

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the	)	
Distribution Investment Rider	)	Case No. 21-0016-EL-RDR
Contained in the Tariff of Ohio	)	
Power Company.	)	

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**MOTION TO INTERVENE  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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OCC moves to intervene<sup>1</sup> where a PUCO audit will be performed on another of AEP-Ohio's add-on charges to consumers for a single-issue rider under the utility-friendly 2008 energy law. About \$265 million in 2020 capital spending is at issue for consumers, for infrastructure replacement and distribution plant under AEP-Ohio's Distribution Investment Rider. OCC is filing on behalf of the 1.3 million residential utility consumers of Ohio Power Company ("AEP-Ohio" or "Utility").

The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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<sup>1</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ William J. Michael

William J. Michael (0070921)  
Counsel of Record  
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This case involves an evaluation of the prudence of the capital investments that AEP-Ohio made in 2020 (purportedly to increase reliability) and is seeking to charge consumers through its distribution investment rider (DIR).<sup>2</sup> These charges are in addition to the base distribution rates and other riders that consumers currently pay for electric utility service from AEP-Ohio. OCC has authority under law to represent the interests of AEP-Ohio's 1.3 million residential utility consumers, under R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential consumers may be “adversely affected,” especially if the consumers are unrepresented in a proceeding affecting costs that they are charged on their electric bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (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;

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- (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.

First, the nature and extent of OCC's interest is representing AEP-Ohio's residential consumers in this case involving an audit of the prudence and reasonableness of costs that AEP-Ohio charged to consumers. This interest is different from that of any other party and especially different from that of the Utility, whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential consumers will include, among other things, advancing the position that rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. Adequate service under the law means reliable service, where the Utility is meeting the PUCO minimum standards for reliability. OCC's position is therefore directly related to the merits of this case, which is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case where to determine whether the costs were appropriately collected from consumers through the Rider.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B), which OCC already has addressed, and which OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio (“Court”) confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.<sup>3</sup>

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<sup>3</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ William J. Michael  
William J. Michael (0070921)  
Counsel of Record  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 22nd day of June 2021.

/s/ William J. Michael  
William J. Michael  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Motion Motion to Intervene by Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.