

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan.</b>	) ) )	<b>Case No. 08-920-EL-SSO</b>
<b>In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend Accounting Methods.</b>	) ) )	<b>Case No. 08-921-EL-AAM</b>
<b>In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge(s).</b>	) ) ) ) )	<b>Case No. 08-922-EL-UNC</b>
<b>In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend its Tariff.</b>	) ) )	<b>Case No. 08-923-EL-ATA</b>

**MOTION TO INTERVENE OF  
THE NATIONAL ENERGY MARKETERS ASSOCIATION**

Now comes the National Energy Marketers Association (“NEM”) pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code (“OAC”), and moves for intervention in the above styled docket as a full party of record. NEM has a real and substantial interest in this matter for the reasons set forth in the accompanying memorandum in support.

WHEREFORE, for the reasons stated below, NEM requests that its motion for intervention be granted and that it be made a full party of record.

Respectfully Submitted,

/s/ By S. Howard as per telephone authorization

Craig G. Goodman, Esq.

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**MEMORANDUM IN SUPPORT**

On July 31, 2008, Duke Energy Ohio, Inc. (hereinafter "Duke") filed an application to establish a standard service offer in the form of an electric security plan pursuant to Section 4928.143, Revised Code. NEM participated in previous Duke (formerly Cincinnati Gas & Electric Company) rate restructuring proceedings and the continued ability of NEM's members to participate in the restructured electric market in the Duke service territory will be affected by the outcome of the instant case.

**I. NEM SHOULD BE GRANTED INTERVENTION AS A PARTY OF RECORD**

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code ("OAC"), NEM moves for intervention in the above styled docket as a full party of record. NEM has a real and substantial interest in this matter for the reasons set forth herein.

Rule 4901-1-11 of the OAC states in part:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

\* \* \*

(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.

Among the factors to be considered are the nature of the intervenor's interests, the extent those interests are represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. *Id.* See also R.C. 4903.221(B). A review of these factors in light of following facts requires NEM's intervention.

The National Energy Marketers Association (NEM) is a national, non-profit trade association representing leading retail suppliers of natural gas, electricity as well as energy, telecom and financial related products, services, information and advanced technologies to millions of homeowners, small businesses and large industrial consumers throughout the United States, Canada and the European Union. NEM's membership includes wholesale energy suppliers, independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges, demand side and load management firms, direct marketing organizations, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies. NEM members are committed to

helping federal and state lawmakers and regulators to implement a consumer-focused, value-driven transition to a transparent, reliable, price and technology competitive retail marketplace for energy-related products, services, information and innovative electrical applications and technologies.

NEM, as a representative of a regionally diverse group of providers of energy and energy-related services, has an interest to advocate the implementation of rates, tariffs, operating procedures, standards of conduct, rules, and policies that will ensure the development and maintenance of an efficient, reliable and price competitive electric market on Duke's system and in Ohio generally. As electric marketers and providers of energy-related services and technologies, various NEM members are serving and intend to serve customers in the Ohio electric market, including the residential, commercial, and industrial customer segments in all of the utilities' service territories. The ability of NEM's members to fairly compete in the restructured electric industry and thus bring the benefits of additional competition to Ohio electric consumers will be affected by the outcome of this proceeding.

NEM, as a participant in restructuring proceedings nationwide, will be able to bring a broad perspective to the deliberative process, and its participation in this proceeding should aid the Commission by enhancing the quality of the record to be developed here. NEM can lend a unique perspective to this proceeding because its membership represents a diverse cross-section of market participants.

Even if other trade associations or individual marketers seek to intervene in this matter, NEM's interests and position are significant and unique given its industry diversity, its interest in serving Ohio's commercial, industrial, and residential customers, plus its

current and early participation in restructuring in Ohio and other multiple jurisdictions on similar issues, and the substantial business interests of its members in the development of a viable electric market in Ohio. Thus, NEM's participation in these proceedings will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and quick resolution of the issues and concerns raised in these proceedings.

As such, NEM and its members have a real and substantial interest in this proceeding that cannot be adequately represented or protected by any other party hereto. Under all these circumstances, then, NEM submits that good cause exists to grant it leave to intervene in this proceeding.

## **II. Conclusion**

WHEREFORE, for the reasons stated above, NEM requests that its motion for intervention be granted and that it be made a full party of record.

Respectfully Submitted,

/s/ By S. Howard as per telephone authorization  
Craig G. Goodman, Esq.  
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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 28th day of August, 2008 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.

/s/

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Summary: Motion Motion to Intervene electronically filed by Stephen M Howard on behalf of National Energy Marketers Association