

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)	
Power Company for Authority to)	
Establish a Standard Service Offer)	
Pursuant to R.C. 4908.143, Revised)	Case No. 16-1852-EL-SSO
Code, in the Form of an Electric Security)	
Plan.)	

In the Matter of the Application of Ohio)	
Power Company for Approval of Certain)	Case No. 16-1853-EL-AAM
Accounting Authority.)	

MOTION TO INTERVENE

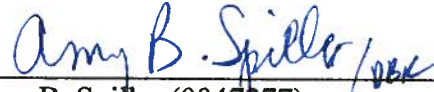
BY

DUKE ENERGY OHIO, INC.

Now comes Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and moves to intervene as a full party of record in the above-captioned proceedings pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The basis for Duke Energy Ohio's motion is set forth in the attached memorandum in support, which is incorporated herein by reference.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. Introduction

R.C. 4928.142 requires each electric distribution utility, such as Ohio Power Company (Ohio Power), to provide a standard service offer (SSO) “of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service.” Ohio Power currently provides that SSO in the form of an electric security plan (ESP), approved under R.C. 4928.143, that will terminate on May 31, 2018.¹ On November 23, 2016, Ohio Power filed its application to amend its current ESP.² Duke Energy Ohio – an electric distribution utility with an interest in the competitive and wholesale markets – will be affected by Ohio Power’s proposed ESP and thus seeks intervention pursuant to R.C. 4903.221.

II. Legal Standard

R.C. 4903.221(B) sets forth the criteria that the Public Utilities Commission of Ohio (Commission) is required to consider in ruling on applications to intervene. These criteria include:

- (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.³

¹ *In the Matter of the Application of Ohio Power Company for Authority to Establish an Electric Security Plan*, Case No. 13-2385-EL-SSO, *et al.*, Opinion and Order (February 25, 2015), Second Entry on Rehearing (May 28, 2015) and Fourth Entry on Rehearing (November 3, 2016).

² Application to Amend, at pg. 3.

³ R.C. 4903.221.

The Commission has provided additional detail on the intervention requirements through the promulgation of O.A.C. 4901-1-11. Specifically, that rule requires that the Commission allow intervention by a person who has a “real and substantial interest in the proceeding” and who “is so situated that the disposition of the proceeding may...impair or impede [their] ability to protect that interest, unless the person’s interest is adequately represented by existing parties.”⁴ Consistent with the statutory provisions, the rule also lists several factors for the Commission to consider in determining whether a potential intervenor meets that standard:

- (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.⁵

As discussed below, Duke Energy Ohio satisfies these criteria and its intervention in these proceedings is therefore warranted.

III. Duke Energy Ohio Should be Granted Intervention in These Proceedings.

As part of its Amended ESP, Ohio Power is proposing a competitive process for purposes of procuring supply needed to serve its SSO load.⁶ Ohio Power has further proposed bid documents for such a competitive process that are similar to the bid documents currently used by Duke Energy Ohio.⁷ Duke Energy Ohio is a wholesale energy market participant and prospective participant in the competitive procurement process proposed by Ohio Power. As

⁴ O.A.C. 4901-1-11(A).

⁵ O.A.C. 4901-1-11(B).

⁶ Ohio Power Application to Amend, at pg. 9.

⁷ Application to Amend and Supporting Testimony of Ohio Power witness David B. Weiss.

such, Duke Energy Ohio has a real and substantial interest in these proceedings and its intervention is warranted so that Duke Energy Ohio may protect the same.⁸ Intervention is further appropriate as Duke Energy Ohio has conducted several competitive procurements and can thus effectively aid in the development of such procurements for Ohio Power.⁹

Duke Energy Ohio's intervention is also warranted given the proposals advanced by Ohio Power in respect of its Ohio Valley Electric Corporation (OVEC) entitlement. Duke Energy Ohio also has a contractual interest in assets owned by OVEC and should be permitted to intervene in order to protect that interest which bears some similarity but also some differences as compared to other counterparties.¹⁰ That is, Duke Energy Ohio's intervention would enable it to protect its contractual entitlement, and its interests in the arrangement partnership going forward. Moreover, the Company is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect those interests.

Duke Energy Ohio has a real and substantial interest in these proceedings that is directly related to the merits of the case. No existing party represents Duke Energy Ohio's interests. Further, Duke Energy Ohio's participation will contribute to the development of the issues and an equitable resolution. As the deadline for intervention has not yet expired,¹¹ Duke Energy

⁸ See generally, *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, *et al.*, Entry (August 5, 2014)(After having supported its motion to intervene with the contention that it is a potential bidder in Duke Energy Ohio's proposed competitive auction, Ohio Power granted intervention in Duke Energy Ohio's SSO proceeding) and *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO, *et al.*, Entry, (April 21, 2014).

⁹ *Id.* (Arguing that it is a participant in wholesale energy auctions and can assist in a better outcome to the proceeding, Ohio Power granted intervention in Duke Energy Ohio's SSO proceeding).

¹⁰ *Id.* (Duke Energy Ohio granted intervention, citing its status as a co-owner of OVEC assets as justifying such intervention). See also, *In the Matter of the Application of Ohio Company to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO, *et al.*, Entry (April 21, 2014)(same).

¹¹ Entry at pg. 2 (February 7, 2017).

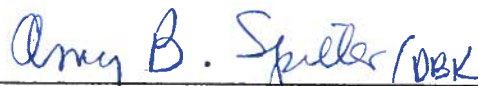
Ohio's intervention will not unduly prolong or delay these proceedings and its interests are not represented by existing parties.

Given Duke Energy Ohio's own experience with an SSO in the form of an ESP, Duke Energy Ohio would also respectfully suggest that its intervention will significantly contribute to the full development and equitable resolution of the factual issues, based on its experience in the marketplace and understanding of competitive needs in general.

Duke Energy Ohio therefore respectfully requests that the Commission grant its motion to intervene and that it be made a full party of record.

Respectfully submitted,


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 10th day of February 2017, by electronic transmission or U.S. mail, postage prepaid, upon the persons listed below.



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Summary: Motion Motion to Intervene by Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Watts, Elizabeth H.