

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

8
RECEIVED-DOCKETING DIV
2007 JUL 26 PM 12:15

PUCO

In the Matter of the Commission's)
Review and Adjustment of the Fuel and)
Purchased Power and the System) Case No. 07-723-EL-UNC
Reliability Tracker Components of Duke)
Energy Ohio, Inc., and Related Matters.)

**MOTION OF
OHIO PARTNERS FOR AFFORDABLE ENERGY
TO INTERVENE, MEMORANDUM IN SUPPORT
AND MOTION TO PRACTICE PRO HAC VICE BEFORE THE
COMMISSION**

David C. Rinebolt
Ohio Partners for Affordable Energy
Colleen L. Mooney
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793
Telephone: (419) 425-8860
FAX: (419) 425-8862
e-mail: drinebolt@aol.com
cmooney2@columbus.rr.com

July 24, 2007

**Counsel for Ohio Partners for
Affordable Energy**

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician SM Date Processed 7/24/07

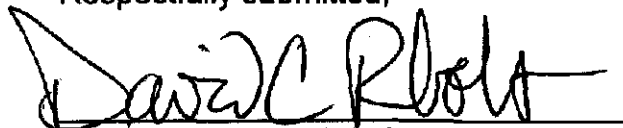
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
Review and Adjustment of the Fuel and)
Purchased Power and the System) Case No. 07-723-EL-UNC
Reliability Tracker Components of Duke)
Energy Ohio, Inc., and Related Matters.)

MOTION TO INTERVENE

Ohio Partners for Affordable Energy ("OPAE") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above-captioned matter pursuant to R.C. §4903.221 and Section 4901-1-1-11 of the Commission's Code of Rules and Regulations, with full powers and rights granted by the Commission specifically, by statute or by the provisions of the Commission's Code of Rules and Regulations to intervening parties. The reasons for granting this motion are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,



David C. Rinebolt (0073178)
Colleen L. Mooney (0015668)
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793
Telephone: (419) 425-8860
FAX: (419) 425-8862
e-mail: drinebolt@aol.com
cmooney2@columbus.rr.com

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
Review and Adjustment of the Fuel and)
Purchased Power and the System) Case No. 07-723-EL-UNC
Reliability Tracker Components of Duke)
Energy Ohio, Inc., and Related Matters.)

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

Ohio Partners for Affordable Energy ("OPAE") should be permitted to intervene in this matter pursuant to Section 4903.22.1, Revised Code, and the Commission's Rules and Regulation contained in Rule 4901-01-11 of the Ohio Administrative Code. The above-referenced application made by Duke Energy Ohio, Inc. ("Duke Ohio") deal with the review and adjustment of the fuel and purchased power and the system reliability tracker components of Duke Energy Ohio's standard service offer. The Public Utilities Commission of Ohio ("Commission") authorized the riders in Case No. 03-93-EL-ATA, et al. *In the Matter of the Application of The Cincinnati Gas & Electric Company to Modify its Nonresidential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish an Alternative Competitive-Bid Service Rate Option subsequent to the Market Development Period*, Case No. 03-93-EL-ATA, et al., Entry on Rehearing (November 23, 2004). OPAE was granted intervention in Case No. 03-93-EL-ATA, et al.

In determining whether to permit intervention, the following criteria are to be considered: the nature of the person's interest; the extent to which that interest is represented by existing parties; the person's potential contribution to just and expeditious resolution of the proceeding; and, whether granting the

intervention will unduly delay or unjustly prejudice any existing party. OPAE meets all four criteria for intervention in this proceeding.

OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans; as such, OPAE has a real and substantial interest in this proceeding. Additionally, OPAE includes as members non-profit organizations located in the service territory that will be affected by the adjustment to the two riders. Those members are as follows: Cincinnati/Hamilton Community Action Agency; Clermont Community Action Agency; Adams-Brown Counties Economic Opportunities, Inc., and, Community Action Partnership of the Greater Dayton Area. OPAE members provides essential services in the form of bill payment assistance programs and weatherization and energy efficiency services to low income customers of Duke. OPAE members are also ratepayers of Duke.

