

In the Matter of the Review of the) Case No. 19-0065-EL-RDR
Distribution Investment Rider Contained)
in the Tariff of Ohio Power Company.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where an audit will be performed on the distribution investment rider costs for the protection of consumers who are asked to pay such charges on their electric bills.¹ OCC is filing on behalf of the 1.3 million residential utility customers of Ohio Power Company ("AEP Ohio" or the "Utility"). The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien
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This case examines whether consumers have paid more than they should through AEP-Ohio's distribution investment rider (DIR). Through the rider charge being reviewed here, AEP-Ohio customers pay for capital costs associated with the distribution infrastructure investments that the Utility made to improve service reliability.² This case involves an evaluation of the prudence of the capital investments that AEP-Ohio made in 2018 and is seeking to charge customers through its DIR. This proceeding is intended to audit these costs for 2018 that are passed along through the Rider to AEP-Ohio's customers, including the utility's residential customers. OCC has authority under law to represent the interests of AEP-Ohio's 1.3 million residential utility customers, 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 affecting costs that they are charged through a rider on their electric bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

² Case No. 19-0065, Entry at 1-2 (Feb. 6, 2019); Entry at 1-2 (Mar. 13, 2019).

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 a prudency audit of costs that are charged to customers through a rider on their bills. 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 customers pay should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. Adequate service under the law means reliable service, where the Utility is meeting the PUCO minimum standards for reliability. 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 whether the costs were appropriately collected from customers through the Rider.

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.³

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,

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³ 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 16th day of April 2019.

/s/ Amy Botschner O'Brien
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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 Botschner-O'Brien, Amy