

FILE

FAX

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan ) Case No. 08-920-EL-SSO

In the Matter of the Application of Duke Energy Ohio for Approval to Amend Accounting Methods ) Case No. 08-921-EL-AAM

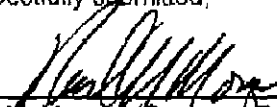
In the Matter of the Application of Duke Energy Ohio for Approval of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge ) Case No. 08-922-EL-UNC

In the Matter of the Application of Duke Energy Ohio for Approval to Amend Its Tariff ) Case No. 08-923-EL-ATA

MOTION TO INTERVENE by COMMUNITIES UNITED FOR ACTION  
MEMORANDUM IN SUPPORT

In accordance with the Commission's Administrative Provisions, OAC 4901-1-1, Communities United for Action moves that it be allowed to intervene as a full party in the Commission's Review cited above. The reasons supporting the granting of this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



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## MEMORANDUM IN SUPPORT

### I. INTRODUCTION

Communities United for Action (CUFA) is a nonprofit corporation based in Cincinnati, Ohio. CUFA is a multi-issue community organization that brings together organizations and communities representing a variety of cultural and ethnic backgrounds and economic levels, with particular emphasis on working class neighborhoods in Cincinnati's Millcreek Valley. CUFA's goals include mobilizing community residents to act as advocates on decisions that determine the quality of their lives. CUFA is comprised of almost 50 local organizations and institutions, including tenant associations, community councils, churches, and senior citizens organizations.

### II. THE STANDARDS FOR INTERVENTION

The standards for intervention are provided in both statute and the administrative code.

Rule 4901-1-11(A), Ohio Administrative Code, provides that

Upon timely motion, any person shall be permitted to intervene upon a showing that:

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(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

R.C. 4903-221 provides that the Commission consider the following criteria when ruling upon applications to intervene in proceedings.

(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 prospective intervenor will unduly prolong or delay the proceedings;

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

O.A.C. 4901-1-11(B) provides that

Upon timely motion, any person may be permitted to intervene in a proceeding upon a showing that the person has a real and substantial interest in the proceeding.

CUFA's intervention herein should be granted under any of these standards.

### III. CUFA'S INTERVENTION SHOULD BE GRANTED

#### A. CUFA'S Motion Is Timely

The instant motion has been filed before the deadline for the filing of Motions to intervene.

**B. CUFA has a Real and Substantial Interest in the Proceeding**

CUFA's constituency includes many low income customers, for whom electric service is essential. CUFA has a long and abiding interest in assuring continued and affordable gas and electric services to the customers of Duke Energy and brings to the case a grass roots and low income perspective that might otherwise be missed.

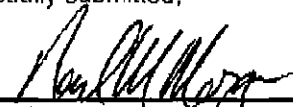
**IV. CUFA'S INTERVENTION WILL CONTRIBUTE TO AN EQUITABLE RESOLUTION AND WILL NOT UNDULY PROLONG OR DELAY THE PROCEEDING.**

CUFA will not unduly delay this proceeding. CUFA intends to present important evidence that the Commission otherwise might not otherwise hear. Both CUFA and its affiliate predecessor, Citywide Coalition for Utility Reform, have served this role in numerous proceedings dating back to the late 1970's and most recently Cinergy's 2001 gas rate case. In each instance CUFA has made significant contributions to the full development of an equitable and timely resolution of those cases.

**V. CONCLUSION**

Therefore, for the reasons set forth above, CUFA requests that the Commission grant its Motion to Intervene.

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing pleading was served on the following either electronically or by first class U.S. mail, postage prepaid, upon all parties of record on August 22 and again on September 26, 2008.

  
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 Noel M. Morgan  
 Trial Attorney for Communities United for Action