



## Memorandum in Support

Am. Sub H. B. 6 (HB 6), signed into law on July 23, 2019, requires the Public Utilities Commission of Ohio (Commission) to establish a nonbypassable rate mechanism for the retail recovery of prudently incurred costs related to a legacy generation resource for the period up to December 31, 2030.<sup>1</sup> On September 25, 2019, the Commission Staff (Staff) filed a proposal for implementing this requirement. By entry dated September 26, 2019, the Commission opened this docket to receive comments from interested parties regarding Staff's proposal.

R.C. 4903.221(B) sets forth several criteria that the Commission is required to consider in ruling on applications to intervene. Those criteria are listed as follows:

- (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.

The Commission has, itself, added additional detail to the intervention requirements through the promulgation of O.A.C. 4901-1-11. That rule, in section (A), 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." The rule goes on to list several factors that the Commission is required to consider in determining whether a potential intervenor meets that standard:

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<sup>1</sup> R.C. 4928.148

- (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.

**A. Duke Energy Ohio's Interest in this Proceeding is Substantial**

First, Duke Energy Ohio has a unique and substantial interest in this proceeding because it is an electric distribution utility under R.C. 4905.02 and 4905.03 and will be directly affected by R.C. 4928.148, the new statute being implemented here.

**B. Duke Energy Ohio's Intervention Will Not Unduly Prolong or Delay this Proceeding**

This proceeding has just recently commenced, and Duke Energy Ohio has met all established deadlines. Duke Energy Ohio's intervention will not unduly prolong or delay this proceeding.

**C. Duke Energy Ohio's Intervention Will Contribute to the Development of a Full Record**

Lastly, given its experience and intimate understanding of the issues these proceedings raise, Duke Energy Ohio will be able to significantly contribute to the full development and equitable resolution of the factual issues in these proceedings.

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

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 28<sup>th</sup> day of October, 2019, by electronic transmission or U.S. mail, postage prepaid, upon the persons listed below.

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