

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)
Investigation of the Financial Impact of the) Case No. 18-47-AU-COI
Tax Cuts and Jobs Act of 2017 on Regulated)
Ohio Utility Companies.)

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,

DUKE ENERGY OHIO, INC.

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MEMORANDUM IN SUPPORT

I. Introduction

In this proceeding, the Public Utilities Commission of Ohio (Commission) has ordered an investigation to address the extent to which rates of the public utilities subject to rate regulation by the Commission should be adjusted because of a reduction in the federal corporate income tax rate and the means of doing so. Customers of Duke Energy Ohio will be directly affected by the Commission's resolution of the issues addressed in the Commission investigation. The issues raised in the Commission investigation, including (1) the components of utility rates that the Commission may need to reconcile with the Tax Cuts and Jobs Act of 2017 (TCJA) and (2) the process and mechanics for such reconciliation, will potentially have a major impact on Duke Energy Ohio's customers while allowing the Company to maintain its earnings.

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.¹

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

¹ R.C. 4903.221.

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 [the person’s] ability to protect that interest, unless the person’s interest is adequately represented by existing parties.”² 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.³

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.

On February 15, 2018, Duke Energy Ohio filed Initial Comments concerning the components of utility rates that the Commission may need to reconcile with the TCJA and the process and mechanics for such reconciliation.⁴ The Company will be impacted by the Commission’s consideration of revenue requirements, the level of tax expense recovered through current base rates, treatment of riders containing a federal corporate tax component, accumulated deferred income taxes (ADIT), and deferred tax assets that include income tax components calculated using the pre-TCJA income tax rates.

² O.A.C. 4901-1-11(A).

³ O.A.C. 4901-1-11(B).

⁴ Initial Comments of Duke Energy Ohio, Inc. (February 15, 2018)

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. Duke Energy Ohio's intervention will not unduly prolong or delay them and its interests are not represented by existing parties.

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,

DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 15th day of June, 2018, to the following:

/s/ Jeanne W. Kingery
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Summary: Motion Motion to Intervene by Duke Energy Ohio, Inc. electronically filed by Ms. Emily Olive on behalf of Duke Energy Ohio and D'Ascenzo, Rocco O. Mr. and Kingery, Jeanne W. Ms.