

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into the Implementation of)	Case No. 22-1025-AU-COI
the Federal Infrastructure Investment and)	
Jobs Act's Electric Vehicle Charging)	
PURPA Standard.)	

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

The Public Utilities Commission of Ohio ("PUCO") is reviewing and seeking public comments¹ regarding implementation of the Federal Infrastructure Investment and Jobs Act ("IIJA"). The IIJA, in part, amended the federal Public Utility Regulatory Policy Act ("PURPA"), adding electric-vehicle charging ("EVC") standards that state regulatory authorities must determine for implementation. The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene on behalf of Ohio's residential utility consumers.² The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ Entry (November 14, 2022).

² See R.C. Chapter 4911, R.C. 4903.221 and O.A.C. 4901-1-11.

Respectfully submitted,

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/s/ William J. Michael

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MEMORANDUM IN SUPPORT

The IIJA took effect on November 15, 2021.³ The bill, in part, requires the PUCO to determine whether to implement new PURPA standards related to electric vehicle charging. OCC has authority under law to represent the interests of Ohio's residential utility consumers in this case, pursuant to 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" by this case, especially if they are unrepresented in a proceeding about allocating significant federal funds that could improve Ohio's energy infrastructure and potentially offset charges for ongoing utility initiatives. 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;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and

³ Pub. L. No. 117-58.

- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing residential consumers in this case regarding federal funding for the potential improvement of Ohio's energy infrastructure, which services millions of consumers. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential consumers will include but not be limited to advancing the position that public utilities should use IJA grants to improve Ohio's energy infrastructure for the benefit of consumers and to offset costs that consumers might otherwise be asked to pay. OCC will also encourage the PUCO to develop a transparent, public method of tracking grant spending. This can provide assurance that Ohio utilities are investing in infrastructure upgrades that provide quality, reliable electric service. Tracking can also assist identifying where grant funds can offset charges consumers would otherwise pay. OCC's position is therefore directly related to the merits of this case that 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 the 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 O.A.C. 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case concerning potential improvements to Ohio’s energy infrastructure as well as distributing and monitoring the cost of doing so.

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

O.A.C. 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 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.⁴

⁴ 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, O.A.C. 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,

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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 November 2022.

/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. Alana M. Noward on behalf of Michael, William J.