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Anita M. Schafer  
Sr. Paralegal

October 6, 2009

Public Utilities Commission of Ohio  
Docketing Division  
13<sup>th</sup> Floor  
180 East Broad Street  
Columbus, OH 43215-3716

Re: Case No. 09-786-EL-UNC

Dear Sir or Madam:

Enclosed please find an original and seventeen copies of the Motion to Intervene in the above captioned case. Please date-stamp and return the two extra copies in the enclosed envelope.

Sincerely,

Anita M. Schafer  
Senior Paralegal

AMS

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Investigation into the )  
Development of the Significantly Excessive )  
Earnings Test Pursuant to S.B. 221 for Electric )  
Utilities )

Case No. 09-786-EL-UNC

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**DUKE ENERGY OHIO, INC.'S  
MOTION TO INTERVENE**

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Now comes Duke Energy Ohio, Inc. (Duke Energy Ohio or Company), pursuant to Revised Code §4903.221 and Ohio Admin. Code § 4901-1-11 and hereby respectfully moves to intervene in this proceeding. The Public Utility Commission of Ohio (Commission) should grant Duke Energy Ohio leave to intervene because Duke Energy Ohio has a real and substantial interest in the proceeding.

Respectfully submitted,



Amy B. Spiller

Associate General Counsel

Elizabeth H. Watts

Assistant General Counsel

Duke Energy Ohio Business Services

Columbus Office:

155 East Broad Street

Suite 2100

Columbus, Ohio 43215

(614) 222-1331

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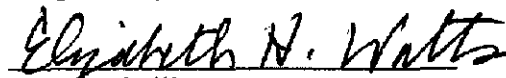
## MEMORANDUM IN SUPPORT

Pursuant to the Revised Code §4903.221 and Ohio Admin. Code § 4901-1-11 the Commission should grant Duke Energy Ohio's motion to intervene.

Duke Energy Ohio is a utility directly concerned with the topic of this Commission's investigation into the development of the earnings test envisioned by S. B. 221. Duke Energy Ohio's interest cannot be adequately represented by any other party. Duke Energy Ohio has a unique perspective as a provider of electric and gas services to over 660,000 customers in southwestern Ohio. The Company expects to participate in the proceeding by providing information and knowledge which will assist the Commission in determining the methodology of whether an electric utility has excessive earnings as a result of an approved ESP or MRO.

Duke Energy Ohio's intervention would not unduly delay, or hinder the proceeding nor prejudice any party in this proceeding. Duke Energy Ohio has a real and substantial interest and should be granted intervention in this proceeding.

Respectfully submitted,



Amy B. Spiller

Associate General Counsel

Elizabeth H. Watts

Assistant General Counsel

Duke Energy Ohio Business Services

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**CERTIFICATE OF SERVICE**

I certify that a copy of the above Motion to Intervene was served upon those parties listed below via first class U.S. Mail, postage prepaid, on this 6th day of October 2009.

  
Elizabeth H. Watts

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Ohio Consumer Counsel  
10 West Broad Street  
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Boehm, Kurtz & Lowry  
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