

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company for Approval to Expire)	Case No. 13-1937-EL-ATA
Its gridSMART Experimental Tariffs.)	
)	
In the Matter of the Application of Ohio)	Case No. 17-1234-EL-ATA
Power Company for Approval to Establish)	
Time-of-Use Rates.)	

**MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, the Environmental Law & Policy Center (“ELPC”) respectfully moves to intervene in the above-captioned proceeding. As explained more thoroughly in the attached Memorandum in Support, ELPC has a real and substantial interest in this case, in which the Ohio Power Company (“AEP Ohio”) seeks approval from the Public Utilities Commission of Ohio to establish time-of-use rates for residential and general service customers with advanced meters and to eliminate most of its gridSMART experimental tariff offerings. Additionally, ELPC’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, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

ELPC respectfully requests this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

June 15, 2020

Respectfully submitted,

/s/ Caroline Cox
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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Ohio Revised Code 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 Environmental Law & Policy Center (“ELPC”) is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding, and its interests are not adequately represented by the other parties in the case.

R.C. 4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission’s procedural rules at Ohio Administrative Code 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets all of the factors required by statute and rule.

Pursuant to R.C. 4903.221, the Commission must consider:

- (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; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

R.C. 4903.221(B).

With respect to the first factor, ELPC has a substantial interest in the application of the Ohio Power Company (“AEP Ohio”) to establish time-of-use (“TOU”) rates. TOU rates have environmental ramifications because if customers shift their usage to off peak times it results in fewer power plants running and less pollution. Further, ELPC has members in Ohio and its work focuses on Ohio energy and environmental issues. AEP Ohio’s application affects these interests because it proposes to offer TOU rates that could have to alter consumer behavior and energy use. Moreover, ELPC has participated in the cases and working groups related to AEP’s gridSMART program, which include AEP’s experimental tariffs, *e.g.*, Case No. 13-1939, and made similar efforts to encourage the adoption of TOU rates, such as through participation in the FirstEnergy case requiring the EDU to offer a time-varying rate through its grid modernization process, Case. No. 16-481.

As to the second factor, because of the potential impacts on ELPC and its Ohio members, ELPC seeks to ensure that AEP Ohio’s TOU proposal is well-designed to both encourage customer adoption and realize the pollution reduction. ELPC seeks the Commission’s careful scrutiny of AEP Ohio’s proposed rates to ensure their effectiveness and the benefits.

Under the third factor, ELPC’s inclusion will not unduly delay or prolong the proceeding. The Commission has not yet set a procedural schedule for the case, and ELPC is committed to

working within any schedule that is imposed by this Commission to achieve the efficient and orderly disposition of the questions presented.

Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective to bear. ELPC has participated in multiple proceedings in Ohio as well as other states regarding rate design, including proceedings specifically involving TOU rate design.

Similarly, ELPC meets the requirements set forth in Ohio Admin. Code 4901-11-1(B):

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

The first four factors mirror those in R.C. 4903.221, and for the same reasons as stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that focuses on consumer protection as well as clean energy.

Finally, this Commission's policy is to "encourage the broadest possible participation in its proceedings." *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry at 2 (January 14, 1986). ELPC's inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both R.C. 4903.221 and Ohio Adm. Code 4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

Respectfully submitted,

/s/ Caroline Cox

Caroline Cox (0098175)

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Intervene submitted on behalf of the Environmental Law & Policy Center was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on July 10, 2020. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. The document was also served to the parties listed below via electronic mail.

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in

Case No(s). 17-1234-EL-ATA, 13-1937-EL-ATA

Summary: Motion to Intervene and Memorandum in Support of the Motion to Intervene
electronically filed by Ms. Caroline Cox on behalf of Environmental Law and Policy Center