

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Application of)	
Ohio Power Company for a Waiver)	Case No. 19-1389-EL-WVR
of Rule 4901:1-10-33(C)(13), Ohio)	
Administrative Code.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this case where Ohio Power Company ("AEP Ohio" or "the Utility") seeks permission to shorten the time frame for residential customers to pay their utility bills. Under Ohio Adm.Code Rule 4901:1-10-33(C)(13), "for residential bills being issued from outside the state of Ohio the due date shall be no less than twenty-one days." This rule applies to AEP-Ohio because the Utility is proposing to move its bill printing and mailing functions to Indiana. AEP seeks to waive the 21-day requirement, instead requiring customers to pay their bills 15 days after the postmark date on their utility bill.

OCC is filing on behalf of the 1.3 million residential utility customers of AEP Ohio. 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,

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Ohio Consumers' Counsel

/s/ Amy Botschner-O'Brien
Amy Botschner-O'Brien (0074423)
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MEMORANDUM IN SUPPORT

Under the PUCO’s rules, residential electric utility customers’ payments are due a number of days after their bills are postmarked. Ohio Adm.Code sets minimum time frames from the date of postmark to bill payment. Under Rule 4901:1-10-33(C)(13), “the due date shall not be less than fourteen days from the date of postmark. For residential bills being issued from outside the state of Ohio the due date shall be no less than twenty-one days.”

AEP Ohio is requesting that the 21-day time frame from bill postmark to bill payment be reduced to 15 days.² The Utility claims that under the Utility’s proposed new process, “customers will receive their bills one day sooner after issuance once the bill print and mail functions are moved to a third-party business partner in Indiana,” so there is no need to adhere to the PUCO’s minimum 21-day time frame.³

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 where the Utility seeks to reduce the

² AEP-Ohio Waiver Application at 1.

³ *Id.* at 2.

period of time they get to pay their bills. 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-Ohio in this case where the PUCO will determine whether the Utility should be granted a waiver from important consumer protections regarding bill payment time. This interest is different from that of any other party and especially different from that of the electric utility whose advocacy includes the financial interest of stockholders. OCC has authority under law⁴ to represent the interests of the residential utility customers of AEP-Ohio, pursuant to R.C. Chapter 4911.

Second, OCC's advocacy for residential customers will include, but not be limited to, ensuring that the Utility has policies and practices in place to support their claim that under this waiver, customers will receive their bills one day sooner than they do today. OCC's position is therefore directly related to the merits of this case that is pending

⁴ R.C. Chapter 4911.

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 where the PUCO will decide if AEP-Ohio should be granted a waiver from the 21-day minimum time frame from bill postmark to bill payment for residential bills issued from outside the state of Ohio.

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. OCC has been uniquely 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.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers’ Counsel

/s/ Amy Botschner-O’Brien
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⁵ 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 22nd day of July 2019.

/s/ Amy Botschner-O'Brien
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