

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Capital Expenditure)	Case No. 23-0619-GA-RDR
Program Rider of The East Ohio Gas)	
Company d/b/a Dominion Energy Ohio.)	

MOTION OF OHIO ENERGY LEADERSHIP COUNCIL TO INTERVENE

Ohio Energy Leadership Council (“OELC”)¹ respectfully moves the Public Utilities Commission of Ohio, pursuant to R.C. § 4903.221 and Ohio Adm. Code § 4901-1-11, to intervene in this proceeding involving the audit of The East Ohio Gas Company d/b/a Dominion Energy Ohio’s (“Dominion”) Capital Expenditure Program (“CEP”) and Dominion’s application for approval of adjustments to its charges under its CEP Rider.

OELC is a group of energy-intensive manufacturing, industrial, institutional, information technology and business customers that are proven leaders in energy markets in Ohio and across the country. Collectively, OELC’s members annually consume a significant volume of natural gas, much it delivered by Dominion, and are major contributors to Ohio’s economy and employment sector. OELC’s membership includes energy leaders in manufacturing, education, information technology, and the retail industry representing a diverse cross section of energy interests in Ohio and around the nation. OELC seeks to promote customer-driven policies that will ensure adequate, reliable, and efficient delivery and supply of energy for all commercial and industrial customers at competitive, reasonable and transparent rates.

The grounds for OELC’s motion to intervene are set forth more fully in the accompanying memorandum in support, which is incorporated herein by reference. Accordingly, OELC respectfully requests that its motion to intervene in this proceeding be granted.

¹ OELC was previously known as Industrial Energy Users-Ohio (“IEU-Ohio”).

Date: August 15, 2023

Respectfully submitted,

/s/ David F. Proaño

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**MEMORANDUM IN SUPPORT OF MOTION OF OHIO ENERGY LEADERSHIP
COUNCIL TO INTERVENE**

I. INTRODUCTION

OELC seeks to intervene to defend its real and substantial interest in the issues raised in this proceeding.

In February 2023, the Commission issued an RFP for a two-part audit of Dominion’s capital investments that were not part of its accelerated infrastructure replacement program (IRP), called the pipeline infrastructure replacement (PIR) program. In part one of the audit, Blue Ridge reviewed “the accounting accuracy and used and useful nature of Dominion’s capital expenditures and corresponding depreciation reserve for the period January 1, 2022, through December 31, 2022” and in part two Blue Ridge “assessed and formed an opinion on the necessity, reasonableness, and prudence of Dominion’s capital expenditures and related assets, with an emphasis on the CEP [Capital Expenditure Program] expenditures and assets, from January 1, 2022, through December 31, 2022.” (Blue Ridge Audit at p. 7.) On March 30, 2023, Dominion filed an application to approve rate increases for the CEP Rider, effective the first billing cycle in October, which seeks to recover the costs of the CEP investments placed in service and the related CEP regulatory asset for the period January 1, 2022, through December 31, 2022. On July 21, 2023, Blue Ridge submitted its audit report which included numerous recommendations related to Dominion’s CEP program, including a 2023 annual adjustment to the CEP rider rate for Dominion

customers. Through an Entry dated July 27, 2023, the Commission set August 15, 2023, as the deadline to file motions to intervene in this matter.

A significant portion of OELC members are Dominion customers and have a real and substantial interest in, and will be directly impacted by, the issues raised in this proceeding, including the CEP rider rate increases proposed by Dominion. OELC should be permitted to intervene to protect those interests, which cannot be adequately represented or protected by any other party. OELC's intervention will not unduly prolong or delay this proceeding, nor will it unjustly prejudice any existing party. OELC's intervention will meaningfully contribute to the development of the record and is in the public interest. For these reasons, OELC's motion should be granted.

II. LEGAL STANDARD

The Commission's rules provide that a person "shall" be permitted to intervene in a proceeding upon a showing that:

- 1) A statute of this state or the United States confers a right to intervene.
- 2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

Ohio Adm. Code § 4901-1-11(A). The factors for evaluating whether to permit intervention under that rule are:

- 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 the full development and equitable resolution of the factual issues.

5) The extent to which the person's interest is represented by existing parties.

Ohio Adm. Code § 4901-1-11(B).

The Supreme Court of Ohio has held that intervention should “generally be liberally construed in favor of intervention.” *Ohio Consumers’ Counsel v. Pub. Util. Comm’n.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 NE.2d 940, ¶ 16 (quoting *State ex rel. Polo v. Cuyahoga Cnty. Bd. of Elections*, 74 Ohio St.3d 143, 144, 656 NE.2d 1277 (1995)). This liberal construction applies “whether or not a hearing is held,” and a party should be granted intervention when it meets the factors articulated in the rules, absent “evidence in the record calling those claims into doubt” or establishing that intervention would cause undue delay. *Id.* at ¶ 20.

III. ARGUMENT

All of the relevant factors support OELC's motion to intervene here, and therefore, OELC should be entitled to intervene.

First, OELC is a group of energy-intensive manufacturing, industrial, institutional, information technology and business customers that are proven leaders in energy markets in Ohio and across the country. Collectively, OELC's members consumer a substantial volume of natural gas each year, much of it delivered by Dominion, and are major contributors to Ohio's economy and employment sector. OELC's membership includes energy leaders in manufacturing, education, information technology, and the retail industry representing a diverse cross section of energy interests in Ohio and around the nation. OELC seeks to promote customer-driven policies that will ensure adequate, reliable, and efficient delivery and supply of energy for all commercial and industrial customers at competitive, reasonable and transparent rates. Certain OELC members

are Dominion customers who will be directly impacted by the resolution of this proceeding. Thus, OELC has a real and substantial interest in this proceeding.

Second, OELC's legal position will be to advocate for adequate, reliable, and efficient delivery and supply of energy for all commercial and industrial customers at competitive, reasonable and transparent rates by Dominion.

Third, OELC's participation will not unduly prolong or delay this proceeding. This motion was timely filed before the August 15, 2023 intervention deadline established by the July 27, 2023 Entry in this matter.

Fourth, OELC's participation is in the public interest, as OELC has extensive experience and industry knowledge that can assist in the development of a full and complete record in this proceeding. OELC's members are energy customers served by Ohio's utilities, including Dominion. If OELC is not allowed to participate, the Commission and its Staff will not benefit from OELC's perspective on issues that will materially impact OELC's members.

Fifth and finally, OELC's direct interest in the outcome of this proceeding cannot be represented by other parties because OELC has members who are Dominion customers who will be impacted by the Commission's decision in this proceeding.

Accordingly, OELC should be permitted to intervene to assert the interests of its members who will be directly impacted by this proceeding.

IV. CONCLUSION

OELC satisfies the "liberal" standard for intervention set forth in R.C. § 4903.221 and Ohio Adm. Code § 4901-1-11. *See Ohio Consumers' Counsel v. Pub. Util. Comm'n.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940, ¶¶ 16, 20. Accordingly, OELC respectfully requests that the Commission grant its motion.

Date: August 15, 2023

Respectfully submitted,

/s/ David F. Proaño

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CERTIFICATE OF SERVICE

I certify on this 15th day of August, 2023, that the foregoing document was filed using the Commission's Docketing Information System and was served by electronic mail on the following:

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

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in

Case No(s). 23-0619-GA-RDR

Summary: Motion Motion to Intervene and Memorandum in Support electronically
filed by Mr. David F. Proano on behalf of Ohio Energy Leadership Council (OELC),
f/k/a Industrial Energy Users-Ohio.