

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)
Distribution Modernization Rider of Ohio)
Edison Company, the Cleveland Electric) Case No. 17-2474-EL-RDR
Illuminating Company and the Toledo)
Edison Company)

MOTION TO INTERVENE BY THE CITIZENS' UTILITY BOARD OF OHIO

Pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, the Citizens' Utility Board of Ohio ("CUB Ohio") respectfully moves to intervene in the above-captioned proceeding. As explained more thoroughly in the attached Memorandum in Support, CUB Ohio has a real and substantial interest in this case regarding the audit of expenditures by the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "FirstEnergy EDUs") of revenues collected under the distribution modernization rider ("Rider DMR") approved in Case No. 14-1297-EL-SSO.

As an independent, non-profit consumer watchdog that advocates for residential and small business utility customers in Ohio, CUB Ohio has members in the service territory of each of the FirstEnergy EDUs that have paid Rider DMR charges. CUB Ohio therefore seeks intervention in this proceeding in order to protect the interests of its members by ensuring an appropriate remedy for any improper expenditures of Rider DMR revenues by the FirstEnergy EDUs. The interests of CUB Ohio 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 that protects the interests of Ohio residential and small business customers. Finally, CUB Ohio's participation in this docket will not unduly delay the proceeding or prejudice any other party.

CUB Ohio 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.

January 21, 2021

Respectfully submitted,

/s/ Madeline Fleisher
Madeline Fleisher (0091862)
(Counsel of Record)
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, Ohio 43215
(614) 591-5474
mfleisher@dickinsonwright.com

Michael W. Wise (0046694)
McDonald Hopkins
600 Superior Avenue East
Suite 2100
Cleveland, OH 44114
T: 216.430.2034
mwise@mcdonalddhopkins.com

Counsel for Citizens' Utility Board of Ohio

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)
Distribution Modernization Rider of Ohio)
Edison Company, the Cleveland Electric) Case No. 17-2474-EL-RDR
Illuminating Company and the Toledo)
Edison Company)

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
BY THE CITIZENS' UTILITY BOARD OF OHIO**

Ohio Revised Code (“R.C.”) 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 (“PUCO” or “Commission”) makes certain determinations. This statutory provision 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 (“Ohio Adm. Code”) 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. This request for intervention by the Citizens’ Utility Board of Ohio (“CUB Ohio”) satisfies all of the factors set forth in 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 and second factors, CUB Ohio is an independent, non-profit consumer watchdog that advocates for residential and small business utility customers in Ohio. CUB Ohio pursues affordable and reliable utility service that leverages advanced energy technology to benefit ratepayers. CUB Ohio has members in the service territory of the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy EDUs”) who have paid charges under the distribution modernization rider (“Rider DMR”) approved by the Commission in Case No. 14-1297-EL-SSO. CUB Ohio has a real and substantial interest in ensuring the FirstEnergy EDUs’ expenditure of Rider DMR revenues was consistent with the Commission’s orders authorizing the rider, and pursuing any customer refunds as appropriate. Moreover, as an organization concerned with promoting innovation beneficial to utility consumers, including with respect to grid modernization, CUB Ohio also has a real and substantial interest in determining whether the FirstEnergy EDUs in fact utilized the Rider DMR revenues in support of grid modernization, whether directly or indirectly.

With respect to the third factor, CUB Ohio’s participation in this docket will not unduly delay the proceeding or prejudice any other party. The Commission has set no deadline for intervention in this docket since reopening the proceeding on December 30, 2020, and CUB Ohio plans to comply with any procedural schedule issued in the docket in future.

Finally, CUB Ohio’s participation in this proceeding will contribute to a just and expeditious resolution of the issues that protects the interests of Ohio residential and small business customers. CUB Ohio is able to provide the perspective of a non-profit consumer advocacy organization whose focus includes customer benefits from grid modernization.

Accordingly, CUB Ohio is well-positioned to provide a consumer perspective on utility grid modernization spending.

Similarly, CUB Ohio satisfies the criteria set forth in Ohio Adm. 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, CUB Ohio meets those factors. As to the fifth, although other ratepayer groups have intervened in this docket, CUB Ohio advocates for Ohio's transition to an energy sector that utilizes advanced technology, including grid modernization technologies, to provide benefits to residential and small business utility customers. CUB Ohio maintains that no other party can adequately represent its interests as an independent non-profit advocating on behalf of residential and small business ratepayers for a shift toward cost-effective spending on utility grid modernization to produce tangible customer benefits.

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). CUB Ohio's inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because CUB Ohio 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 proceeding.

January 21, 2021

/s/ Madeline Fleisher
Madeline Fleisher (0091862)
(Counsel of Record)
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, Ohio 43215
(614) 591-5474
mfleisher@dickinsonwright.com

Michael W. Wise (0046694)
McDonald Hopkins
600 Superior Avenue East
Suite 2100
Cleveland, OH 44114
T: 216.430.2034
mwise@mcdonalddhopkins.com

Counsel for Citizens' Utility Board of Ohio

CERTIFICATE OF SERVICE

The e-filing system of the Public Utilities Commission of Ohio will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case as of January 21, 2021.

/s/ Madeline Fleisher
Madeline Fleisher

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/21/2021 1:49:50 PM

in

Case No(s). 17-2474-EL-RDR

Summary: Motion to Intervene by Citizens' Utility Board of Ohio electronically filed by Ms. Madeline Fleisher on behalf of Citizens' Utility Board of Ohio