL-FOR, AEP Ohio has requested that the Commission determine that there is a "need for at least 900 megawatts of renewable energy projects in Ohio."<sup>1</sup> In support of that request, AEP Ohio states that renewable energy projects provide a "valuable price advantage for customers"<sup>2</sup> and that its "customers have expressed a desire and need for long-term renewable power generated in Ohio."<sup>3</sup> In Case Nos. 18-1392-EL-RDR *et al.*, AEP Ohio seeks an order approving the "inclusion of two solar energy resources totaling

---

<sup>1</sup> Amendment to the 2018 Long-Term Forecast Report of Ohio Power Company, at 1.

<sup>2</sup> *Id.*, at 5.

<sup>3</sup> *Id.*, at 7.

400 MW of nameplate capacity solar energy” into the company’s existing Renewable Generation Rider and other related relief.<sup>4</sup> On September 27, 2018, AEP Ohio moved to consolidate these dockets.

These proceedings present issues of interest to Sierra Club regarding the potential development of renewable energy resources in Ohio. Sierra Club and its Ohio members have a strong interest in promoting clean energy development in Ohio. The Club and its members also have an interest in reducing reliance on coal-burning generation in Ohio. Sierra Club’s members who reside in AEP Ohio’s service area have a direct interest in assuring reasonable energy prices. As it has done in previous Commission proceedings—including the AEP Ohio proceedings from which the company’s renewable energy commitments arise, Case No. 14-1693-EL-RDR (PPA Rider proceeding) and Case No. 16-1852-EL-SSO (ESP Amendment proceeding)—Sierra Club expects to assist the Commission in deciding these cases by working to build a thorough record. As such, Sierra Club is entitled to intervene in these proceedings.

## **II. Legal Standard**

The Ohio Code provides that a party may intervene in a Commission proceeding if that party “may be adversely affected by a public utilities commission proceeding.”<sup>5</sup> To determine whether a party may be adversely affected for purposes of intervention, the Commission evaluates:

- (1) The nature and extent of the prospective intervenor’s interest;

---

<sup>4</sup> Application, at 1.

<sup>5</sup> R.C. 4903.221.

- (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.<sup>6</sup>

The Commission's rules similarly provide that any person may intervene where "[t]he person has a real and substantial interest in the proceeding."<sup>7</sup> The Commission's regulations set forth the same four standards that are established in R.C. 4903.221(B) for determining whether a party may be "adversely affected," and also purport to add a fifth factor regarding "the extent to which the person's interest is represented by existing parties."<sup>8</sup>

As the Ohio Supreme Court has held, intervention in Commission proceedings "ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission]."<sup>9</sup> The Commission has consistently maintained a policy to "encourage the broadest possible participation" in its proceedings.<sup>10</sup> Sierra Club easily satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

---

<sup>6</sup> R.C. 4903.221(B).

<sup>7</sup> Ohio Adm. Code 4901-1-11(A)(2).

<sup>8</sup> Ohio Adm. Code 4901-1-11(B).

<sup>9</sup> *Ohio Consumers' Counsel v. Pub. Util. Comm'n of Ohio* (2006), 111 Ohio St. 3d 384, 388, 2006 Ohio 5853, 856 N.E.2d 940.

<sup>10</sup> *See, e.g., In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party's failure to file within the deadline).

**III. Sierra Club is entitled to intervene under R.C. 4903.221 because Sierra Club and its members “may be adversely affected” by the outcome of these proceedings.**

Sierra Club is entitled to intervene in these proceedings because Sierra Club satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome.

First, the nature and extent of Sierra Club’s interests in these proceedings are real and substantial,<sup>11</sup> as the issues involved are directly related to Sierra Club’s interests in promoting clean-energy resources, including solar and wind electric generation, reducing reliance on aging coal-burning generation, and assuring that its members pay reasonable prices for electric generation.<sup>12</sup> Similarly, the positions advanced by Sierra Club will bear directly on the merits of these proceedings. Among other environmental concerns, Sierra Club is focused on addressing the pressing environmental and health problems associated with as yet inadequate development of renewable energy resources in Ohio. Sierra Club has an interest in the appropriate deployment of clean-energy resources that will create economic, public health, and environmental benefits throughout Ohio, including for Sierra Club’s Ohio members.

Sierra Club is the country’s oldest and largest grassroots environmental organization. It has millions of members and supporters nationwide and thousands of members in Ohio. Sierra Club’s statement of purpose is, “To explore, enjoy and protect the wild places of the Earth, to practice and promote the responsible use of the Earth’s

---

<sup>11</sup> R.C. 4903.221(B)(1).

<sup>12</sup> Because the first and second prongs of the test established in R.C. 4903.221 are closely related, these prongs are addressed together.

ecosystem and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.” Sierra Club has promoted responsible local, state, and national energy policy for decades.

