

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio	)	
Power Company for Approval of its	)	Case No. 20-0602-EL-UNC
Temporary Plan for Addressing the COVID-19	)	
State of Emergency.	)	
	)	
In the Matter of the Application of Ohio	)	
Power Company for Waiver of Tariffs and	)	Case No. 20-0603-EL-WVR
Rules Related to the COVID-19 State of	)	
Emergency.	)	
	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of	)	Case No. 20-0604-EL-AAM
Certain Accounting Authority.	)	
	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of	)	Case No. 20-734-EL-AEC
A Reasonable Arrangement.	)	

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**MOTION TO INTERVENE  
BY NATURAL RESOURCES DEFENSE COUNCIL**

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For the reasons set forth in the accompanying Memorandum in Support, Natural Resources Defense Council (“NRDC”) respectfully moves the Public Utilities Commission of Ohio for leave to intervene in the above-captioned case pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, and to grant to the NRDC the full powers and rights specifically authorized by statute or by the provisions of the Ohio Administrative Code. Additionally, NRDC’s interests are not adequately represented by any other party to this matter, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, NRDC’s participation will not unduly delay the proceedings or prejudice any other party.

NRDC respectfully requests that this Commission grant its Motion to Intervene for the reasons set forth in more detail in the attached Memorandum in Support.

Respectfully submitted,

/s/ Robert Dove

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE  
BY NATURAL RESOURCES DEFENSE COUNCIL**

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**I. Introduction**

Ohio Revised Code (“ORC”) § 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“Commission”) makes certain determinations. The Natural Resources Defense Council (“NRDC”) seeks intervention in this proceeding in which the Ohio Power Company (“AEP”) has asked for authority to waive certain requirements under the rules related to disconnections and reconnections during the COVID-19 state of emergency. Additionally, AEP seeks enter a Reasonable Arrangement for the benefit of certain customer classes at the expense of other classes. NRDC is a national, non-profit environmental organization with thousands of members in Ohio. Many of those members reside

within the AEP's service territory. NRDC's and its members' interests are not adequately represented by any other parties in this proceeding. As such, NRDC is entitled to intervene in the above captioned proceeding.

## **II. Legal Standard**

Ohio law states that a party may intervene in a Commission proceeding if that party “may be adversely affected by a public utilities commission proceeding.”<sup>1</sup> In the determination of whether a party may be adversely affected for purposes of intervention, the Commission is required to evaluate:

- (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.<sup>2</sup>

The Commission's rules similarly provide that any person may intervene where “[t]he person has a real and substantial interest in the proceeding.”<sup>3</sup> The PUCO regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining whether a party may be “adversely affected,” and also purport to add a fifth factor regarding “the extent to which the person's interest is represented by existing parties.”<sup>4</sup>

As the Ohio Supreme Court recently held, intervention in Commission proceedings “ought to be liberally allowed so that the positions of all persons with a real and substantial

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<sup>1</sup> R.C. 4903.221.

<sup>2</sup> R.C. 4903.221(B).

<sup>3</sup> Ohio Adm. Code 4901-1-11(A)(2).

<sup>4</sup> Ohio Adm. Code 4901-1-11(B).

interest in the proceedings can be considered by the [Commission].”<sup>5</sup> The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even under extenuating circumstances.<sup>6</sup> NRDC satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

**III. NRDC is entitled to intervene under §4903.221 because the organization and its members “may be adversely affected” by the outcome of this proceeding.**

NRDC is entitled to intervene in this proceeding because NRDC satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome. First, the nature and extent of NRDC’s interests in the proceeding is real and substantial,<sup>7</sup> as the issues involved herein are directly related to NRDC’s interests in protecting its members’ interests within AEP’s service territory. AEP’s application will impact NRDC’s members because it seeks the suspension of service disconnections, waiver of late and reconnect fee, as well restrictions on certain customer facing activities and resources. Additionally, AEP is requesting authority to defer certain costs and establish a reasonable arrangement both of which could increase costs for NRDC’s members in the future. Therefore, NRDC has a real and substantial interest in this proceeding.

Second<sup>8</sup>, because of the potential impacts on NRDC and its members in Ohio, NRDC wants to ensure that AEP-Ohio’s application meets the applicable legal requirements, maximizes

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<sup>5</sup> *Ohio Consumers’ Counsel v. Pub. Util Comm’n of Ohio* (2006), 111 Ohio St. 3d 384, 388, 2006 Ohio 5853, 856 N.E.2d 940.

<sup>6</sup> See e.g. *In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party’s failure to file within the deadline).

<sup>7</sup> R.C. 4903.221(B)(1).

<sup>8</sup> R.C. 4903.221(B)(2).

opportunities for conservation, and promotes sound policies in Ohio. Therefore, no other party to the matter will adequately represent the interests of NRDC.

Third, NRDC's intervention will not unduly prolong or delay the proceeding<sup>9</sup> as this motion is being filed by the deadline for intervention and NRDC is able to comply with all case management deadlines that will be established by the Commission and/or agreed to by the parties.

Fourth, intervention by NRDC will significantly contribute to the full development of the record in this proceeding.<sup>10</sup> NRDC will bring significant expertise to bear in these proceedings. NRDC routinely intervenes and/or provides testimony before the Commission. NRDC has regularly presented testimony before the U.S. Congress and various state legislatures related to the electric utility industry, including energy efficiency, renewable energy, nuclear energy, and coal generation. As such, NRDC should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

**IV. NRDC may intervene because NRDC and its members have a “real and substantial interest” in the proceeding as presented in Ohio Administrative Code 4901-1-11(B).**

NRDC may also intervene in these proceedings because it satisfies each of the five factors listed in the PUCO rules demonstrating that it has a “real and substantial interest” in these cases.<sup>11</sup> The first four factors are identical to those set forth under §4903.221(B) and, therefore, NRDC should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, NRDC's interests in these proceedings will not be fully represented by other parties.<sup>12</sup> No other parties can adequately represent NRDC's interests as a

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<sup>9</sup> R.C. 4903.221(B)(3).

<sup>10</sup> R.C. 4903.221(B)(4).

<sup>11</sup> Ohio Adm.Code 4901-1-11(B).

<sup>12</sup> Ohio Adm. Code 4901-1-11(B)(5).

national environmental organization, with members in Ohio that is interested in environmental protection and the promotion of clean energy and smart, cost-effective distribution system investments. Because no other party to these proceedings advocates from a national platform at the intersection of these issues, and no other party represents the interests of NRDC's members in Ohio, no other party can represent NRDC's interests and the interests of its members.

## **V. Conclusion**

For the foregoing reasons, NRDC respectfully request that its Motion to Intervene be granted, and NRDC be authorized to participate as full parties to this proceeding.

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**CERTIFICATE OF SERVICE**

I certify that The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case.

/s/ Robert Dove  
Robert Dove



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Summary: Motion to Intervene electronically filed by Mr. Robert Dove on behalf of Natural Resources Defense Council