

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the  
Alternative Energy Rider and Auction Cost      Case No. 20-1745-EL-RDR  
Recovery Rider for Ohio Power Company

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**MOTION TO INTERVENE AND SUPPORTING MEMORANDUM OF  
RETAIL ENERGY SUPPLY ASSOCIATION**

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Association**

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**MOTION TO INTERVENE OF THE RETAIL ENERGY SUPPLY ASSOCIATION**

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Under R.C. 4903.221 and Rule 4901-1-11, Ohio Administrative Code, the Retail Energy Supply Association moves to intervene. The reasons supporting this motion are set out in the accompanying memorandum.

Respectfully submitted,

*/s/ Frank P. Darr*

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

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**I. Introduction**

In this proceeding, Ohio Power Company (“Ohio Power”) is seeking authorization to modify its Alternative Energy Rider to amortize an existing excess inventory of renewable energy credits. Because the application seeks authorization of changes in the Alternative Energy Rider that may adversely affect the competitive market for renewable energy, members of the Retail Energy Supply Association (“RESA”) have an interest in the outcome of this proceeding. Accordingly, its motion to intervene should be granted.<sup>1</sup>

**II. The Public Utilities Commission of Ohio has been directed to grant intervention liberally**

R.C. 4903.221 provides for intervention in hearings before the Public Utilities Commission of Ohio (“Commission”) of any person who may be adversely affected by the outcome of the proceeding.<sup>2</sup> In assessing a motion to intervene, the Commission is to consider

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<sup>1</sup> The statements expressed in this filing represent the position of the Retail Energy Supply Association as an organization, but may not represent the view of any particular member of the Association. 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](http://www.resausa.org).

<sup>2</sup> 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;

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. R.C. 4903.221(B).<sup>3</sup> The Supreme Court of Ohio further directs 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. *Consumers' Counsel v. Pub. Utils. Comm'n of Ohio*, 111 Ohio St. 3d 384, 388 (2006).

### **III. Members of RESA are actively engaged in the provision of renewable energy products and services**

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, including the service

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(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.

<sup>3</sup> 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.

territory of Ohio Power. In particular, members are engaged in supplying “green” products and services to residential, commercial, and industrial customers.<sup>4</sup>

Since its inception, RESA is and has historically been active in many electric industry proceedings at the Commission in furtherance of its members’ activities in Ohio. It also has participated in Commission proceedings to assure that electric distribution utilities comply with requirements of Ohio law that proscribe their ability to leverage their monopoly status in competitive markets.

#### **IV. RESA should be granted intervention**

RESA members are required to demonstrate that a portion of the generation service they provide is supplied through alternative energy resources. R.C. 4928.64. Ohio Power also is required to provide a portion of the generation service it provides to default service customers through alternative energy resources. *Id.* Ohio Power is permitted to recover its alternative energy costs through a rider, the Alternative Energy Rider. The Alternative Energy Rider is bypassable, i.e., it is inapplicable to shopping customers taking distribution service from Ohio Power. The requirement to supply a portion of generation service with alternative energy resources ends in 2026. *Id.*

According to Ohio Power, it elected to supply its alternative energy requirement through renewable energy purchase agreements, but it now finds itself with an inventory of renewable energy credits in excess of that needed to satisfy its alternative energy requirements and is looking for ways to reduce that inventory under the authority provided by R.C. 4928.641.<sup>5</sup>

Application at ¶¶ 6-9.

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<sup>4</sup> See, e.g., <https://www.igs.com/for-your-home/green-electricity>; <https://www.starionenergy.com/our-services/green-energy/#:~:text=Starion%20Energy%20believes%20in%20the.we%20can%20offer%20to%20you!>; and <https://www.constellation.com/solutions/for-your-home.html>.

<sup>5</sup> R.C. 4928.641 provides:

In this proceeding, Ohio Power seeks authorization to adjust its Alternative Energy Rider so that the rider “introduce[s] a levelized amortization of [Ohio Power’s Renewable Energy Credit] inventory between 2021 and the end of 2026” and “a levelized amortization of the 2021 through 2026 estimated costs of [renewable energy purchase agreements] netted against the revenues yielded from liquidation of the capacity and energy associated with the [renewable energy purchase agreements’] output as well as any excess [renewable energy credits] that are sold into the market.” Application at ¶ 11.<sup>6</sup> Ohio Power proposes to increase the Alternative Energy Rider initially by \$1.17/MWh to amortize its renewable energy credit inventory, but Ohio Power is also seeking authority to suspend recovery of the inventory costs. *Id.*

Because this application affects the level of renewable energy credits and the cost recovery associated with renewable energy purchase agreements, a decision in this proceeding will likely affect the competitive market for renewable energy, particularly because Ohio Power could suspend or limit recovery. Because Ohio Power would also initially increase the Alternative Energy Rider by \$1.17/MWh, the proposed increase also is likely to provoke efforts to delay or defer implementation of the increase. Accordingly, RESA members have a direct interest in the outcome of this proceeding.

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(A) If an electric distribution utility has executed a contract before April 1, 2014, to procure renewable energy resources and there are ongoing costs associated with that contract that are being recovered from customers through a bypassable charge as of September 12, 2014, that cost recovery shall, regardless of the amendments to section 4928.64 of the Revised Code by H.B. 6 of the 133rd general assembly, continue on a bypassable basis through December 31, 2032.

(B) Division (A) of this section applies only to costs associated with the original term of a contract described in that division and entered into before April 1, 2014. This section does not permit recovery of costs associated with an extension of such a contract. This section does not permit recovery of costs associated with an amendment of such a contract if that amendment was made on or after April 1, 2014.

<sup>6</sup> Ohio Power also is seeking a new rider in a separate proceeding that would authorize it to sell renewable energy credits to nonshopping customers. *In the Matter of the Application of Ohio Power Company to Amend its Tariff*, Case No. 20-1603-EL-ATA, *et al.*, Application (Oct. 16, 2020).

Additionally, RESA's motion to intervene is timely, and granting intervention to RESA 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 Ohio Power'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 market in the Ohio Power service territory.

**V. Conclusion**

For these reasons, the Commission should grant the motion of RESA to intervene.

Respectfully submitted,

*/s/ Frank P. Darr*

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Frank P. Darr

**CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties. On December 11, 2020, the person listed below was provided by electronic mail a copy of this document.

*/s/ Frank P. Darr* \_\_\_\_\_  
Frank P. Darr

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