

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking)	
Approval of Ohio Power Company's)	
Proposal to Enter Into Renewable Energy)	Case No. 18-1392-EL-RDR
Purchase Agreements for Inclusion in the)	
Renewable Generation Rider.)	
In the Matter of the Application of Ohio)	Case No. 18-1393-EL-ATA
Power Company to Amend its Tariffs.)	

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

The Ohio Consumers' Counsel is moving to intervene on behalf of residential consumers in this case where AEP wants government approval to add regulated charges for 400 monopoly megawatts of power plants to the electric bills of its 1.5 million captive consumers. But 20 years ago the Ohio General Assembly decided that the competitive market – not monopolies like AEP and not government regulation by the PUCO – will be the arbiter for power plant construction and charges to consumers. In the marketplace, renewable energy and other fuel sources can compete in accordance with customer demand and assumption of risks by investors, instead of by monopolies transferring risks to captive monopoly customers under state regulation.

The key issue here is not about the merits of renewable energy, as AEP has cast it. The key issue is fulfilling the Ohio General Assembly's vision for an Ohio energy future based on power plant competition for delivering lower prices and higher innovation to millions of Ohioans. There, in the market, renewable energy and other fuel sources can

compete for customers without the government selection of winners and losers in the power plant market as AEP proposes.

Already, according to AEP's own data, AEP has been charging Ohioans the highest residential bills¹ and extracting from Ohioans the highest profits² of any AEP utility providing service in the United States. AEP's proposal for monopoly-developed power plants should be viewed in the context of yet another charge (another so-called "rider") to be layered on a million consumers' electric bills.

The linchpin for AEP's proposal is a small exception in the law (under R.C. 4928.143(B)(2)(c)) that allows monopolies like AEP to own or operate power plants if needed by consumers. The exception requires, among other things, a demonstrated consumer need for the monopoly's power plant; monopoly generation can only be authorized by the PUCO when power generation needs cannot be met through the competitive market.³

But consumers do not have a need for 400 monopoly megawatts of power from AEP. And captive consumers should not be on the hook, as AEP proposes, for paying the net costs of all of the energy produced by the proposed monopoly plants over the next 20 years. Additionally, AEP would charge captive customers approximately \$100 million, through a "debt equivalency cost."

¹ See attached.

² See AEP 2nd Quarter 2018 Earnings Release Presentation at 5 (July 25, 2018), <https://www.aep.com/newsroom/resources/earnings/2018-07/2Q18EarningsReleasePresentation.pdf>

³ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 11-346-EL-SSO, Opinion and Order at 40 (Dec. 14, 2011) ("While Section 4928.143(b)(2), Revised Code, provides the Commission with authority to order construction of new generation facilities in Ohio, such new generation or capacity projects will only be authorized when generation needs cannot be met through the competitive market."). Additionally, the utility must dedicate the capacity and energy from the facility to Ohio consumers.

The Ohio Consumers' Counsel ("OCC") moves to intervene in this case on behalf of AEP's 1.3 million residential utility consumers.⁴ 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/ Maureen R. Willis

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⁴ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

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MEMORANDUM IN SUPPORT

The Ohio Consumers' Counsel (OCC) has authority under Ohio law to represent the interests of the 1.3 million residential consumers of AEP, 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 residential consumers may be "adversely affected" by this case. That is especially so if customers were unrepresented in this proceeding where AEP alleges that consumers need 400 megawatts of renewable generation at the expense of its captive monopoly customers. In 1999, the Ohio General Assembly set the state's course for deregulation and competition for power plants, not for monopolization and subsidies. 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 the residential customers of AEP in this case involving AEP's request to charge its customers, for the next twenty years, the net cost of solar power. This interest is different than that of any other party and especially different than 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 any determination of the purported customer "need" for 400 megawatts of renewable generation must be accompanied by proof from AEP that the customer need for generation cannot be met through the competitive market. 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 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). A

party may intervene if it shows that it has 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 where the PUCO will be reviewing AEP’s request that customers subsidize the solar power plants that it will be operating.

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.⁵

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.

