

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	Case No. 23-0023-EL-SSO
Ohio Power Company for Authority to)	
Establish a Standard Service Offer)	
Pursuant to §4928.143, Ohio Rev. Code,)	
in the Form of an Electric Security Plan.)	

In the Matter of the Application of)	Case No. 23-0024-EL-AAM
Ohio Power Company for Approval of)	
Certain Accounting Authority.)	

**MOTION TO INTERVENE OF THE
RETAIL ENERGY SUPPLY ASSOCIATION AND MEMORANDUM IN SUPPORT**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Retail Energy Supply Association ("RESA") moves to intervene in the above referenced proceedings. The reasons supporting this motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ Matthew R. Pritchard

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March 9, 2023

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ASSOCIATION**

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**MEMORANDUM IN SUPPORT OF
RETAIL ENERGY SUPPLY ASSOCIATION**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, RESA has met the standard for intervention and respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant its motion to intervene.¹ In this case, the Ohio Power Company (“AEP Ohio”) has proposed an electric security plan (“ESP”) that includes numerous changes to rates and customer programs that would impact suppliers of competitive retail electric service in the AEP Ohio service territory. Other intervenors could also make proposals that affect the competitive retail market in Ohio, and which could negatively affect RESA and its members. Accordingly, RESA and its members have a real and substantial interest in this proceeding and will significantly contribute to the full development and equitable resolution of this case.

¹ The statements expressed in this filing represent the position of RESA as an organization but may not represent the view of any individual member of RESA. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service to retail, residential, commercial, and industrial customers. More information on RESA can be found at www.resausa.org.

I. THE PUBLIC UTILITIES COMMISSION OF OHIO HAS BEEN DIRECTED TO GRANT INTERVENTION LIBERALLY.

R.C. 4903.221 provides for intervention in hearings before the Commission of any person who may be adversely affected by the outcome of the proceeding.² In assessing a motion to intervene, the Commission is to consider the nature and extent of the moving party's interest, the legal position of the moving party and its relation to the merits of the case, whether the intervention of the moving party will unduly prolong or delay the proceedings, and whether the moving party will significantly contribute to the full development and equitable resolution of the factual issues.³ Further, the Supreme Court

² R.C. 4903.221 provides:

Any other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding, provided:

(A) That such other person files a motion to intervene with the commission no later than:

(1) Any specific deadline established by order of the commission for purposes of a particular proceeding; or, if no such deadline is established;

(2) Five days prior to the scheduled date of hearing. The public utilities commission may, in its discretion, grant motions to intervene which are filed after the deadlines set forth in divisions (A)(1) and (2) of this section for good cause shown.

(B) That the commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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.

³ See R.C. 4903.221(B). Under its rules of procedure, the Commission has also directed that it will decide whether to allow intervention based on the nature and extent of the prospective intervenor's interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding, whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues, and the extent to which the person's interest is represented by existing parties. Rule 4901-1-11(B), Ohio Administrative Code.

of Ohio has directed the Commission to liberally grant intervention so that the positions of all persons with a real and substantial interest in the proceeding can be considered by the Commission.⁴

II. MEMBERS OF RESA ARE ACTIVELY ENGAGED IN THE COMPETITIVE GENERATION SERVICE MARKET.

RESA is a non-profit 501(c)(6) organization headquartered in Harrisburg, Pennsylvania. State-specific chapters exist in each jurisdiction that permits retail competition. RESA's member companies supply retail electricity and natural gas to residential, commercial, industrial, and governmental customers throughout Ohio. RESA members also provide energy efficiency-related services and products.

Since its inception, RESA has historically been active in many electric industry proceedings before the Commission in furtherance of its members' activities in Ohio. RESA has participated in numerous Commission proceedings to assure that electric utilities comply with requirements of Ohio law that proscribe their ability to leverage their monopoly status in competitive markets.

III. RESA SHOULD BE GRANTED INTERVENTION.

As noted above, AEP Ohio is seeking to establish an ESP under R.C. 4928.141 and 4928.143. If authorized, AEP Ohio's application could adversely affect the interests of RESA and its members. For example, AEP Ohio has proposed modifications to the competitive auction rules and documentation, including a new market procurement process for customers prematurely dropped to the SSO from aggregation programs during the term of the aggregation where the aggregator elects not to subscribe to the

⁴ *Consumers' Counsel v. Public Utils. Comm'n of Ohio*, 111 Ohio St. 3d 384, 388 (2006).

standby service charge, and other items that may negatively affect the competitive marketplace. AEP Ohio's proposals, and proposals made by intervenors in the case, could impact the rates for generation service offered by RESA members, could negatively impact the competitive retail market, and in some instances, could permit the monopoly utility to offer services that should instead be offered by competitive suppliers. Accordingly, based on the applicable requirements under Ohio law and the Commission's rules, RESA should be granted intervention. Additionally, RESA's motion to intervene is timely, and granting its intervention will not prolong or delay the proceeding. Moreover, the expertise of RESA and its members will contribute to the full development and equitable resolution of the factual issues presented by AEP Ohio's application.

Although RESA's interests may overlap with some parties in the proceeding, the totality of RESA's interests are unique and not adequately represented by other parties because the outcome in this matter has broader ramifications for the competitive retail electric service market in the AEP Ohio service territory.

IV. CONCLUSION

For the reasons set forth in this Memorandum in Support, the Commission should grant the motion of RESA to intervene.

Respectfully submitted,

/s/ Matthew R. Pritchard

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March 9, 2023

**ON BEHALF OF THE RETAIL ENERGY SUPPLY
ASSOCIATION**

CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 9th day of March, 2023. The following parties were provided by electronic mail a copy of this document.

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Summary: Motion to Intervene and Memorandum in Support electronically filed by
Mr. Matthew R. Pritchard on behalf of Retail Energy Supply Association