

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc. for the Establishment)	Case No. 12-2400-EL-UNC
of a Charge Pursuant to Revised Code)	
Section 4909.18.)	

In the Matter of the Application of Duke)	
Energy Ohio, Inc. for Approval to)	Case No. 12-2401-EL-AAM
Change Accounting Methods.)	

In the Matter of the Application of Duke)	
Energy Ohio, Inc. for the Approval of a)	Case No. 12-2402-EL-ATA
Tariff for a New Service.)	

**MOTION TO INTERVENE
OF AEP RETAIL ENERGY PARTNERS LLC**

Pursuant to Ohio Revised Code § 4903.221 and Rule 4901-1-11, Ohio Admin. Code, AEP Retail Energy Partners LLC d/b/a AEP Energy, on behalf of itself and its affiliated competitive retail electric service provider, AEP Energy, Inc. (collectively, “AEP Energy”) hereby moves to intervene in these proceedings. AEP Energy has a real and substantial interest in these proceedings that is not adequately represented by existing parties and is so situated that the disposition of these proceedings may impair or impede its ability to protect that interest. Accordingly, and as more fully explained in the accompanying memorandum in support, AEP Energy respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant this timely request to intervene.

Respectfully submitted,

/s/ Yazen Alami

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for the Establishment of a Charge Pursuant to Revised Code Section 4909.18.)	
)	Case No. 12-2400-EL-UNC
)	
)	

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.)	
)	Case No. 12-2401-EL-AAM
)	

In the Matter of the Application of Duke Energy Ohio, Inc. for the Approval of a Tariff for a New Service.)	
)	Case No. 12-2402-EL-ATA
)	

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
OF AEP RETAIL ENERGY PARTNERS LLC**

On August 29, 2012, Duke Energy Ohio, Inc. (“Duke”) filed an application with the Commission seeking, among other things, an order from the Commission “establishing the amount of the cost-based charge, pursuant to Ohio’s newly adopted state compensation mechanism, for the provision by Duke Energy Ohio of capacity services throughout its service territory. . . .”¹ The disposition of this and other issues in these proceedings may adversely affect AEP Energy’s ability as a competitive retail electric supplier to provide competitive retail electric services to consumers within Duke’s service territory.

Revised Code § 4903.221 provides, in pertinent part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. Subsection (B) of R.C. §4903.221 requires the Commission to consider the following criteria in ruling on motions to intervene:

¹ August 29, 2012 Duke Application at ¶ 2 (internal quotations omitted)

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 proceeding; and
4. Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.²

In addition to requiring consideration of the above criteria, the Commission's rules also require consideration of "[t]he extent to which the person's interest is represented by existing parties" in deciding whether to permit intervention.³ Further, the Supreme Court of Ohio has found that "intervention ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the PUCO."⁴ In considering AEP Energy's prospective intervention in light of the above criteria and precedent, the Commission should find that AEP Energy's intervention in these proceedings is appropriate.

AEP Energy is a competitive retail electric service provider certified to provide retail generation, aggregation, power marketer, and power broker services within the state of Ohio. AEP Energy is currently providing retail electric services to customers within Duke's service territory. It is critical to the ongoing business of AEP Energy that it be able to compete successfully for business in this state and in Duke's service territory. The implementation, design, and structure of any cost-based capacity charge established by the Commission in these proceedings could adversely affect AEP Energy's ability to

² Ohio Rev. Code Ann. § 4903.221(B)(1)-(4)

³ See O.A.C. 4901-1-11(B)(1)-(5).

⁴ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387, 2006-Ohio-5853, ¶20 (2006).

provide competitive retail electric services to customers within Duke's service territory. As such, AEP Energy has a real and substantial interest in this proceeding and its interest cannot be represented by any other party to this proceeding. That AEP Energy has a unique, real and substantial interest in this proceeding is further supported by the fact that it was a signatory party to the Stipulation approved by the Commission in Duke's most recent ESP case, Case No. 11-3549-EL-SSO.⁵ The disposition of these proceedings may alter the terms of that Stipulation and, as such, could disrupt the balance of the interests reflected in the Stipulation's package of terms as agreed to by AEP Energy and the other signatory parties. As an intervenor in these proceedings, AEP Energy would intend to advocate positions related to these interests.

AEP Energy's intervention will not unduly prolong or delay these proceedings. This motion to intervene is filed before the October 15, 2012, intervention deadline established by the attorney examiner's September 13, 2012, entry and is, therefore, timely. Moreover, no discovery deadline or hearing date has yet been set. Lastly, given its experience in the marketplace and understanding of the competitive issues these proceedings raise, AEP Energy will be able to significantly contribute to the full development and equitable resolution of the factual issues in these proceedings.

For the foregoing reasons, AEP Energy respectfully requests that the Commission grant this motion to intervene and that AEP Energy be made a party of record to these proceedings.

⁵ The Stipulation was signed on behalf of AEP Retail Energy Partners LLC.

Respectfully submitted,

/s/ Yazen Alami

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon the below-named counsel via electronic mail this 3rd day of October, 2012.

/s/ Yazen Alami

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Summary: Motion AEP Retail Energy Partners LLC's Motion to Intervene and Memorandum in Support electronically filed by Mr. Yazen Alami on behalf of AEP Retail Energy Partners LLC d/b/a AEP Energy