

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)	
of Ohio Power Company to Update)	Case No. 20-1061-EL-RDR
The Energy Efficiency and Peak)	
Demand Reduction Rider.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ where Ohio Power (AEP) seeks to charge residential customers more than \$33 million for its energy efficiency programs, including more than \$4.3 million in utility profits for 2020 (sometimes referred to as shared savings).² OCC is filing on behalf of the 1.3 million residential utility customers of AEP. 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.

² AEP Application, Schedule 3 (May 15, 2020).

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien
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MEMORANDUM IN SUPPORT

AEP wants to charge residential customers more than \$33 million for its energy efficiency programs, including more than \$4.3 million in utility profits (also known as “shared savings”) for 2020.³ OCC has authority under law to represent the interests of all the 1.3 million residential utility customers of AEP under 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 where they could be charged millions of dollars for energy efficiency programs, plus utility profits on those programs. 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;

³ AEP Application, Schedule 3 (May 15, 2020).

- (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 which involves potential charges to consumers for energy efficiency programs and the utility's profits on those programs. 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, among other things, advancing the position that customers should pay just and reasonable rates for energy efficiency. OCC's advocacy will consider the fact that AEP must wind down its programs this year under House Bill 6 and PUCO Order, and also consider the health and financial impact that the coronavirus has had on AEP's residential customers. OCC's position is therefore directly related to the merits of this case, which 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 where

residential consumers could be charged tens of millions of dollars in shared savings for energy efficiency programs.

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), which OCC already has addressed and which 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.⁴

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.

⁴ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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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 24th day of June 2020.

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