

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
Duke Energy Ohio, Inc. to Adjust and )  
Set its 2008 System Reliability Tracker. )

Case No. 07-975-EL-UNC

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

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September 25, 2007

**Counsel for Ohio Partners for  
Affordable Energy**

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**MOTION TO INTERVENE**

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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,



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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

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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") proposes to set and adjust the system reliability tracker ("SRT") rate for the next calendar year. OPAE's motion to intervene in the last such application to adjust the SRT rate was granted by the Public Utilities Commission of Ohio ("Commission") on *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set its System Reliability Tracker Market Price*, Case No. 06-1069-EL-UNC, Entry (November 6, 2006) and the previous case *In the Matter of the Application of The Cincinnati Gas & Electric Company to Adjust and Set its System Reliability Tracker Market Price*, Case No. 05-724-EL-UNC, Entry (August 7, 2005).

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 SRT. 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 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, OPAE was a party to Case No. 03-93-EL-ATA, which established the SRT, as well as Case Nos. 05-724-EL-UNC and 06-1069-EL-UNC. OPAE's primary interest in this case is to determine whether the proposed SRT is 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.

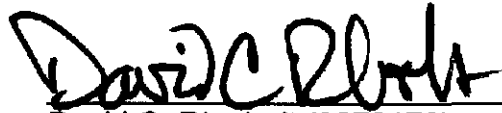
For the above reasons, OPAE has a direct, real and substantial interest in this proceeding, which interest the Commission has previously recognized. Case No. 03-93-EL-ATA, Entry (December 9, 2003), Case No. 05-724-EL-UNC, Entry (August 17, 2005) and Case No. 06-1069-EL-UNC, Entry (November 6, 2006). 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", is written over a horizontal line.

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## 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 25th day of September, 2007.



David C. Rinebolt, Esq.

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Affordable Energy**

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


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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 for the Columbus School of Law of the Catholic University of American 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,

A handwritten signature in black ink, appearing to read "Colleen L. McInerney", written over a horizontal line.

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