

BEFORE

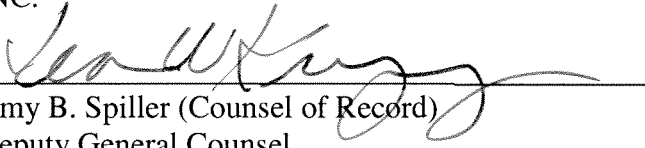
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Power Company for Approval of Full)
Legal Corporate Separation and) Case No. 12-1126-EL-UNC
Amendment to Its Corporate Separation)
Plan.)

**MOTION TO INTERVENE
BY
DUKE ENERGY COMMERCIAL ASSET MANAGEMENT, INC.**

Comes now Duke Energy Commercial Asset Management, Inc. (DECAM), by and through counsel, and moves to intervene, as a full party of record, in the above-captioned proceeding, pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The issues in this proceeding relate to Ohio Power Company's (AEP Ohio) application for legal corporate separation, to implement amendments to its current corporate separation plan, and for waivers of certain filing requirements. DECAM offers the following memorandum in support of its request.

DUKE ENERGY COMMERCIAL ASSET MANAGEMENT,
INC.



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Memorandum in Support

On March 30, 2012, Ohio Power Company (AEP Ohio) filed an application seeking full legal corporate separation, to implement amendments to its current corporate separation plan, and for waivers of certain filing requirements.¹ Specifically, AEP Ohio states that it is proposing to separate the generation function from the transmission and distribution functions.² As proposed in its application, AEP Ohio's transmission and distribution assets will remain with AEP Ohio; however, AEP Ohio plans to transfer its generating assets to an affiliate.³ AEP Ohio's application also seeks a waiver of Commission rules requiring it to state the fair market value of the generating assets it plans to transfer and to have a hearing in the proceeding.⁴

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; and
- (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

¹ Ohio Power Company's Application for Approval of Full Corporate Separation and Amendment to its Corporate Separation Plan, at 1 (March 30, 2012).

² *Id.*

³ *Id.*

⁴ *Id.* at 6-7.

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:

- (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.

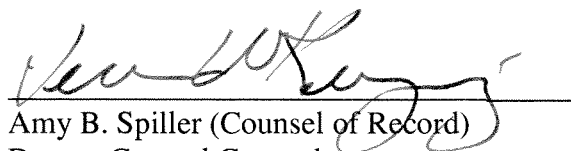
DECAM is the owner and operator of approximately 3,000 MW of gas-fired generation assets, located predominantly in the PJM-market footprint. DECAM is authorized by the Federal Energy Regulatory Commission to sell energy, capacity, and related products at wholesale. DECAM is also a wholesale auction participant, competing to provide full-service requirements and other products in response to wholesale auction solicitations. DECAM could be harmed by the separation of the generation function from the transmission and distribution functions that was proposed by AEP Ohio. This issue is directly related to the issues being considered by the Commission in this proceeding.

Thus, DECAM has a real and substantial interest in the proceeding that is directly related to the merits of the case. No existing party represents DECAM’s interests. Further, DECAM’s participation will contribute to the development of the issues and an equitable resolution. As no

deadline for intervention has yet been determined in this case, intervention by DECAM will not unduly prolong or delay this proceeding.

WHEREFORE, for the reasons set forth herein, DECAM respectfully requests that the Commission grant its motion for intervention in the above-captioned proceeding.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered via U.S. mail (postage prepaid), personal, or electronic mail delivery on this the ^{5th} day of April, 2012, to the following:


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