Sierra Club has been actively concerned with electric utility issues for decades and routinely participates in proceedings before the Commission and other public utility commissions around the country. Sierra Club has been granted intervention in numerous Ohio electric utility cases, including in AEP Ohio’s PPA proceeding and ESP Amendment proceeding from which the company’s clean energy commitments arise.<sup>13</sup>

The instant AEP Ohio proceedings present issues that are directly relevant to the interests of Sierra Club and its members. Working to assure deployment of renewable generation resources is a core goal of Sierra Club in Ohio and around the country. Expanded renewable generation in Ohio would displace dirtier forms of generation from the PJM energy markets and thus further Sierra Club’s environmental and public-health interests.

---

<sup>13</sup> See, e.g., *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case No. 14-1693-EL-RDR et al., Attorney Examiners’ Entry (Sept. 14, 2015); *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, In the Form of An Electric Security Plan*, Case No. 16-1852-EL-SSO, Attorney Examiners’ Entry (Mar. 22, 2017).

Second, Sierra Club's intervention will not unduly prolong or delay these proceedings.<sup>14</sup> No procedural schedule has yet been established by the Commission for these proceedings. Sierra Club will comply with all case management deadlines established by the Commission or agreed to by the parties.

Third, intervention by Sierra Club will significantly contribute to the full development of the record in these proceedings.<sup>15</sup> Sierra Club will bring significant expertise to bear in these proceedings. Sierra Club's staff and consultants have extensive experience in electric resource planning, analyzing electric-market and economic forecasts, and in the laws and regulations of energy production. Sierra Club has intervened in many utility proceedings before this Commission. Of particular note, Sierra Club played an important role in the AEP PPA Rider (Case No. 14-1693-EL-RDR) proceeding in terms of assisting the Commission with the development of a factual record, and is a signatory to the stipulation filed and approved by the Commission in that proceeding. In that PPA Rider proceeding, Sierra Club conducted written discovery, deposed company witnesses, filed expert testimony, and otherwise contributed significantly to the development of the record. As such, Sierra Club should be permitted to intervene pursuant to R.C. 4903.221.

---

<sup>14</sup> R.C. 4903.221(B)(3).

<sup>15</sup> R.C. 4903.221(B)(4).



**IV. Sierra Club may intervene because Sierra Club and its members have a “real and substantial interest” in these proceedings under Ohio Administrative Code 4901-1-11(B).**

Sierra Club may also intervene in these proceedings because it satisfies each of the five factors listed in the Commission rules demonstrating that Sierra Club and its members have a “real and substantial interest” in the proceeding.<sup>16</sup> The first four factors are identical to those set forth under §4903.221(B) and, therefore, Sierra Club should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor,<sup>17</sup> Sierra Club’s interests in these proceedings will not be fully or adequately represented by other parties. Sierra Club’s interests do not always fully align with other environmental organizations or consumer-protection organizations and, accordingly, Sierra Club’s interests are not be adequately protected by the participation of other such organizations in these proceedings.

**V. Conclusion**

For the foregoing reasons, Sierra Club respectfully request that this Motion to Intervene be granted, and Sierra Club be authorized to participate as a full party to these proceedings.

---

<sup>16</sup> Ohio Adm. Code 4901-1-11(B).

<sup>17</sup> Ohio Adm. Code 4901-1-11(B)(5).

Dated: October 3, 2018

Respectfully submitted,

/s/ Richard C. Sahli

Richard C. Sahli (Ohio Bar #0007360)  
Richard Sahli Law Office, LLC  
981 Pinewood Lane  
Columbus, Ohio 43230-3662  
Telephone: (614) 428-6068  
rsahli@columbus.rr.com

Tony Mendoza (pro hac vice motion pending)  
Staff Attorney  
Sierra Club  
2101 Webster St., 13th Floor  
Oakland, CA 94612  
(415) 977-5589  
tony.mendoza@sierraclub.org

**Attorneys for Sierra Club**

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing *Motion to Intervene* by *Sierra Club* has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on this 3<sup>rd</sup> day of October 2018.

/s/ Tony Mendoza

Tony Mendoza

### **Service List**

#### **Case No. 18-501-EL-FOR**

stnourse@aep.com	fdarr@mwncmh.com
cblend@aep.com	mpritchard@mwncmh.com
egallon@porterwright.com	mkurtz@BKLawfirm.com
bhughes@porterwright.com	kboehm@BKLawfirm.com
christopher.miller@icemiller.com	jkylernohn@BKLawfirm.com
jason.rafeld@icemiller.com	cmooney@opae.org
thomas.mcnamee@ohioattorneygeneral.gov	
William.Wright@ohioattorneygeneral.gov	
Tonnetta.Scott@ohioattorneygeneral.gov	

#### **Case No. 18-1392-EL-RDR et al.**

stnourse@aep.com	cmooney@opae.org
cblend@aep.com	mkurtz@BKLawfirm.com
egallon@porterwright.com	kboehm@BKLawfirm.com
bhughes@porterwright.com	jkylernohn@BKLawfirm.com
christopher.miller@icemiller.com	
jason.rafeld@icemiller.com	

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/3/2018 4:16:48 PM**

**in**

**Case No(s). 18-0501-EL-FOR, 18-1392-EL-RDR, 18-1393-EL-ATA**

Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Tony G. Mendoza on behalf of Sierra Club