

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Political )  
and Charitable Spending by Ohio Edison )  
Company, The Cleveland Electric ) Case No. 20-1502-EL-UNC  
Illuminating Company, and The Toledo )  
Edison Company )

---

**MEMORANDUM CONTRA OF OHIO EDISON COMPANY, THE CLEVELAND  
ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY  
TO THE MOTION TO INTERVENE BY THE OHIO HOSPITAL ASSOCIATION**

---

**I. INTRODUCTION**

The Motion to Intervene (“Motion”) filed by the Ohio Hospital Association (“OHA”) should be denied because OHA fails to establish a real and substantial interest in this case. OHA also has failed to show how the disposition of this proceeding will impair or impede its ability to protect its claimed interest, or how it will significantly contribute to development of the factual issues in this case. Indeed, even if OHA had a real and substantial interest in this proceeding, intervention would not be necessary for OHA to represent such interest because the Commission’s review involves only the filing of initial and reply comments, for which intervention is unnecessary. Accordingly, OHA’s Motion should be denied.

**II. ARGUMENT**

To be granted intervention, a person must show that it may be adversely affected by the proceeding in which it requests intervention. R.C. 4903.221. To satisfy this standard, the person seeking intervention must show it “has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person’s interest is adequately

represented by existing parties.” O.A.C. 4901-1-11(A)(2). The Commission must consider the criteria in R.C. 4903.221(B) and O.A.C. 4901-1-11(B) when ruling upon applications to intervene, but the overarching standard is that a person have a real and substantial interest that may be adversely affected by the proceeding. Because OHA has not met this standard, the Motion should be denied.

**A. OHA has not shown it has a real and substantial interest in this case.**

OHA’s Motion is entirely conclusory. While OHA broadly paraphrases a few of the factors in R.C. 4903.221(B) and O.A.C. 4901-1-11(B), it does not show that it has a real and substantial interest in this case. *See* Mem. in Supp., p. 2. OHA’s only statement of interest is that it is “keenly interested in ensuring that the ultimate resolution of the matters in this proceeding have a positive impact on OHA members.” *Id.* OHA also states that it has been involved in efforts regarding electric service reliability and modernization of the electric grid. *Id.* These statements do not justify OHA’s intervention.

The Commission initiated this proceeding to confirm that the costs of any political or charitable spending in support of H.B. 6 and the subsequent referendum were not included in any rates or charges paid by the Companies’ retail customers. This proceeding does not involve electric service reliability or grid modernization. While OHA wants the outcome of this proceeding to be “positive” for its members, OHA does not identify the real and substantial interest that would cause this proceeding to be viewed positively by its members. Thus, OHA has not shown that it has a real and substantial interest **in this case**. *See, e.g., In the Matter of the Application of the Dayton Power & Light Co. for Auth. to Amend Its Filed Tariffs to Increase the Rates & Charges for Elec. Serv.*, 1991 WL 11811072, Case No. 91-414-EL-AIR (Dec. 6, 1991) (denying City of Cincinnati’s motion to intervene because it did not have an interest in the rates at issue in proceeding); *In the Matter of the Application of Akron Thermal, Limited Partnership for an Increase in Rates for*

*Steam and Hot Water Service*, Case No. 05-05-HT-AIR, Entry at p. 3 (June 14, 2005) (denying intervention because person's interest was not related to the purposes of the proceeding in a manner that "assist the Commission's primary interest of securing the best possible service for the public under a just and reasonable rate structure.").

OHA has not shown that it has a real and substantial interest in this case that justifies intervention as required by O.A.C. 4901-1-11(A)(2).

**B. OHA has not shown that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect its claimed interest.**

OHA does not explain how the disposition of the Commission's review of the Companies' rates and charges specific to H.B. 6 costs could adversely affect OHA's claimed interests. Thus, it is fair to assume that the review being conducted in this case will not impact OHA. Because OHA has not shown that the disposition of this case may, as a practical matter, impair or impede its ability to protect its claimed interest, it is not entitled to intervene as a party.

**C. OHA's Motion does not satisfy the factors in O.A.C. 4901-1-11(B).**

Given that OHA has not satisfied the requirements of O.A.C. 4901-1-11(A)(2), the factors in O.A.C. 4901-1-11(B)(2)-(5) are inconsequential. It is notable, however, that OHA makes no attempt to satisfy those factors.

While the second factor requires that OHA show the probable relation of its legal position to the merits of this proceeding (O.A.C. 4901-1-11(B)(2)), OHA does not identify its legal position or explain its probable relation to the merits of this proceeding. Further, while O.A.C. 4901-1-11(B)(4) requires a showing that "the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues" (O.A.C. 4901-1-11(B)(4)), OHA mentions no factual issues that it will significantly contribute to developing. And because the procedural schedule calls for only comments and reply comments, OHA will have no need to

develop or resolve factual issues. OHA has not shown how its participation in this proceeding will have any impact on the Commission's consideration of the Companies' September 30 response to the show cause entry.

OHA has not justified its intervention in this review proceeding.

### **III. CONCLUSION**

The Companies respectfully request that the Commission deny OHA's Motion to Intervene.

Respectfully Submitted,

/s/ James F. Lang

Brian J. Knipe (0090299)  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308  
(330) 384-5795  
bknipe@firstenergycorp.com

James F. Lang (0059668)  
Kari D. Hehmeyer (0096284)  
CALFEE, HALTER & GRISWOLD LLP  
The Calfee Building  
1405 East Sixth Street  
Cleveland, Ohio 44114  
(216) 622-8200  
(216) 241-0816 (fax)  
jlang@calfee.com  
khehmeyer@calfee.com

*Attorneys for Ohio Edison Company, The  
Cleveland Electric Illuminating Company, and  
The Toledo Edison Company*

**CERTIFICATE OF SERVICE**

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 20th day of October 2020. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ James F. Lang  
One of the Attorneys for Ohio Edison  
Company, The Cleveland Electric  
Illuminating Company, and The Toledo  
Edison Company  
4841-0378-4143, v. 1

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/20/2020 3:47:20 PM**

**in**

**Case No(s). 20-1502-EL-UNC**

Summary: Memorandum Contra to the Motion to Intervene of OHA electronically filed by Mr. James F Lang on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company