⁵ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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Ohio Consumers' Counsel

/s/ Maureen R. Willis

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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 4th day of October 2018.

/s/ Maureen R. Willis
Maureen R. Willis
Senior Counsel

SERVICE LIST

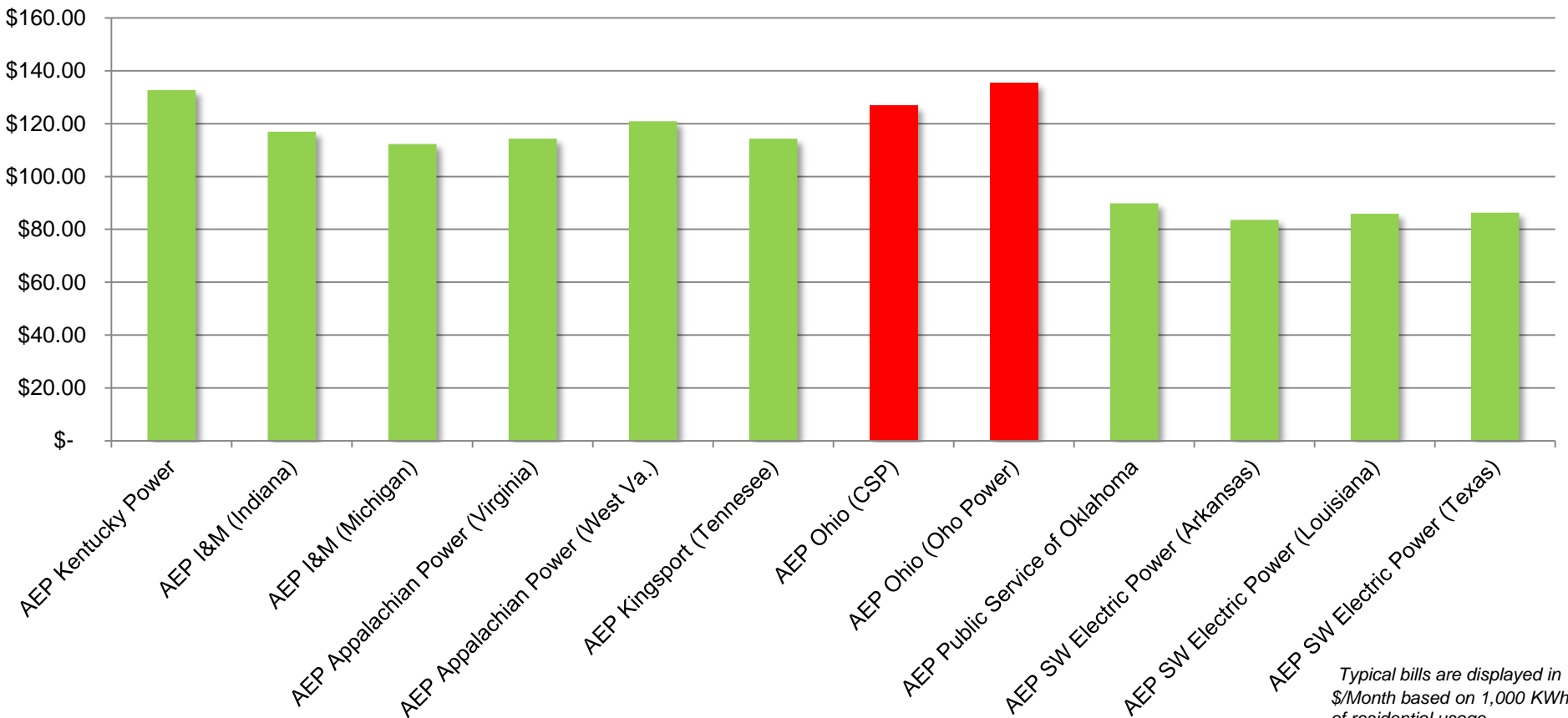
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AEP Companies

Typical Consumer Bill Comparison

2017 Typical Bill Comparison (\$/Month)



Typical bills are displayed in
\$/Month based on 1,000 KWh
of residential usage.

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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 Willis, Maureen R Mrs.