

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan	)	Case No. 08-0920-EL-SSO
In the Matter of the application of Duke Energy Ohio for Authority to Amend Accounting Methods	)	Case No. 08-0921-EL-AAM
In the Matter of the Application of Duke Energy Ohio for Authority of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge(s)	)	Case No. 08-0922-EL-UNC
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Tariff	)	Case No. 08-0923-EL-ATA

**MOTION FOR LEAVE TO INTERVENE OF  
DIRECT ENERGY SERVICES, LLC**

Now comes Direct Energy Services, LLC ("Direct Energy"), who, pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, moves for intervention in the above styled proceedings as a full party of record. The reasons supporting the intervention are contained in the accompanying Memorandum in Support.

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WHEREFORE, Direct Energy Services, LLC respectfully requests that the Commission grant its motion for leave to intervene and that it be made a full party of record.

Respectfully submitted,

/s/

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**MEMORANDUM IN SUPPORT OF  
THE MOTION TO INTERVENE OF  
DIRECT ENERGY SERVICES, LLC**

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record.

Rule 4901-1-11 of the Ohio Administrative Code 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.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio (the "Commission") considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is 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. (See also R.C. 4903.221(B) upon which the above rule is authorized). A review of these factors in light of following facts supports granting Direct Energy's intervention.

Direct Energy provides electricity and energy-related services to retail customers in Ohio as well as in 10 other states and the District of Columbia. It holds Certificate No. 00-019(4) as a competitive retail electric supplier ("CRES") from the Commission to engage in the competitive sale of electric service to retail customers in Ohio. Direct Energy currently provides service to retail electric customers in Ohio.

In the instant matter, the Duke Energy Company ("Duke") filed an application (the "Application") for authority to establish a Standard Service Offer in the form of an Electric Security Plan pursuant to R.C. § 4928.143 to be effective on January 1, 2009.

Direct Energy is an active competitive retail electric service provider ("CRES") in Ohio who is authorized to make retail sales in the Duke service area. As a supplier of electric power and energy in the State, Direct Energy has an interest in the instant proceeding as the Commission assesses whether the Application is consistent with Senate Bill 221, which became effective on July 31, 2008. The Commission will make other decisions that will affect the viability of the competitive electric market in Ohio in which Direct Energy is a supplier of electric power and energy to retail customers. The proposals contained in the Application to establish a Standard Service Offer in the form of an Electric Security Plan will affect the dynamics of competition and customer choices in Duke's service territory. These proposals, if adopted, will have consequences on Direct Energy's operations and business interests. Therefore, Direct Energy has a real and substantial interest in these matters.

Direct Energy is an experienced competitive retail electric service provider in Ohio, as well as an experienced operator in several other states. Direct Energy's experience and knowledge will assist the Commission in considering the issues in these cases, and therefore, Direct Energy's participation will contribute to the full development and equitable resolution of the issues. No other party can adequately represent Direct Energy's interests. Direct Energy's participation will not unduly delay or unjustly prejudice any existing party. The intervention is being offered in advance of any intervention deadline and thus is timely.

For the above-discussed reasons, Direct Energy has a direct, real, and substantial interest in these issues in these matters, which can only be protected by its participation.

WHEREFORE, Direct Energy Services, LLC respectfully requests that the Commission grant its motion for leave to intervene and make it a full party of record.

Respectfully submitted,

//s//

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 29<sup>th</sup> 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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