

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

)	
In the Matter of the Application of Ohio)	Case No. 13-1937-EL-ATA
Power Company for Approval to Expire 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.)	

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

The Ohio Environmental Council (“OEC”) respectfully moves for leave to intervene in the above-captioned cases, filed by the Ohio Power Company, seeking approval to amend its tariffs and expire its gridSMART experimental tariffs. 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 these proceedings, 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 proceedings without causing undue delay. Further, the OEC was a party to the case and stipulation from which this proceeding stems, Case No. 13-1939-EL-RDR. The OEC has further explained its intervention in the accompanying Memorandum in Support.

Respectfully Submitted,

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July 10, 2020

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
BY THE OHIO ENVIRONMENTAL COUNCIL**

I. Introduction

The Ohio Environmental Council (“OEC”) requests to intervene in the above-captioned proceedings, in which the Ohio Power Company (“AEP Ohio”) asks the Public Utilities Commission of Ohio (“Commission” or “PUCO”) for authority to amend its tariff and expire its gridSMART experimental tariffs. As a non-profit environmental advocacy organization that focuses heavily on the environmental impacts of energy usage, the OEC has a special interest in the outcome of these proceedings. Decisions related to the cost of energy directly relate to Ohio’s clean energy future. Tariffs, especially time-of-use tariffs, impact the efficiency of customers installing net-metered generation facilities on their properties and incentivize using less power at times of peak energy usage. Energy efficiency, renewable net-metered generation facilities, and peak load demand reduction all directly and indirectly impact Ohio’s path toward reducing its greenhouse gas emissions and the overall effort to mitigate the causes of climate change. Further, the OEC was a party to the case from which this case stems, Case No.

13-1939-EL-RDR, and participated in the hearing and processes that set the basis for this case. Accordingly, OEC's interest in these proceedings arises from the direct and indirect impacts of the AEP's tariff structure, its impact on customers, and its impact on the energy grid—and consequently, its impact on the environment.

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 the 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].”¹ For the following reasons, the OEC requests that the Commission grant its Motion to Intervene in the above-captioned proceedings.

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

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 proceedings.

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.

The OEC's members may be adversely affected by an amendment of AEP Ohio's tariff. The efficiency and application of the tariff 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 the amended tariff. The OEC's legal position in support of clean energy policy directly relates to the merits of the case, for different tariffs can incentivize different forms of energy generation, such as net-metered energy generation, and the incentive for Ohioans to consume more or less energy as well. When a company, as AEP Ohio has here, proposes to amend a tariff, particularly a TOU rate, the OEC has a direct interest in these proceedings as the result will affect Ohioans' clean energy future. In addition, the OEC was a party to the case from which this case stems, Case No.

13-1939-EL-RDR, and participated in the hearing and processes that set the basis for this case. The OEC therefore satisfies 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 proceedings. The OEC's experience in matters before the Commission illustrate their ability to participate without causing undue delay in any type of proceeding, including the organization's experience in the preceding case to this Application (13-1939-EL-RDR). The OEC's intervention will not unduly prolong or delay the proceedings; 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 proceedings.

The OEC will contribute to a just and expeditious resolution of the issues involved in the proceedings, including approval of the AEP Ohio's amended tariff, because of our 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 these proceedings 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 application to amend its tariff. The OEC also notes that the Commission's stated policy encourages "the broadest possible participation in its proceedings."² 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 case considering AEP Ohio's application to amend its tariff and to expire its gridSMART experimental tariffs. The OEC has a real and substantial interest in Ohio's clean energy future, an important legal perspective in these proceedings. 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.³ 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 Commission grant its Motion to Intervene in the above-captioned proceedings.

Respectfully Submitted,

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

³ See *Ohio Consumers' Council*, at ¶ 20.

July 10, 2020

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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 July 10, 2020.

/s/Miranda Leppla
Miranda Leppla (0086351)

This foregoing document was electronically filed with the Public Utilities

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in

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

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