

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2020 Review of the)
Delivery Capital Recovery Rider of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company.)

Case No. 20-1629-EL-RDR

MOTION TO INTERVENE OF THE OHIO HOSPITAL ASSOCIATION

Pursuant to Ohio Revised Code Section (“R.C.”) 4903.221 and Ohio Administrative Code (“OAC”) 4901-1-11, the Ohio Hospital Association (“OHA”) moves to intervene in this case. OHA requests that the Public Utilities Commission of Ohio (“Commission” or “PUCO”) grant OHA leave to intervene because OHA has a real and substantial interest in this case, its participation will not cause undue delay, and the Commission’s disposition of this case may impair or impede OHA’s ability to protect that interest.

Respectfully submitted on behalf of
THE OHIO HOSPITAL ASSOCIATION



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MEMORANDUM IN SUPPORT

I. Introduction

By Entry of November 4, 2020, the Public Utilities Commission of Ohio (“Commission” or “PUCO”) directed Staff to issue a request for proposal for audit services to assist the Commission with the 2020 annual audit of FirstEnergy’s¹ delivery capital recovery rider (“DCR” Rider”) costs. On March 10, 2021, the Commission issued an Entry directing the Blue Ridge Consulting Services (“Blue Ridge”), Inc. to expand the scope of the audit to include payments made to a number of vendors, recently disclosed by FirstEnergy Corp.

The members of OHA located within the FirstEnergy service territory will be affected by the determination of the Commission in this matter. This Motion to Intervene should be granted because OHA has a real and substantial interest in this proceeding, and the PUCO’s disposition of this proceeding may impair or impede OHA’s ability to protect that interest.

¹ “FirstEnergy” refers to FirstEnergy Corp’s Ohio operating electric companies: Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company.

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.

OAC 4901-1-11(B). OHA satisfies this balancing test.

III. OHA satisfies the PUCO's permissive intervention standard.

OHA is the unified voice of the hospitals serving Ohio's communities. OHA has a long-standing history of participating in PUCO cases to advocate on the behalf of OHA's members. 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]."² For the following reasons, the OHA requests that the Commission grant its Motion to Intervene in this case.

A. OHA has real and substantial interests in the merits of this case that may be adversely affected by the outcome of the proceeding.

OHA is a private, nonprofit trade association comprised of approximately 240 Ohio hospitals, many of which are served by the FirstEnergy companies. OHA regularly intervenes in Commission proceedings to protect the interest of members served by FirstEnergy. These FirstEnergy hospitals collectively expend significant amounts of money on electric utility rates

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

and have financial interest cases involving FirstEnergy's rates and charges. Furthermore, OHA's member hospitals served by FirstEnergy pay DCR Rider charges. Therefore, OHA has a real and substantial interest in this Commission's audit of the DCR Rider.

B. OHA's intervention in this case will not cause undue delay.

OHA has timely filed this Motion to Intervene to advocate on the behalf of its members served by FirstEnergy. OHA has significant experience in Commission proceedings, and will participate in this case without causing undue delay. OHA's intervention will not unduly prolong or delay this proceeding. In fact, the Commission issued an Entry on May 3, 2021 extending the deadline for Blue Ridge to file its final audit report to July 6, 2021. As such, OHA's intervention in this proceeding at this stage will not result in any delay whatsoever.

C. OHA will contribute to a just and expeditious resolution of the issues involved in this case.

OHA will contribute to a just and expeditious resolution of the issues involved in this case regarding the Commission's review of FirstEnergy's DCR Rider because of OHA's expertise in presenting the unique and critical concerns of hospitals. OHA has many years of experience advocating for hospitals in numerous types of electric utility cases. OHA's participation will assist in the just and expeditious resolution of the issues and will not detract from an efficient adjudication of the issues in this case.

D. OHA has different interests than those of existing parties, and can represent those interests more effectively than existing parties.

OHA's interest is different from those of the existing parties because OHA is narrowly focused on the unique concerns of its hospital members. As the statewide advocate on behalf of essentially all Ohio hospitals, OHA is intimately aware of the hospital-specific energy and rate concerns of its members. Because other parties in this case do not share OHA's unique

perspective, intervention by OHA is necessary to adequately protect the interest of OHA's member hospitals. OHA's goal is to ensure that the ultimate resolution of this case results in a fair and just resolution for OHA's members who are being served by FirstEnergy.

IV. Conclusion

Based on the foregoing, OHA respectfully requests the Commission to grant its Motion to Intervene pursuant to R.C. 4903.221 and OAC 4901-1-11.

Respectfully submitted on behalf of
THE OHIO HOSPITAL ASSOCIATION



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Intervene was served upon the parties of record listed below this 7th day of May 2021 *via* electronic mail.



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Summary: Motion to Intervene of The Ohio Hospital Association and Memorandum in Support electronically filed by Teresa Orahoad on behalf of Devin D. Parram