

**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)	Case No. 17-1263-EL-SSO
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)	Case No. 17-1264-EL-ATA
Amend its Certified Supplier Tariff,)	
P.U.C.O. No. 20.)	
)	
In the Matter of the Application of Duke)	
Energy Ohio, Inc., for Authority to Defer)	Case No. 17-1265-EL-AAM
Vegetation Management Costs.)	

**MOTION TO INTERVENE
BY THE ENVIRONMENTAL DEFENSE FUND AND
OHIO ENVIRONMENTAL COUNCIL**

Pursuant to Ohio Rev. Code § 4903.221 and Ohio Admin. Code § 4901-1-11, the Environmental Defense Fund (“EDF”) and the Ohio Environmental Council (“OEC”), respectfully move for leave to intervene in the above-captioned case, in which Duke Energy Ohio (“Duke” or “the Company”) submits its Application for Authority to Establish a Standard Service Offer Pursuant to Ohio Rev. Code § 4928.143, in the Form of an Electric Security Plan (“Application”) for the period between June 1, 2018 and May 31, 2024. As more fully discussed in the accompanying memorandum, EDF and OEC have a real and substantial interest in this proceeding. The interests of EDF and OEC are not represented by any existing party; participation in this proceeding will contribute to a just and expeditious resolution of the issues

involved without unduly delaying the proceeding or unjustly prejudicing any existing party; and the parties thereby move to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

WHEREFORE, EDF and OEC respectfully request that the Public Utilities Commission of Ohio grant EDF and OEC's motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully Submitted,

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MEMORANDUM IN SUPPORT

Ohio Rev. Code § 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.”

EDF is a national non-profit membership organization engaged in linking science, economics and law to create innovative, equitable and cost-effective solutions to society’s most urgent environmental problems. EDF has over 300,000 members nationwide and has 9,590 members in Ohio. EDF has been active in Ohio working on environmental policies including smart power, climate change, natural gas fracking and sustainable agriculture. EDF also supports state energy policies that reduce greenhouse gas emissions.

The OEC is a non-profit, charitable organization comprised of a network of affiliated member groups and approximately 3,000 individual members. OEC’s mission is to secure

healthy air, land, and water for all who call Ohio home. Founded in 1969, OEC has been a leading advocate for fresh air, clean water, and sustainable energy use in Ohio. OEC was an active participant in the effort that led to the passage of S.B. 221, and has intervened in scores of cases before this Commission to secure proper implementation of Ohio's clean energy law.

As discussed below, EDF and OEC have an interest in and may be adversely affected by the disposition of this case.

Ohio Rev. Code § 4903.221(B) outlines four factors that the Commission shall consider when ruling on a motion to intervene in a proceeding. First, pursuant to R.C. 4903.221(B)(1), the Commission shall consider “the nature and extent of the prospective intervenor’s interest.” EDF and OEC have a real and substantial interest in the stability of retail electricity service and competitive energy markets, and the positive effect both have on the further deployment of cost-effective clean and efficient energy in Ohio. As environmental advocacy organizations, EDF and OEC have a special interest in the outcome of this case because of the direct impact that decisions on the Application and its included tariffs and riders will have on the current and future implementation and effectiveness of alternative energy resources, renewable energy generation, energy efficiency and demand response in the state. Accordingly, EDF and OEC’s interest in this proceeding arise from the direct and indirect impacts that the issues presented will have on the environment of the state of Ohio and the region, and the electricity costs of their members in the Duke service territory.

Second, pursuant to Ohio Rev. Code § 4903.221(B)(2), the Commission shall consider “[t]he legal position advanced by the prospective intervenor and its probable relation to the merits of the case.” Although EDF and OEC do not outline detailed legal arguments in this

section, OEC maintains that Duke's Application should be properly scrutinized by interested parties to ensure that it complies with the letter and intent of the state's energy law and stated state energy policy.

Third, pursuant to Ohio Rev. Code § 4903.221(B)(3), the Commission shall consider "[w]hether the intervention by the prospective intervenor will unduly prolong or delay the proceedings." EDF and OEC have significant experience dealing with electric utilities questions before the Commission and will not seek to delay the proceeding. OEC has been consistently involved in the development and enactment of S.B. 221 and the associated rules, including as a party in numerous cases before the Commission, and EDF has litigated such cases in Ohio as well as in other Public Utility Commissions around the United States. Thus, intervention will not unduly prolong or delay these proceedings, but will add value to the development of this case.

Fourth, pursuant to Ohio Rev. Code § 4903.221(B)(4), the Commission shall consider "[w]hether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues." EDF and OEC have developed expertise that will contribute to the full development of the legal questions involved in this proceeding. Further, as Ohio's leading environmental advocates, EDF and OEC will be able to assure that the environmental impacts of the Company's proposal are fully developed.

EDF and OEC also satisfy the intervention requirements outlined in the Commission's rules. The criteria for intervention established by O.A.C. 4901-1-11(A) are identical to those provided by Ohio Rev. Code § 4903.221, with the exception that the rules add a fifth factor that the Commission shall consider when ruling on a motion to intervene. Pursuant to O.A.C. 4901-

1-11(A)(5), the Commission shall consider, “[t]he extent to which the [intervenor’s] interest is represented by existing parties.” EDF and OEC’s interest is not fully represented by the existing parties.

Finally, we point out that it is the Commission’s stated policy “to encourage the broadest possible participation in its proceedings.”¹ The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

EDF and OEC meet all the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5) and therefore should be granted intervenor status in this proceeding.

WHEREFORE, EDF and OEC respectfully request that the Commission grant its motion to intervene in the above-captioned matter.

Respectfully Submitted,

/s/ Miranda Leppla
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***Counsel for the Ohio Environmental
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¹ *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by electronic mail this 14th day of July, 2017.

/s/ Miranda Leppla
Miranda R. Leppla

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Summary: Motion to Intervene by the Environmental Defense Fund and Ohio Environmental Council electronically filed by Ms. Miranda R Leppla on behalf of Environmental Defense Fund and Ohio Environmental Council