

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)
Ohio Power Company to Update Its) Case No. 23-57-EL-RDR
Basic Transmission Cost Rider.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ where the Ohio Power Company ("AEP") submitted its annual application to update its Basic Transmission Cost Rider ("BTCR") charge to consumers.² AEP charges all of its consumers through the BTCR for non-competitive based transmission charges.³ These charges are used to support the transmission system which is necessary for electric utility services.⁴ On an annual basis, AEP files an application with the PUCO to amend (usually increase) these charges to consumers. In this filing, AEP seeks a nearly \$128 million increase in charges to consumers under its Basic Transmission Cost Rider.⁵

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

² See Case No. 13-2385-EL-SSO, Opinion and Order at 65 (The BTCR is a non-bypassable charge to consumers for non-market-based transmission charges from all of its consumers, both shopping and non-shopping. Specifically, the BTCR includes charges associated with Network Integration Transmission Service; Transmission Enhancement; Transmission Owner Scheduling, System Control, and Dispatch Service; Reactive Supply and Voltage Control from Generation and Other Sources Service; Load Reconciliation for Transmission Owner Scheduling, System Control and Dispatch Service, as well as credits for Firm Point-to-Point Transmission Service and Non-Firm Point-to- Point Transmission Service).

³ *Id.*

⁴ *Id.*

⁵ Application (January 17, 2023) at 3.

OCC is filing on behalf of AEP Ohio's residential utility consumers. The PUCO should grant OCC's motion to intervene for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Ambrosia E. Wilson
Ambrosia E. Wilson (0096598)
Counsel of Record
Angela D. O'Brien (0097579)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215
Telephone [Wilson]: (614) 466-1292
Telephone: [O'Brien]: (614) 466-9531
ambrosia.wilson@occ.ohio.gov
angela.obrien@occ.ohio.gov
(willing to accept service by e-mail)

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)	
Ohio Power Company to Update Its)	Case No. 23-57-EL-RDR
Basic Transmission Cost Rider.)	

MEMORANDUM IN SUPPORT

OCC moves to intervene to protect consumers from unreasonable and unsupported charges by AEP. AEP proposes to increase charges to consumers through its Basic Transmission Cost Rider (“BTCR”) charge.⁶ The BTCR is a mechanism through which AEP can charge consumers for non-market-based transmission charges imposed on AEP by PJM Interconnection LLC and authorized by the Federal Energy Regulatory Commission.

Under O.A.C. §4901:1-36-06, this filing is the required biennial filing in which AEP must provide additional information detailing its policies and procedures for minimizing any costs in the BTCR over which it has control. As summarized by the PUCO in its February 25, 2015 Opinion and Order in Case No. 13-2385-EL-SSO, the BTCR recovers non-market based transmission charges.

Additionally, the BTCR annual update is subject to an automatic approval process while undergoes little to no review by the PUCO Staff. This type of PUCO approval is sometimes referred to as “rubber-stamping” approval. So, it is especially important for OCC to advocate for consumers in this case where AEP is proposing an increase of approximately \$128 million (or \$1.53 per month to the average residential consumer (at

⁶ See R.C. Chapter 4911, R.C. 4903.221 and O.A.C. 4901-1-11.

750 kWh usage) in charges to consumers under its BPCR charge.⁷ 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 the consumers were unrepresented in a proceeding that proposes an unreasonable and unsupported increase in charges through AEP’s BPCR. 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
- (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 the residential consumers of AEP in this case involving its proposed increase in charges to consumers under the BPCR charge. 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 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. OCC’s position is therefore directly related

⁷ Application (January 17, 2023) at 3, Schedule B-4 at 1.

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 where AEP has proposed to increase charges to consumers through the BTCR charge.

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.⁸

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,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Ambrosia E. Wilson
Ambrosia E. Wilson (0096598)
Counsel of Record
Angela D. O'Brien (0097579)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215
Telephone [Wilson]: (614) 466-1292
Telephone: [O'Brien]: (614) 466-9531
ambrosia.wilson@occ.ohio.gov
angela.obrien@occ.ohio.gov
(willing to accept service by e-mail)

⁸ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene has been served electronically upon those persons listed below this 2nd day of February 2023.

/s/ Ambrosia E. Wilson

Ambrosia E. Wilson

Assistant Consumers' Counsel

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

SERVICE LIST

john.jones@ohioago.gov

stnourse@aep.com

Attorney Examiner:

Greta.see@puco.ohio.gov

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

2/2/2023 1:04:23 PM

in

Case No(s). 23-0057-EL-RDR

Summary: Motion Motion to Intervene by Office of the Ohio Consumers' Counsel
electronically filed by Mrs. Tracy J. Greene on behalf of Wilson, Ambrosia E.