

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

6  
RECEIVED-DOCKETING DIV  
2011 JUL -6 PM 2:46

PUCO

In the Matter of the Application 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.	)	Case No. 11-3549-EL-SSO
	)	
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	)	Case No. 11-3550-EL-ATA
	)	
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Corporate Separation Plan	)	Case No. 11-3551-EL-UNC
	)	

---

MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT  
OF DUKE ENERGY RETAIL SALES, LLC

---

Duke Energy Retail Sales, LLC, by and through counsel, respectfully moves pursuant to Section 4903.221, Ohio Revised Code and Rule 4901-1-11, Ohio Administrative Code for leave to intervene in the above-captioned proceeding. Good cause to permit this intervention is stated in the Memorandum in Support attached to this Motion.

This<sup>1</sup> is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician le Date Processed 7/6/2011

Respectfully submitted,



Andrew J. Sonderman, Counsel of Record

Margeaux Kimbrough

Kegler Brown Hill & Ritter LPA

Capitol Square, Suite 1800

65 East State Street

Columbus, Ohio 43215

Telephone (614) 462-5400

Fax (614) 464-2634

[asonderman@keglerbrown.com](mailto:asonderman@keglerbrown.com)

[mkimbrough@keglerbrown.com](mailto:mkimbrough@keglerbrown.com)

Counsel for Duke Energy Retail Sales, LLC

### **MEMORANDUM IN SUPPORT**

In support of the foregoing Motion to Intervene, Duke Energy Retail Sales, LLC (“Duke Retail”) states that it is a Competitive Retail Electric Supply (“CRES”) provider, certified by the Public Utilities Commission of Ohio (“Commission”) to provide generation, transmission and energy-related services in the service territory of Duke Energy Ohio (Certificate No. 04-124E(4), renewed on December 3, 2010 in Case No. 04-1323-EL-CRS). Pursuant to that certification, Duke Retail is currently providing competitive services in Duke Energy Ohio’s service territory.

Pursuant to Ohio Admin. Code (“O.A.C.”) Rule 4901-1-11(A), upon timely motion, any person is permitted to intervene in a proceeding before this Commission 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.

Further, O.A.C. Rule 4901-1-11(B) provides that the following factors are to be considered in evaluating request to intervene:

- (1) The nature of the person's interest;
- (2) The extent to which the person's interest is represented by existing parties;
- (3) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

*See also* Ohio Revised Code §4903.221.

Duke Retail is an active market participant, has substantial experience in supplying competitive products in the retail market and will be able to assist the Commission in developing a complete record in this proceeding.

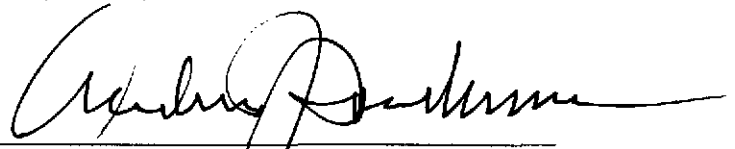
Duke Energy Ohio's Application filed on June 20, 2011 for approval of a standard service offer ("SSO") in the form of an electric security plan ("ESP") submitted pursuant to Ohio Revised Code §4928.143 proposes changes in its current ESP structure to be effective on or before January 1, 2012. One such change is its proposal to employ an auction mechanism to procure default generation service to customers who have not chosen a CRES provider for their generation needs. Duke Retail has a real and substantial interest in the outcome of this proceeding in that it may directly or indirectly affect Duke Retail's ability to market to retail electric consumers in Duke Energy Ohio's service territory.

Consistent with the requirements of Ohio Revised Code §4903.221 and Rule 4901-1-11(B), Ohio Administrative Code, Duke Retail is a real party in interest herein, whose interest is

not now represented, who can make a contribution to the proceeding and will not unduly delay the proceeding or prejudice any existing party. While Duke Energy Ohio is an affiliate of Duke Retail, Duke Energy Ohio cannot and does not represent Duke Retail's interests in this proceeding. Nor does any other intervenor represent its unique interests. This motion is timely, precedes the commencement of discovery and other procedural deadlines, and has been filed more than five days before the hearing deadline established in the Attorney Examiner's Entry dated June 21, 2011.

For the foregoing reasons, Duke Energy Retail Sales, LLC submits that good cause has been demonstrated to grant it leave to intervene in these proceedings with the full powers and rights granted intervenors by the Commission pursuant to statute and rule

Respectfully submitted,



Andrew J. Sonderman, Counsel of Record  
Margeaux Kimbrough  
Kegler Brown Hill & Ritter LPA  
Capitol Square, Suite 1800  
65 East State Street  
Columbus, Ohio 43215  
Telephone (614) 462-5400  
Fax (614) 464-2634  
[asonderman@keglerbrown.com](mailto:asonderman@keglerbrown.com)  
[mkimbrough@keglerbrown.com](mailto:mkimbrough@keglerbrown.com)

