

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the OVEC Generation)
Purchase Rider Audits Required by R.C.) Case No. 21-477-EL-RDR
4928.148 for Duke Energy Ohio, Inc., the)
Dayton Power and Light Company, and AEP)
Ohio.

**MOTION TO INTERVENE
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned proceeding with the full powers and rights granted to intervening parties.

As demonstrated in the attached Memorandum in Support, OMAEG has a real and substantial interest in this proceeding which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other existing party. Further, OMAEG's participation will not unduly delay the proceedings or prejudice any other party. Accordingly, OMAEG satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, OMAEG respectfully requests that the Commission grant this motion to intervene for the reasons stated herein and as more fully set forth in the attached Memorandum in Support. OMAEG also requests that it be made a full party of record in these proceedings.

Respectfully submitted,

/s/ Kimberly W. Bojko

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MEMORANDUM IN SUPPORT

Pursuant to R.C. 4928.148(A)(1), on May 5, 2021, the Commission directed Staff to issue a request for proposal for audit services to assist the Commission with the audit of the Legacy Generation Resources (LGR) Rider costs for the period from January 1, 2020 through December 31, 2020 (Audit Period).¹ The purpose of the audit is to determine whether Duke Energy Ohio, Inc. (Duke), The Dayton Power and Light Company d/b/a AES Ohio (AES), and Ohio Power Company (AEP Ohio) (collectively, the Sponsoring Companies) acted in a reasonable and prudent manner, and whether the costs that the Sponsoring Companies incurred related to the Ohio Valley Electric Corporation (OVEC) coal plants were reasonable and prudent and should therefore be recovered from customers.²

The Commission subsequently selected London Economics International LLC (LEI) as the third-party auditor to assist the Commission with the prudency and performance audit of the LGR Rider costs.³ Audit reports for each Sponsoring Company were filed on December 17, 2021

¹ See Entry (May 5, 2021).

² *Id.*

³ Entry at ¶ 1 (July 14, 2021).

(collectively, the Audit Reports).⁴ OMAEG filed comments and reply comments on the Audit Reports on May 8, 2023 and May 23, 2023, respectively, demonstrating that costs incurred by the Sponsoring Companies were unreasonable and imprudent and the Sponsoring Companies did not act in a reasonable or prudent manner, and, therefore, those costs should not be recovered from customers.⁵ More specifically, OMAEG explained that customers should not pay costs associated with the Sponsoring Companies' operations of aging, uneconomical, dirty coal plants in Ohio and Indiana and that customers should not subsidize these plants' imprudent and unreasonable operations.⁶ OMAEG urged the Commission to disallow all OVEC costs for the Audit Period and to hold an evidentiary hearing on this matter.⁷ On July 7, 2023, the Commission issued a procedural scheduled directing that all motions to intervene be filed by July 21, 2023, and setting an evidentiary hearing to commence on October 17, 2023.⁸

OMAEG has a real and substantial interest that may be adversely affected by this proceeding and that interest cannot be adequately represented by any existing parties. R.C. 4903.221 and Ohio Adm.Code 4901-1-11 govern intervention in Commission proceedings. R.C. 4903.221 provides, in pertinent part, that any person "who may be adversely affected" by a Commission proceeding is entitled to seek intervention in that proceeding.⁹ R.C. 4903.221(B)

⁴ Audit of the Legacy Generation Resource Rider of Duke Energy Ohio Final Report, Public Version (December 17, 2021); Audit of the Legacy Generation Resource Rider of AES Ohio Final Report, Public Version (December 17, 2021); Audit of the Legacy Generation Resource Rider of AEP Ohio Final Report, Public Version (December 17, 2021).

⁵ See Comments on OVEC Generation Purchase Rider Audits (May 8, 2023); OMAEG Reply Comments, OVEC Generation Purchase Rider Audits Case (21-477-EL-RDR) (May 23, 2023).

⁶ *Id.*

⁷ See *id.*

⁸ Entry at ¶ 34 (July 7, 2023).

⁹ R.C. 4903.221.

further requires the Commission to consider (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) the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved.¹⁰ Ohio Adm.Code 4901-1-11 permits intervention to a party who demonstrates "a real and substantial interest in the proceeding," and who is "so situated that the disposition of the proceeding may [. . .] impair or impede [its] ability to protect that interest" and whose interest is "not adequately represented by an existing party."¹¹

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and others to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission.

OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. OMAEG has a substantial interest because its members are subject to and pay the Sponsoring Companies' non-bypassable LGR Rider rates that were audited as part of the above-referenced proceeding. OMAEG is regularly and actively involved in

¹⁰ R.C. 4903.221(B).

¹¹ Ohio Adm.Code 4901-1-11(A)(2).

Commission proceedings, including proceedings related to OVEC subsidies.¹² As in previous proceedings, OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the issues in this proceeding. OMAEG's interest will not be adequately represented by other parties to the proceeding and its timely intervention will not unduly delay or prolong the proceeding

Accordingly, OMAEG satisfies the criteria for intervention set out in R.C. 4903.221 and Ohio Adm.Code 4901-1-11. OMAEG, therefore, respectfully requests that the Commission grant its motion, allow OMAEG to intervene with the full powers and rights granted by the Commission to intervening parties, and make OMAEG a full party of record.

Respectfully submitted,

/s/ Kimberly W. Bojko

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¹² See, e.g., *In the Matter of the Review of the Reconciliation Rider of Duke Energy Ohio, Inc.*, Case No. 20-167-EL-RDR; *In the Matter of the Review of the Reconciliation Rider of The Dayton Power and Light Company*, Case No. 20-165-EL-RDR; *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC; *In the Matter of the Review of the Power Purchase Agreement Rider of Ohio Power Company for 2018*, Case Nos. 18-1004-EL-RDR, et al.; *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case Nos. 14-1693-EL-RDR, et al.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on July 10, 2023 upon the parties listed below.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

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Summary: Motion OMAEG Motion to Intervene OVEC Generation Purchase Rider Audits (21-477-EL-RDR) electronically filed by Mrs. Kimberly W. Bojko on behalf of The Ohio Manufacturers' Association Energy Group.