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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of )  
Duke Energy Ohio for Approval of a )  
Competitive Retail Electric Service )  
Pilot Green Power Rider )

Case No. 06-1398-EL-UN

PUCO

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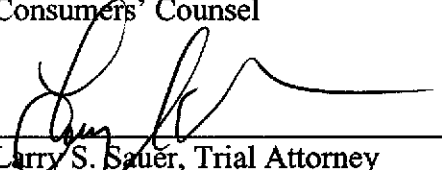
**MOTION TO INTERVENE  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Pursuant to R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11,  
the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the approximately  
600,000 residential utility customers of Duke Energy Ohio, Inc. ("Duke"), moves the  
Public Utilities Commission of Ohio ("Commission" or "PUCO") to grant OCC's  
intervention in the above-captioned proceeding. The reasons for granting OCC's  
intervention are further set forth in the attached Memorandum in Support.

Respectfully submitted,

Janine L. Migden-Ostrander  
Consumers' Counsel

  
Larry S. Sauer, Trial Attorney  
Assistant Consumers' Counsel

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**BEFORE  
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**MEMORANDUM IN SUPPORT**

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On November 29, 2006, Duke submitted its application ("Application") to the PUCO for authority to implement a pilot green energy cost recovery rider ("Rider"). Duke's Application proposes that its customers have the option of paying a premium to enable Duke to purchase generation from renewable energy sources and other environmentally friendly energy sources including the purchase of Renewable Energy Certificates ("RECs") or Carbon Credits to support the development of renewable energy sources such as wind, solar and etc. ("Green Energy").<sup>1</sup> Duke proposes to collect increased rates only from customers who voluntarily support Green Energy efforts and choose to pay the premium under the tariff.<sup>2</sup>

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<sup>1</sup> Application at 2.

<sup>2</sup> Application at 3.

OCC moves, pursuant to R.C. Chapter 4911, to intervene under its legislative authority to represent the interests of the 600,000 residential utility consumers of Duke.<sup>3</sup> Duke's proposal would affect the Company's service offerings to its residential electric customers in Ohio, including rates paid by those residential customers. Therefore, the OCC satisfies the intervention standard stated in R.C. 4903.221. The OCC also meets the Commission's required showing for a party that has a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2), and should therefore be permitted to intervene in this case.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

The nature and extent of OCC's interest and legal position lie in assuring that Duke effectively and efficiently serves the energy needs of its customers, and that the

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<sup>3</sup> For example, R.C. 4911.15 provides:

The consumers' counsel \* \* \* may represent those [residential] customers or [municipal] corporations whenever an application is made to the public utilities commission by any public utility desiring to establish, modify, amend, charge, increase, or reduce any rate, joint rate, toll, fare, classification, charge, or rental.

As further described later, the Application proposes to fund a pilot green energy program through a rider that increases charges to residential and other customers who volunteer for the program.

charges for that service are not, among other things, unjust or unreasonable. OCC is concerned that Duke meets its customers' demand for energy with a diversified portfolio mix of energy supplies that includes not only traditional baseload and peaking assets, but also includes energy options from renewable sources of power. Duke's Application states an intention to purchase the most economically competitive renewable energy with an emphasis from Ohio sources.<sup>4</sup> Duke also states an intention to seek to maintain a diverse supply portfolio of renewable energy sources in an effort to develop markets for economically competitive environmentally friendly products.<sup>5</sup> While OCC is in agreement with Duke's stated intentions, the Commission should require that under this program Duke will be supporting *new* renewable and environmentally friendly sources through the purchase of RECs or Carbon Credits according to generally accepted industry standards.<sup>6</sup>

OCC has worked cooperatively with Duke in the development of this pilot program, and supports Duke's efforts to increase the Green Energy capacity in Ohio. Duke's Application correctly recognizes that environmentally conscious customers are likely to have an interest in this program.<sup>7</sup> Those who choose to participate will find value in promoting environmentally friendly alternative power sources and are therefore willing to pay a premium to promote Green Energy. In its Application, Duke proposes to assess a fee of \$.025 per kWh, with a minimum of 200 kWh and billed in increments

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<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Green-e-Standard at [http://www.green-e.org/what\\_is/standard/standard.html](http://www.green-e.org/what_is/standard/standard.html).

<sup>7</sup> Application at 2.

thereafter of 100 kWh, to all customers who volunteer for this program.<sup>8</sup> Therefore, it is essential that the interest of residential customers be represented inasmuch as the tariffs and/or orders adopted as a result of this case will impact energy options in the future for all Duke customers, including residential customers.

OCC's intervention will not unduly prolong or delay the proceeding, but should provide insights that will facilitate the Commission's treatment of the Application. OCC will significantly contribute to the full development and equitable resolution of the issues herein. OCC brings its statewide, consumer perspective to this case that is different than the perspective of the Applicant. OCC's interest in this case is consistent with its statutory role as the representative of residential consumers of public utility service.

OCC also meets the intervention standards of Ohio Adm. Code 4901-1-11. The OCC should be permitted to intervene because it has a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2), and therefore meets this required showing of the Commission. Ohio Adm. Code 4901-1-11(B) states that the Commission may consider:

- (1) The nature of the person's interest;
- (2) The extent to which the person's interest is represented by existing parties;
- (3) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

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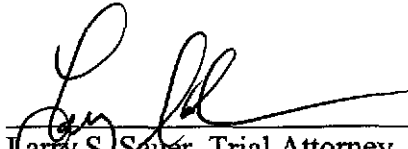
<sup>8</sup> Application at Exhibit 2 (Rider GP, Green Power Rider).

The OCC brings its residential customer perspective to this case that is different than that of the Applicant representing its shareholders. As discussed above, OCC will represent the real and substantial interests of Duke's residential customers. OCC therefore also satisfies the requirements for intervention as stated in the Commission's rules.

For the reasons discussed above, the OCC satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Therefore, OCC's Motion to Intervene should be granted.

Respectfully submitted,


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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's Motion to Intervene was served on the persons stated below via first class U.S. Mail, postage prepaid, this 29th day of November 2006.

  
\_\_\_\_\_  
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