

THE PUBLIC UTILITIES COMMISSION OF OHIO

MOTION TO INTERVENE

DUKE ENERGY OHIO, INC.

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MEMORANDUM IN SUPPORT

I. Introduction

On July 20, 2018, the University of Cincinnati (UC) filed its application for a unique arrangement in accordance with R.C. 4905.31 and Ohio Admin. Code Rule 4901:1-38-05. UC is a transmission voltage customer of Duke Energy Ohio and is proposing to implement this unique arrangement to provide the Company with an additional source of interruptible load for use during PJM system emergencies, in exchange for a monthly credit. UC describes its proposed arrangement as a mechanism to provide up to 54.7 megawatts (MW) of interruptible load upon request by Duke Energy Ohio during emergency events to ensure system reliability in times of peak demand. The pricing of this monthly credit is structured to mirror another unique arrangement recently approved by this Commission in Case No. 18-0450-EL-AEC.¹ The credits provided to UC would be collected by Duke Energy Ohio through its Economic Competitiveness Fund Rider ("ECF Rider").

The proposal offered by UC provides additional interruptible load to the Company, which, due its operating characteristics and physical location, and specifically its proximity to six hospitals served by the same substation as UC, could provide enhanced stability to that circuit during a system emergency, on an expedited basis.

Duke Energy Ohio, as the electric distribution utility serving UC and the nearby hospitals, with an interest in the competitive and wholesale markets, will be affected by UC's unique arrangement as proposed and thus seeks intervention pursuant to R.C. 4903.221.

¹ *In the Matter of the Application of AK Steel Corporation for Expedited Approval of a Reasonable Arrangement Between AK Steel Corporation and Duke Energy Ohio, Inc.*, Case No. 18-0450-EL-AEC, Opinion and Order (June 28, 2018)

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.²

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 [its] ability to protect that interest, unless the person's interest is adequately represented by existing parties."³ 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.

² R.C. 4903.221.

³ O.A.C. 4901-1-11(A).

- (5) The extent to which the person's interest is represented by existing parties.⁴

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 unique arrangement, UC is proposing to receive a rate credit, as described in its Application, to provide up to 54.7 MW of interruptible load upon request by Duke Energy Ohio during emergency events, in exchange for a monthly credit.⁵ Duke Energy Ohio is a wholesale energy market participant and prospective participant in the unique arrangement process proposed by UC. The Company's willingness to participate in such an arrangement is contingent upon the Commission's approval of a recovery mechanism for the credits UC seeks to receive.

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 no deadline for intervention has been set in these proceedings but expedited approval has been requested, 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.

⁴ O.A.C. 4901-1-11(B).

⁵ Application, pg. 1.

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 8th day of August, 2018, by electronic transmission or U.S. mail, postage prepaid, upon the persons listed below.

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