

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Power Company for Approval of a) Case No. 24-734-EL-AEC
Reasonable Arrangement under R.C.)
4905.31 and O.A.C. Chapter 4901:1-38.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this case where Ohio Power Company ("AEP") and Intel Corporation ("Intel") (collectively, "Applicants") seek PUCO approval of a Reasonable Arrangement Application ("Reasonable Arrangement").² The proposed Reasonable Arrangement will facilitate Intel's new semiconductor manufacturing facilities being constructed in Licking County, Ohio. The Intel project has been billed as the "largest single private sector investment in Ohio history" and is expected to produce tens of thousands of jobs for Ohioans.³

Under the proposed Reasonable Arrangement, AEP will construct a customized distribution station, the Green Chapel Station, along with requisite transmission lines.⁴ The estimated cost of constructing the station is \$95.1 million, which will be recovered through AEP's Distribution Investment Rider ("DIR").⁵ In addition, to accommodate Intel's specific needs, Intel will procure specialized circuit breakers, which will be

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

² See R.C. 4905.31 and O.A.C. 4901-38-05.

³ Application at 1.

⁴ *Id.* at 3-4.

⁵ *Id.*

recovered through AEP's Customer Investment Advance Charge ("CIAC").⁶ AEP residential consumers' rates include charges under the DIR and CIAC.

OCC is filing on behalf of AEP's 1.5 million residential utility consumers. The reasons why the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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Ohio Consumers' Counsel

/s/ William J. Michael
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⁶ *Id.*; see also *id.* at 11.

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MEMORANDUM IN SUPPORT

OCC moves to intervene to advocate for AEP's residential consumers. A reasonable arrangement must be evaluated in the context of reasonable arrangement's purpose: "to facilitate the state's effectiveness in the global economy, to promote job growth and retention in the state, to ensure the availability of reasonably priced electric service, to promote energy efficiency and to provide a means of giving appropriate incentives to technologies that can adapt successfully to environmental mandates in furtherance of the policy of the state of Ohio embodied in section 4928.02 of the Revised Code."⁷ Reasonable arrangements must be "reasonable" and "in the public interest."⁸

Here, Intel's planned establishment of semiconductor manufacturing facilities within Ohio is a substantial investment with far-reaching implications. As a preeminent domestic semiconductor producer, Intel's project underscores Ohio's strategic importance within the global technological landscape. The project is expected to generate tens of thousands of high-quality employment opportunities and solidify Ohio's standing as a preeminent figure in the burgeoning semiconductor industry. Further, Intel's

⁷ O.A.C. 4901:1-38-02.

⁸ See O.A.C. 4901: 1-38-05(A)(1) ("An electric utility filing an application for commission approval of a reasonable arrangement with one or more of its customers, consumers, or employees bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code . . .")

presence in Ohio is indispensable for safeguarding national security and fortifying supply chain resilience. By manufacturing semiconductors in the United States, Intel is actively mitigating risks associated with excessive reliance on foreign suppliers. This strategic initiative aligns with broader national efforts aimed at strengthening domestic industrial capabilities.

OCC has authority under R.C. Chapter 4911 to represent the interests of the more than 1.5 million residential utility consumers of AEP who may be affected by the reasonable arrangement.

R.C. 4903.221 provides the standard for permissive intervention—where the PUCO may exercise discretion in ruling upon a party’s motion to intervene. That law 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 AEP’s residential consumers may be “adversely affected” by this case. Residential consumers will likely incur increased charges as a result of the Reasonable Arrangement. Thus, this element of the permissive 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 permissive intervention:

- (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 Applicants' proposed Reasonable Arrangement. This reasonable arrangement could result in increased charges to residential consumers. This interest is different from that of any other party.

Second, OCC's advocacy for residential consumers will include, among other things, advocating that the Reasonable Arrangement be reasonable and in the public interest.⁹ OCC's position is therefore directly related to the merits of this case, which 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. Delay in and of itself does not mean that intervention should be denied. The key consideration is whether the intervention will cause "undue delay." Here OCC's intervention will not cause undue delay.

OCC has promptly sought leave to intervene. Applicants' application was filed on July 19, 2024. The case has not progressed beyond the filing of the application. OCC's motion to intervene and comments are due to be filed within 20 days of the filing of the application.¹⁰ OCC is an "affected part[y]" within the meaning of O.A.C. 4901-38-05(F). No hearing has been scheduled such that granting intervention would delay the hearing. The PUCO Staff has not filed its Review and Recommendation regarding the Reasonable

⁹ See O.A.C. 4901:1-38-05(A)(1) ("An electric utility filing an application for commission approval of a reasonable arrangement with one or more of its customers, consumers, or employees bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code . . .")

¹⁰ See O.A.C. 4901-38-05(F).

Arrangement. No comments have been filed by any parties and the PUCO has not issued any dispositive rulings.

OCC will attempt to avoid duplicative discovery in the proceeding. The issues OCC will raise fall clearly within the scope of the proceeding, which includes whether the Reasonable Arrangement is reasonable and in the public interest.¹¹ In addition, OCC will also use its best efforts to comply with any procedural schedule that the PUCO may adopt for this proceeding.

Further, OCC, with its longstanding expertise and experience in PUCO proceedings and consumer protection advocacy, will duly allow for the efficient processing of the case with consideration of the public interest. OCC regularly intervenes and participates in cases regarding reasonable arrangements.¹² There will be no prejudice to the PUCO Staff or Applicants in granting OCC intervention.

Fourth, OCC's intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC will examine issues fully and carefully. No other party is solely focused on the needs of residential consumers and thus, there can be no equitable resolution of the issues in this case absent OCC's participation.

OCC also satisfies the intervention criteria in O.A.C. 4901-1-11(A) which sets the standard for *intervention as of right*, mirroring Ohio Civil Rule 24(A). Under O.A.C. 4901:1-11(A)(2), a person shall be granted intervention as of right if it has a real and substantial interest in a proceeding and is "so situated that disposition of the proceeding

¹¹ See O.A.C. 4901: 1-38-05(A)(1).

¹² See, e.g., *In the Matter of the Application of Northeast Ohio Natural Gas Corp. for Approval of a Reasonable Arrangement for Transporting Natural Gas Pursuant to Section 4905.31*, Case No. 24-84-GA-AEC.

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."

As the statutory advocate for residential utility consumers, OCC has a very real and substantial interest in this case. Intel's planned establishment of semiconductor manufacturing facilities within Ohio constitutes a substantial investment with far-reaching implications. Ohioans will benefit from the Reasonable Arrangement. Disposition of this proceeding may, as a practical matter, impair or impede OCC's ability to protect that interest where the interest is not adequately represented by existing parties—the PUCO Staff and Applicants. OCC should be granted intervention as of right under O.A.C. 4901-1-11(A)(2).

In addition, OCC meets the permissive intervention criteria of O.A.C. 4901-1-11(B)(1)-(4). These criteria mirror the permissive intervention 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 "(t)he 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 has been uniquely designated as the state representative of the interests of Ohio's residential utility consumers. OCC's 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.¹³

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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¹³ 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 26th day of July 2024.

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