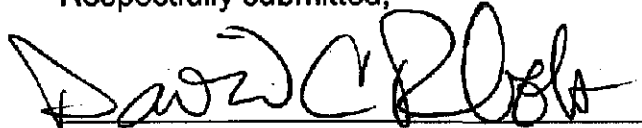
Moreover, as stated above, OPAE was a party to Case No. 03-93-EL-ATA, which established the riders. OPAE's primary interest in this case is to determine whether the proposed the riders are consistent with the decision in the prior case, to ensure that the rider does not shift costs to residential and small commercial customers from other customer groups, and to address any other such issues as may arise during consideration of this matter.

For the above reasons, OPAE has a direct, real and substantial interest in this proceeding, which interest the Commission has previously recognized. Case No. 03-93-EL-ATA, Entry (December 9, 2003). The disposition of this proceeding may impair or impede the ability of OPAE to protect its interests. No other party to the proceeding will adequately represent the interests of OPAE. OPAE is a rare organization that serves as an advocate, service provider and nonprofit customer group. No other party represents this group of interests.

OPAE's participation in these proceedings will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues and concerns raised in this proceeding.

Therefore, OPAE is entitled to intervene in this proceeding with the full powers and rights granted by statute and by the provisions of the Commission's Codes of Rules and Regulations to intervening parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

David C. Rinebolt (0073178)

Colleen L. Mooney (0015668)

Ohio Partners for Affordable Energy

231 West Lima Street

P.O. Box 1793

Findlay, OH 45840

Telephone: (419) 425-8860

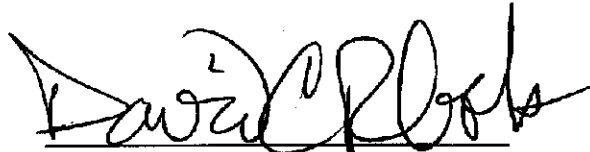
FAX: (419) 425-8862

e-mail: drinebolt@aol.com

cmooney2@columbus.rr.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum of Support and the attached Motion to Admit *Pro Hac Vice* was served by regular U.S. Mail upon the parties of record identified below in this case on this 24th day of July, 2007.



David C. Rinebolt, Esq.

**Counsel for Ohio Partners for
Affordable Energy**

Paul Colbert
Rocco D'Ascenzo
Duke Energy Ohio, Inc.
2500 Atrium II
P. O. Box 961
Cincinnati, OH 45201-0960

Duane Luckey
Attorney General's Office
Public Utilities Section
180 East Broad Street
Columbus, OH 43215

Michael Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

Ann M. Hotz
Office of the Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

Samuel C. Randazzo
McNees, Wallace & Nurick, LLC
21 East State Street, 17th Floor
Columbus, OH 43215

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
Review and Adjustment of the Fuel and)
Purchased Power and the System) Case No. 07-723-EL-UNC
Reliability Tracker Components of Duke)
Energy Ohio, Inc., and Related Matters.)


**MOTION TO ADMIT DAVID C. RINEBOLT TO PRACTICE
PRO HAC VICE BEFORE THE COMMISSION**

Pursuant to Rule 4901-1-08(B) of the Ohio Administrative Code, Colleen L. Mooney (0015668), an attorney licensed to practice in the State of Ohio, respectfully petitions the Public Utilities Commission of Ohio ("Commission") to permit David C. Rinebolt to practice *pro hac vice* before the Commission in the above-referenced proceeding. Mr. Rinebolt represents Ohio Partners for Affordable Energy, which is an Ohio corporation engaged in advocating for affordable energy policies.

Mr. Rinebolt graduated from the Columbus School of Law of the Catholic University of America in May 1981. As an active member of the District of Columbia Bar, Bar No. 367210, Mr. Rinebolt is licensed to practice before the federal courts of the District of Columbia. Furthermore, Mr. Rinebolt has practiced law continuously since being admitted to the District of Columbia Bar in October 1982. He is also registered with the Supreme Court of the State of Ohio in corporate status (Ohio Bar No. 0073178).

WHEREFORE, Colleen L. Mooney respectfully requests that David C. Rinebolt be permitted to practice before the Commission in the aforementioned proceedings.

Respectfully submitted,

Colleen L. Mooney 

Colleen L. Mooney (0015868)
Ohio Partners for Affordable Energy
1431 Mulford Road
Columbus, OH 43212
(614) 488-5739