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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

MOTION TO INTERVENE OF EXELON GENERATION COMPANY, LLC

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code ("OAC"), Exelon Generation Company, LLC ("Exelon Generation") moves for leave to intervene in these proceedings. The reasons supporting the Motion to Intervene are set forth in the accompanying memorandum in support.

WHEREFORE, Exelon Generation respectfully requests that it be permitted to intervene in these matters.

Respectfully submitted,

M. Howard Petricoff

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**ATTORNEYS FOR EXELON GENERATION
COMPANY, LLC**

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MEMORANDUM IN SUPPORT

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the OAC, Exelon Generation Company, LLC (“Exelon Generation”) files this Memorandum in Support of the Motion to Intervene in the above-captioned proceedings.

I. BACKGROUND

On June 20, 2011, Duke Energy Ohio, Inc. (“Duke”) filed an Application for a Standard Service Office (“SSO”) pursuant to Section 4928.141, Revised Code. Duke’s Application is for an Electric Security Plan (“ESP”) in accordance with Section 4928.143, Revised Code. Duke currently provides SSO pursuant to an ESP, which was approved in Case No. 08-920-EL-SSO, *et al.*, with an intended term ending December 31, 2011.

In this Application, Duke requests an ESP with a projected term of 9.5 years and features a public procurement of energy via an auction coupled with Duke’s providing all required capacity in its service area based on the full embedded cost of its legacy generation. *See* the June 20, 2011 Duke Energy Ohio Application (“Application”) at p. 10. Given the length of the

term, Duke's Application also proposes that the capacity charge be adjusted annually to allow for adjustments to the capacity base resulting from environmental expenditures and other changes. *See* Application at pp. 10-11. Finally, Duke offers to sell the energy from its legacy generation in the open market with the proceeds going in part to the retail customers, the shareholders and an economic development fund. *See* Application at pp. 11-12.

On June 21, 2011, the Attorney Examiner issued an Entry in these cases setting forth a procedural schedule. This procedural schedule provides for the following: a technical conference to held on June 30, 2011 at 10:00 a.m. at the offices of the Commission; Motions to Intervene to be filed by July 6, 2011; Intervenor Testimony to be filed by September 7, 2011; Discovery Requests,¹ except for Notices of Deposition, to be served by September 9, 2011; Staff testimony to be filed by September 14, 2011; and the commencement of the Evidentiary Hearing on September 20, 2011.

II. THE COMMISSION'S STANDARD FOR INTERVENTION REQUESTS

Section 4903.221, Revised Code, sets forth the criteria the Commission must consider when ruling on a motion to intervene:

- (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.

¹ The Entry shortened the discovery response time was to be reduced to ten calendar days.

The Commission has promulgated Rule 4901-1-11(B) of the Ohio Administrative Code to implement this statutory provision. Rule 4901-1-11(B) directs the Commission, Legal Director, Deputy Legal Director, or Attorney Examiner to consider the following factors in deciding whether to permit intervention:

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

III. EXELON GENERATION'S INTEREST IN THIS PROCEEDING

Exelon Generation owns or controls approximately 30,000 MW of generating facilities nationwide, and is a leading power marketer throughout the country. Exelon Power Team is the wholesale marketing division of Exelon Generation and is a leading power marketer throughout the country. Exelon Energy Company ("Exelon Energy") is a wholly-owned subsidiary of Exelon Generation.

The issues addressed in these cases will significantly affect the retail electric market in Ohio. As a regional power market participant and licensed competitive retail electric supplier in Ohio, Exelon Generation not only has a real and substantial interest in this proceeding, but possesses information and expertise that may be of assistance to the Commission in ruling on the issues presented by the Application. Failure to grant intervention in this case will impede

Exelon Generation's ability to protect and defend its interests. Granting intervention to Exelon Generation is consistent with the Commission's policy to "encourage the broadest possible participation in its proceedings."²

IV. SERVICE OF PROCESS

Exelon Generation requests that the following names be added to the service list to receive copies of all pleadings:

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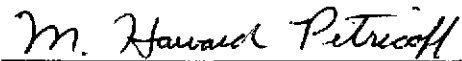
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² *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2; *In the Matter of the Restatement of the Account and Records*, Case No. 84-1187-EL-UNC, Entry date November 4, 1985.

V. CONCLUSION

For these reasons, Exelon Generation respectfully requests that the Commission find that Exelon Generation's motion to intervene be granted in accordance with Section 4903.221, Revised Code and Ohio Administrative Code Rule 4901-1-11 and that the above corporate representatives be added to the official service list.

Respectfully submitted,



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***ATTORNEYS FOR EXELON GENERATION
COMPANY, LLC***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 6th day of July, 2011 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.

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