

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company for Waiver of)
Tariffs and Rules Related to the)
COVID-19 State of Emergency.)

Case No. 20-603-EL-WVR

In the Matter of the Application of)
Ohio Power Company for Approval of)
Certain Accounting Authority.)

Case No. 20-604-EL-AAM

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

On March 9, 2020, Governor DeWine declared a state of emergency to protect the health and safety of Ohioans from the dangerous effects of the coronavirus pandemic. These are extraordinary times, with severe health risks to Ohio families, closing businesses, lost jobs and wages, and more in AEP's service area and throughout our great State. At this time of Governor DeWine's strong leadership rallying Ohioans to fight back against the virus, the PUCO's initiative in declaring an emergency to shield Ohioans from utility disconnections, door-to-door energy sales and more, is vitally important.

As part of the PUCO's continued efforts, on March 12, 2020, it opened a docket and ordered the utilities to "ensure that utility service to customers is maintained during the state of emergency."¹ The PUCO directed all utility companies to review their service disconnection policies, practices, and tariffs and promptly seek approval to suspend requirements that may "impose a service continuity hardship on residential and non-

¹ *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (March 12, 2020).

residential customers” or “create unnecessary COVID-19 risks associated with social contact.”²

AEP filed its Plan on March 17, 2020, and filed an amended Plan on March 24, 2020. It seeks approval of its Plan and associated relief, throughout the state of emergency.

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene to protect the interest of 1.3 million residential customers who will be impacted by, and will be asked to pay for, AEP’s Plan.³ The PUCO should grant OCC’s motion to intervene for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers’ Counsel

/s/ Ambrosia E. Wilson
William Michael (0070921)
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² Entry at ¶6(a).

³ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

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MEMORANDUM IN SUPPORT

In the coming months and potentially years, many Ohioans will struggle to pay their utility bills. Those Ohioans with financial challenges will include customers who have historically paid their bills in full and on time but who may be unable to continue doing so following the economic fallout of the coronavirus pandemic. Ohio businesses and families will face financial burdens that were unforeseeable just a few months ago.

AEP's Plan suspends service disconnections, waives reconnect and late fees, and reduces commercial and industrial customers bills by lowering demand charges.⁴ While making utility service affordable to all customers at this time is important, AEP's Plan will create costs that AEP will seek to collect from customers at a later date.⁵ Those future costs should be shared by all customers, with minimal cost shifting between customer classes. Moreover, any costs collected from customers in base rates and riders, but that are unspent as a result of activities being suspended through the crisis, should be

⁴ See, e.g., AEP's Application at 2-5.

⁵ See, e.g., AEP's Application at 8 (proposing a mechanism to defer and later collect from consumers costs associated with the crisis).

used to offset any future costs that AEP later attempts to collect. As a result of lost wages, unemployment, and other financial hardships resulting from the coronavirus, the need to make sure that customers pay only fair, just, and reasonable rates is especially heightened.

The Office of the Ohio Consumers' Counsel ("OCC") has statutory authority to represent the interests of AEP's residential electric utility customers under R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a Public Utilities Commission ("PUCO") proceeding is entitled to seek intervention in that proceeding. The interests of AEP's residential customers may be "adversely affected" by this case, especially if the customers are unrepresented in a proceeding that will examine AEP's measures to address the coronavirus and AEP's plans to charge residential customers for a share of the costs of its Plan. 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 where the Utility has a proposal to charge customers for

the costs of its Plan that suspends disconnections, waives late fees, and grants commercial and industrial customer discounts. A crucial part of the PUCO's review in this proceeding will be to determine how the costs of emergency measures should be funded and who should pay for each element of the emergency plan. This interest is different from that of any other party, and especially different from that of AEP whose advocacy includes the financial interest of its shareholders. Additionally, the PUCO specifically requested input from "interested persons" to provide the PUCO with suggestions that it should consider to avoid the imposition of a service continuity hardship on customers or the creation of unnecessary risks associated with social contact.⁶ As a representative of the residential customers of AEP that are affected by the COVID-19 virus and state of emergency, the OCC is an "interested person."

Second, OCC's advocacy for residential customers will include advancing the position that customers should remain connected during this emergency and that they should not later be billed unjust and unreasonable charges as a result of AEP's emergency plan. 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

⁶ Entry at ¶10.

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 determine how to best protect AEP’s customers during this emergency and how much customers will later pay for AEP’s emergency plan.

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.

Further, 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.⁷

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Court for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

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/s/ Ambrosia E. Wilson

William Michael (0070921)

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⁷ 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 8th day of April 2020.

/s/ Ambrosia E. Wilson
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Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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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 Wilson, Ambrosia E.