

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Non-)
Market-Based Services Rider Contained in)
the Tariffs of Ohio Edison Company, The) Case No. 18-1818-EL-RDR
Cleveland Electric Illuminating Company)
and The Toledo Edison Company.)

**MOTION FOR LEAVE TO FILE MOTION TO INTERVENE OUT OF TIME
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") for leave to file its Motion to Intervene out of time. The PUCO rules provide for an extension of time to file pleadings for good cause shown¹. Good cause exists to grant OCC leave to file its motion to intervene, and no party will be prejudiced by OCC's filing.

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

¹ Ohio Admin. Code 4901-1-12 and 4901-1-13.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Angela D. O'Brien
Angela D. O'Brien (0097579)
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**BEFORE
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In the Matter of the Review of the Non-Market-)	
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Ohio Edison Company, The Cleveland Electric)	Case No. 18-1818-EL-RDR
Illuminating Company and The Toledo Edison)	
Company.)	

MEMORANDUM IN SUPPORT

The PUCO should find good cause and accept OCC’s Motion to Intervene in this proceeding because OCC's participation will assist the PUCO in reviewing the complex issues associated with the Non-Market-Based Services Rider (“Rider NMB”) charged by The Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively the “Utilities”). The Utilities’ Rider NMB is designed to permit the Utilities to collect from customers non-market-based transmission related costs imposed on the Utilities by the Federal Energy Regulatory Commission (“FERC”) or PJM. OCC has statutory authority to represent the interests of the Utilities’ over 1.8 million residential electric utility customers under R.C. Chapter 4911.

Ohio Administrative Code (“OAC”) 4901:1-36-03(B) requires the Utilities to update their approved transmission cost recovery riders “on an annual basis pursuant to a schedule set forth by commission order.” And OAC 4901:1-36-03(F) provides that “[a]ffected parties may file a motion to intervene and detailed comments on any issues concerning any application filed under this rule within forty days of the date of the filing of the application.” In this case, the Utilities filed their applications on December 14, 2018, and motions to intervene were due to be filed by January 23, 2019.

No party will be prejudiced by OCC's Motion to Intervene in this case. To date, no other parties have intervened in the proceeding, and nothing has been filed in the proceeding aside from the Utilities' applications. In addition, under 4901:1-36-03(D), the Utilities' updated NMB riders would become effective 75 days after filing, which would be February 27, 2019. Therefore, there is still sufficient time for OCC to participate in the proceeding without prejudice to the Utilities.

Granting OCC's motion would also be consistent with the Ohio Supreme Court holdings that statutes and rules governing intervention should be "generally liberally construed in favor of intervention." *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940, at 945 (quoting *State ex rel. Polo v. Cuyahoga Cty. Bd. Of Elections*, 74 Ohio St.3d 143, 144, 656 N.E.2d 1277 (1995)). Accordingly, OCC respectfully requests the PUCO's permission to file, out of time, its Motion to Intervene.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Angela D. O'Brien
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to File Motion to Intervene Out of Time by the Office of the Ohio Consumers' Counsel has been served electronically upon those persons listed below this 30th day of January 2019.

/s/ Angela D. O'Brien
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Summary: Motion Motion for Leave to File Motion to Intervene Out of Time by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Ms. Angela O'Brien