

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke     )  
Energy Ohio, Inc., for Approval to Modify    ) Case No. 17-872-EL-RDR  
Rider PSR     )

In the Matter of the Application of Duke     )  
Energy Ohio, Inc., for Approval to Amend    ) Case No. 17-873-EL-ATA  
Rider PSR     )

In the matter of the Application of Duke     )  
Energy Ohio, Inc., for Approval to            ) Case No. 17-874-EL-AAM  
Change Accounting Methods     )

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**MOTION TO INTERVENE BY  
THE ENVIRONMENTAL LAW & POLICY CENTER**

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Pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, the Environmental Law & Policy Center (“ELPC”) respectfully moves to intervene in the above-captioned proceedings. As explained more thoroughly in the attached Memorandum in Support, ELPC has a real and substantial interest in this case, in which Duke Energy Ohio, Inc. seeks to populate a placeholder rider originally proposed in a proceeding where ELPC has already intervened. Additionally, the interests of ELPC are not adequately represented by any other party to this matter and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

ELPC respectfully requests this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

February 20, 2018

Respectfully submitted,

/s Madeline Fleisher

Madeline Fleisher

Environmental Law & Policy Center

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY  
THE ENVIRONMENTAL LAW & POLICY CENTER**

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Ohio Revised Code (“R.C.”) 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“PUCO” or “Commission”) makes certain determinations. The Environmental Law & Policy Center (“ELPC”) is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding, and its interests are not adequately represented by the other parties hereto.

R.C. 4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission’s procedural rules at Ohio Administrative Code 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets all of the factors required by statute and rule.

Pursuant to R.C. 4903.221, the Commission must consider:

- (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.

R.C. 4903.221(B).

With respect to the first factor, ELPC has a substantial interest in the application of the Duke Energy Ohio, Inc. ("Duke") to obtain cost recovery for its contractual interest in the Ohio Valley Electric Corporation ("OVEC") coal plants through a "Price Stabilization Rider" that was approved by the Commission in Case Nos. 14-841-EL-SSO and 14-842-EL-ATA on April 2, 2015. As discussed in ELPC's motion to intervene in that case, ELPC has an interest in ensuring the protection and promotion of cost-effective clean and efficient energy in the state. Further, ELPC has members in Ohio and its work focuses on Ohio energy and environmental issues. Duke's application affects these interests because it proposes to populate a rider under which Duke's ratepayers would be committed to financially supporting previously unregulated coal plants, rather than clean energy sources.

As to the second factor, because of the potential impacts on ELPC and its Ohio members, ELPC seeks to ensure Duke's application meets the applicable legal requirements, and if not, recommend appropriate solutions. Additionally, ELPC seeks the Commission's careful scrutiny of the reasonableness of Duke's application, which implicates ELPC's interests in advocating for alternative energy solutions over reliance on polluting coal plants.

Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding. There is currently no procedural schedule for the case, and ELPC is committed to working within any schedule that is imposed to achieve the efficient and orderly disposition of the questions presented.

Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective to bear. ELPC has expertise and experience throughout the Midwest regarding clean energy policy that will contribute to resolving the pending issues, and has participated in multiple proceedings involving Duke, including Case Nos. 14-481-EL-SSO and 14-842-EL-ATA.

Similarly, ELPC meets the requirements set forth in Ohio Admin. Code 4901-11-1(B):

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

The first four factors mirror those in R.C. 4903.221, and for the same reasons as stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on "green" economic development, including new manufacturing and job creation.

Finally, this Commission's policy is to "encourage the broadest possible participation in its proceedings." *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry at 2 (Jan. 14,

1986). ELPC's inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both R.C. 4903.221 and Ohio Admin. Code 4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

February 20, 2018

Respectfully submitted,

/s Madeline Fleisher

Madeline Fleisher

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Motion to Intervene submitted on behalf of the Environmental Law & Policy Center was served by electronic mail upon all Parties of Record on February 20, 2018.

/s Madeline Fleisher  
Madeline Fleisher

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 17-0872-EL-RDR, 17-0873-EL-ATA, 17-0874-EL-AAM**

Summary: Motion Motion to Intervene by the Environmental Law & Policy Center  
electronically filed by Madeline Fleisher on behalf of Environmental Law and Policy Center