

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc. for Authority to Establish a)	
Standard Service Offer Pursuant to 4928.143,)	
Ohio Rev. Code, In the Form of an Electric)	Case No. 11-3549-EL-SSO
Security Plan, Accounting Modifications, and)	
Tariffs for Generation Service.)	
)	
In the Matter of the Application of Duke)	
Energy Ohio for Authority to Amend its)	Case No. 11-3550-EL-ATA
Certified Supplier Tariff, PUCO No. 20.)	
)	
In the Matter of the Application of Duke)	
Energy Ohio for Authority to Amend its)	Case No. 11-3551-EL-UNC
Corporate Separation Plan.)	

**THE ENVIRONMENTAL LAW & POLICY CENTER’S
MOTION TO INTERVENE**

Pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11, the Environmental Law and Policy Center (“ELPC”) moves to intervene in the above-captioned proceeding. As explained in the attached Memorandum in Support, ELPC has a real and substantial interest in this proceeding. The interests of ELPC are not adequately represented by any other party to this matter, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

Accordingly, ELPC respectfully requests that the Public Utilities Commission of Ohio grant its motion.

Respectfully submitted,
/s/ Tara C. Santarelli _____
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Policy Center

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**MEMORANDUM IN SUPPORT OF
THE ENVIRONMENTAL LAW & POLICY CENTER’S
MOTION TO INTERVENE**

On June 20, 2011, Duke Energy Ohio (“Duke” or “the Company”) filed an Application for Authority to Establish a Standard Service Offer in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service (“Application”). This Application contains Duke’s long-term approach to the provision of electric services in southwest Ohio and is intended to last almost a decade.¹ The Application describes Duke’s proposed profit sharing mechanism, various proposed riders, and Duke’s rate structure, amongst other concepts.

ELPC seeks to intervene in this case and is an interested party pursuant to Ohio Revised Code (“ORC”) §4903.221 and Ohio Administrative Code (“OAC”) §4901-1-11. ORC §4903.221 provides, “Any other person who may be adversely affected by a public utilities

¹ See *In the Matter of the Application, Motion for Protective Order and Memorandum in Support of Duke Energy Ohio for Authority to Establish a Standard Service Offer pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Docket Nos. 11-3549, 11-3550, 11-3551, p. 1.

commission proceeding may intervene in such proceeding,” provided the Commission makes certain determinations. ELPC is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding. ELPC is not adequately represented by the other parties in this case.

Ohio Revised Code §4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, PUCO’s procedural rules at OAC §4901-1-11 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets each of the factors required by statute or rule.

Pursuant to ORC §4903.221(B), the Commission must consider:

- (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; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

ORC §4903.221(B).

As to the first factor, ELPC’s interest in the case is to ensure the effective and thorough implementation of Duke’s electric security plan keeping in mind the parameters of Am. Sub. SB No. 221 (SB 221). Specifically, ELPC has an interest in ensuring that utilities implement cost-effective energy efficiency programs to benefit Ohioans. ELPC also has an interest in the cost recovery proposals associated with those programs. As to the second factor, Duke’s Application has a term of 9 years and 5 months. ELPC has an interest in ensuring that the long-term nature

of this plan considers a variety of energy efficiency programs, properly addresses environmental concerns associated with Duke's coal fleet, and complies with SB 221.

Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding. ELPC is committed to working within any schedule this Commission sets to achieve the efficient and orderly disposition of the questions presented. Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective. ELPC has expertise and experience regarding renewable energy and energy efficiency regulation that will contribute to resolving the pending issues. ELPC has intervened and provided testimony in numerous states regarding energy efficiency and renewable energy implementation, utility planning and utility rate design.

Similarly, ELPC meets the requirements set forth in OAC §4901-1-11:

- (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;
- [and]
- (5) The extent to which the person's interest is represented by existing parties.

OAC §4901-11-1(B). The first four factors mirror those in ORC §4903.221 and for the reasons stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on "green" economic development, including new manufacturing and job creation.

Finally, the Commission's policy is to "encourage the broadest possible participation in its proceedings (*see e.g., Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated

January 14, 1986, at 2). ELPC's inclusion in this proceeding will contribute to the goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both ORC §4903.221 and OAC §4901-1-11, it respectfully asks this Commission to grant its motion to intervene in the above-captioned case.

Respectfully submitted,

/s/ Tara C. Santarelli _____
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion to Intervene and Memorandum in Support have been served upon the following parties, via electronic mail, this 1st day of July, 2011.

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Summary: Motion to Intervene electronically filed by Tara Santarelli on behalf of
Environmental Law & Policy Center