

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of  
Ohio Power Company to Initiate its  
gridSMART Phase 3 Project

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Case No. 19-1475-EL-RDR

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**MOTION TO INTERVENE BY THE OHIO  
ENVIRONMENTAL COUNCIL**

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The Ohio Environmental Council (“OEC”) respectfully moves for leave to intervene in the above-captioned case, filed by Ohio Power Company (AEP Ohio), seeking approval to initiate its gridSMART Phase 3 Project. Pursuant to Ohio Revised Code § 4903.221 and Ohio Administrative Code 4901-1-11, the Public Utilities Commission of Ohio (“the Commission”) should grant the OEC’s Motion. The OEC has a real and substantial interest in this proceeding, represents interests separate from those of the already existing parties, and will contribute to a just and expeditious resolution of the issues involved in the proceeding without causing undue delay. The OEC has provided a detailed explanation of its intervention in the accompanying Memorandum in Support.

Respectfully Submitted,

/s/Miranda Leppla  
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December 30, 2019

*Counsel for the Ohio Environmental  
Council*

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**MEMORANDUM IN SUPPORT**

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**I. Introduction**

The Ohio Environmental Council (“OEC”) requests to intervene in the above-captioned proceeding, in which Ohio Power Company (AEP Ohio) asks the Public Utilities Commission of Ohio (“Commission” or “PUCO”) to approve its gridSMART Phase 3 Project. As a non-profit environmental advocacy organization who focuses heavily on the environmental impacts of energy usage, the OEC has a special interest in the outcome of this case. Decisions related to accessibility of grid reliability, modernization, and innovation directly relate to Ohio’s clean energy future, and how ratepayer funds are spent on those efforts will have a significant impact on how efficiently Ohio is able to move toward that future. Accordingly, OEC’s interest in this proceeding arises from the direct and indirect impacts of the gridSMART on Ohio’s environment and its electricity costs.

**II. Ohio law permits intervention of parties in cases before the PUCO.**

The Ohio Revised Code permits parties “who may be adversely affected by a public utilities commission proceeding [to] intervene in such proceeding.” R.C. § 4903.221. The Commission may permit intervention under a balancing test based on the following five factors:

- (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.
- (5) The extent to which the person's interest is represented by existing parties.

Ohio Admin. Code 4901-1-11(B). The OEC satisfies this balancing test.

### **III. The OEC satisfies the PUCO's permissive intervention standard.**

The OEC's mission is to protect Ohio's environment and ensure clean energy for all of the State's citizens, and that interest will assist Commission decisions made as part of this docket. Further, the Ohio Supreme Court has emphasized that "intervention 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>1</sup> For the following reasons, the OEC requests that the Commission grant its Motion to Intervene in AEP Ohio's gridSMART proceeding.

#### **a. The OEC has real and substantial interests related to the merits of the case that may be adversely affected by the outcome of the proceeding.**

The OEC is a not-for-profit organization incorporated in Ohio under Section 501(c)(3) of the U.S. Internal Revenue Code, with approximately 3,000 individual members. Its main office is located at 1145 Chesapeake Avenue, Suite I, Columbus, Ohio 43212. The OEC's principal purpose is to protect the natural resources and environment of the citizens of the State of Ohio. The OEC actively works in Ohio on environmental policies, including smart power, energy efficiency, climate change, natural gas fracking and sustainable agriculture. The OEC also supports state energy policies that reduce greenhouse gas emissions, supporting efforts to mitigate the causes of climate change.

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<sup>1</sup> *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940, ¶ 20.

The OEC's members may be adversely affected by the structure of AEP Ohio's gridSMART project. The efficiency and application of the program directly affects Ohio's environment based on its ability to reduce greenhouse gas emissions. Because the OEC protects Ohio's environment by reducing air pollution coming from the electric power sector and ensuring Ohioans' money is spent on grid modernization in a cost-effective manner, it has a real and substantial interest in the issues and outcome of the Commission's consideration of gridSMART. The OEC's legal position in support of clean energy policy directly relates to the merits of the case, for any investments in gridSMART in Ohio must support a clean energy future that mitigates the causes of climate change. The OEC therefore satisfy the first two prongs of the OAC's balancing test for permissive intervention before the Commission.

**b. The intervention of the OEC will not cause undue delay.**

The OEC has timely filed this Motion to Intervene to pursue fair adjudication of the merits of the above-captioned case. The intervenor's experience in matters before the Commission illustrate its ability to participate without causing undue delay in any type of proceeding. The OEC's intervention will not unduly prolong or delay the proceeding; it will add value to the developments in this case.

**c. The OEC will contribute to a just and expeditious resolution of the issues involved in the proceeding.**

The OEC will contribute to a just and expeditious resolution of the issues involved in the approval of the AEP Ohio's gridSMART project because of its expertise in presenting relevant factors for the Commission's review of adjudicatory matters. The OEC has consistently contributed to just resolutions in efficiency portfolio cases, rulemakings, electric utility ratemaking cases, grid modernization proceedings, and a host of other docketed cases before the

Commission. Accordingly, the OEC's perspectives will assist in the just and expeditious resolution of the issues and will not detract or confuse that process.

**d. The OEC has different interests than those of existing parties, and they can represent those interests more effectively than existing parties.**

The OEC intervenes in the proceeding with a particular focus on the clean energy and environmental needs of Ohioans. The OEC represents different interests and different constituents than those already existing parties, and thus the interests of the OEC are vital to the Commission's adjudication of AEP Ohio's gridSMART project. The OEC also notes that the Commission's stated policy encourages "the broadest possible participation in its proceedings."<sup>2</sup> The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

#### **IV. Conclusion**

The OEC respectfully requests that the Commission grant its Motion to Intervene in the Commission's docketed cases considering AEP Ohio's third phase of its gridSMART project. The OEC has a real and substantial interest in Ohio's clean energy future, an important legal perspective in this proceeding. The OEC's intervention will not cause undue delay in the Commission's review, and the organizations will contribute to a just and expeditious resolution of the issues involved, while representing its interests more effectively than already existing parties. Finally, the Ohio Supreme Court has emphasized the liberal nature of the legal standard at play for intervention into Commission proceedings.<sup>3</sup> Because the OEC meets all of the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5), it respectfully requests that the

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<sup>2</sup> *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

<sup>3</sup> See *Ohio Consumers' Council*, at ¶ 20.

Commission grant its Motion to Intervene in the above-captioned case.

Respectfully Submitted,

/s/Miranda Leppla

Miranda Leppla (0086351)

**Counsel of Record**

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December 30, 2019

*Counsel for the Ohio Environmental  
Council*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served upon all parties of record via electronic mail on December 30, 2019.

/s/Miranda Leppla  
Miranda Leppla (0086351)

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

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Summary: Motion to Intervene and Memorandum in Support by The Ohio Environmental Council electronically filed by Ms. Miranda R Leppla on behalf of Ohio Environmental Council