Counsel for Duke Energy Retail Sales, LLC

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Leave to Intervene and Memorandum in Support was served by U.S. Mail upon counsel for the parties identified below this 6<sup>th</sup> day of July, 2011:

Duke Energy Ohio, Inc.  
Elizabeth H. Watts  
139 E. Fourth Street, 1303-Main  
P.O. Box 961  
Cincinnati, Ohio 45201-0960  
[Elizabeth.watts@duke-energy.com](mailto:Elizabeth.watts@duke-energy.com)

Office of the Ohio's Consumers' Counsel  
Jeffrey L. Small  
Joseph P. Serio  
Melissa R. Yost  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
[small@occ.state.oh.us](mailto:small@occ.state.oh.us)  
[serio@occ.state.oh.us](mailto:serio@occ.state.oh.us)  
[yost@occ.state.oh.us](mailto:yost@occ.state.oh.us)

American Electric Power Service Corp.  
Erin C. Miller  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
[ecmiller1@aep.com](mailto:ecmiller1@aep.com)

Greater Cincinnati Health Council  
Douglas E. Hart  
441 Vine Street, Suite 4192  
Cincinnati, Ohio 45202  
[dhart@douglasshart.com](mailto:dhart@douglasshart.com)

Ohio Environmental Council  
Trent A. Dougherty  
Tara Santarelli  
E. Camille Yancey  
1207 Grandview Ave., Suite 201  
Columbus, Ohio 43212  
[trent@theoec.org](mailto:trent@theoec.org)  
[tsantarelli@elpc.org](mailto:tsantarelli@elpc.org)  
[Camille@theoec.org](mailto:Camille@theoec.org)

AEP Retail Energy Partners LLC  
Anne M. Vogel  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215

City of Cincinnati  
Jeff Ventre  
3300 Colerain Avenue, Suite 250  
Cincinnati, Ohio 45225

Constellation Energy Commodities Group,  
Inc.  
M.H. Petricoff  
52 E. Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)

Thomas O'Brien  
Bricker & Eckler LLP  
100 S. Third Street  
Columbus, Ohio 43215-4236

Firstenergy Corp.  
Allison E. Haedt  
Jones Day  
325 John H. McConnell Blvd., Suite 600  
Columbus, Ohio 43215-2673  
[aehaedt@jonesday.com](mailto:aehaedt@jonesday.com)

People Working Cooperatively, Inc.  
Mary W. Christensen  
Christensen & Christensen LLP  
8760 Orion Place, Suite 300  
Columbus, Ohio 43240-2109  
[mchristensen@columbuslaw.org](mailto:mchristensen@columbuslaw.org)

Ohio Manufacturers Association  
Lisa G. McAlister  
Bricker & Eckler  
100 S. Third Street  
Columbus, Ohio 43215-4291  
[lmcalister@bricker.com](mailto:lmcalister@bricker.com)

PJM Power Providers Group  
Laura Chappelle  
4218 Jacob Meadows  
Okemos, Michigan 48864

PJM Power Providers Group  
Stephen M. Howard  
Vorys, Sater, Seymour & Pease LLP  
52 E. Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
[smhoward@vorys.com](mailto:smhoward@vorys.com)

Vectren Retail LLC  
Joseph M. Clark  
6641 N. High Street, Suite 200  
Worthington, Ohio 43085

Industrial Enrgy Users of Ohio General  
Counsel  
Samuel C. Randazzo  
Joseph E. Olikier  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215  
[sam@mwncmh.com](mailto:sam@mwncmh.com)  
[joliker@mwncmh.com](mailto:joliker@mwncmh.com)

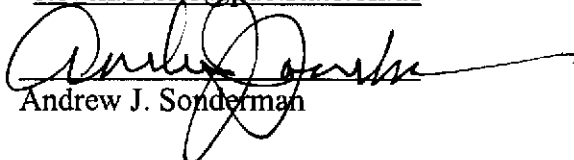
Ohio Energy Group  
David F. Boehm  
36 E. Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
[dboehm@bkllawfirm.com](mailto:dboehm@bkllawfirm.com)

Ohio Partners for Affordable Energy  
Colleen L. Mooney  
1431 Mulford Rd.  
Columbus, Ohio 43212  
[cmooney2@columbus.rr.com](mailto:cmooney2@columbus.rr.com)

PJM Power Providers Group  
Glen Thomas  
1060 First Avenue, Suite 400  
King of Prussia, Pennsylvania 19406

The Kroger Company  
Mark S. Yurick  
Chester Willcox & Saxbe, LLP  
65 E. State Street, Suite 1000  
Columbus, Ohio 43215-4213  
[myurick@cwslaw.com](mailto:myurick@cwslaw.com)

John Jones  
Steven Beeler  
Public Utilities Commission of Ohio  
180 E. Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215-3793  
[john.jones@pub.state.oh.us](mailto:john.jones@pub.state.oh.us)  
[steven.beeler@puc.state.oh.us](mailto:steven.beeler@puc.state.oh.us)

  
Andrew J. Sonderman