

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Increase in Electric) Case No. 08-709-EL-AIR
Distribution Rates.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for a Tariff Approval.) Case No. 08-710-EL-ATA

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval to Change) Case No. 08-711-EL-AAM
Accounting Methods.)

In the Matter of the Application of Cincinnati)
Gas & Electric Company for Approval of its) Case No. 06-718-EL-ATA
Rider BDP, Backup Delivery Point.)

MOTION TO INTERVENE OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code ("OAC"), The Ohio Cable Telecommunications Association ("the OCTA") moves for leave to intervene in these proceedings. The reasons supporting the Motion to Intervene are set forth in the accompanying memorandum in support.

WHEREFORE, the OCTA respectfully requests that it be permitted to intervene in these matters.

Respectfully submitted,

Stephen M. Howard
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street, P.O. Box 1008
Columbus, Ohio 43216-1008
Tel: (614) 464-5401
Fax: (614) 719-4772
E-mail: smhoward@vorys.com

*Attorneys for The Ohio Cable
Telecommunications Association*

RECEIVED-BOOKETING DIV
2008 OCT 17 PM 3:19
PUCO

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates.)))	Case No. 08-709-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc., for a Tariff Approval.))	Case No. 08-710-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.)))	Case No. 08-711-EL-AAM
In the Matter of the Application of Cincinnati Gas & Electric Company for Approval of its Rider BDP, Backup Delivery Point.)))	Case No. 06-718-EL-ATA

MEMORANDUM IN SUPPORT

Section 4903.221, Revised Code, establishes the following items which the Commission must consider when ruling on a motion to intervene:

- (1) The nature and extent of the prospective intervener's interests;
- (2) The legal position advanced by the prospective intervener and its probable relation to the case;
- (3) Whether the intervention by the prospective intervener will unduly prolong or delay the proceedings; and
- (4) Whether the prospective intervener will significantly contribute to full development and equitable resolution of the factual issues.

To implement the statutory provision the Commission promulgated Rule 4901-1-11(B) of the Ohio Administrative Code which instructs the Legal Director, the Deputy Legal Director, or the Attorney Examiner to consider:

- (1) The nature of person's interests;

- (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 request to intervention would unduly delay the proceeding or unjustly prejudice any existing party.

The Ohio Cable Telecommunications Association ("the OCTA") is a trade association made up of various cable television operators throughout Ohio. Its members often attach to electric or telephone poles to string cable in order to provide cable television service to customers throughout Ohio, including the electric service territory of Duke Energy Ohio, Inc. ("Duke Energy Ohio" and/or "Duke Energy" and/or "Duke"). Many of the OCTA members attach to electric utility poles, pay rental rates, and are subject to tariff provisions contained in electric utility's tariffs regarding pole attachments.

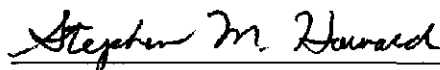
In the Application to increase rates before the Commission, Duke Energy proposes to increase its annual pole attachment rate from \$4.25 per pole per year to \$14.42 per pole per year. Further, Duke proposes to make substantial changes to the rules and regulations contained in its pole attachment tariff. Some of these proposed tariff changes include excluding overlapping of facilities from the tariff, reservation of unilateral discretion in decisions regarding attachment, penalties for unrecorded attachments, the requirement of a prior approval before a cable television operator can attach to a drop pole, the determination of cost responsibility where rearrangement of attachments on a pole is necessary, discriminatory assessment of fines at Duke's discretion for cable operators' (but not Duke's) safety violations, and issues relating to pole inspections and audits.

Members of the OCTA who provide cable television service in the Duke Energy Ohio service territory will be affected by the proposed increase in pole attachment rates and the proposed changes to the tariff. These proposals, if adopted, will have consequences on the operations and business interests of the members of the OCTA. Therefore, the OCTA and its members have a real and substantial interest in these matters.

The OCTA and its members' experience and knowledge will assist the Commission in considering the issues in these cases, as the OCTA's participation has assisted the Commission in other pole attachment tariff cases. Therefore, the OCTA's participation will contribute to the full development and equitable resolution of the issues. No other party can adequately represent the interests of the OCTA. Its participation will not unduly delay or unjustly prejudice any existing party. For the above-discussed reasons, the OCTA has a direct, real and substantial interest in the issues in these matters, which can only be protected by its participation.

WHEREFORE, for the reasons explained above, the OCTA respectfully requests that the Commission permit it to intervene in the above-captioned proceedings and be made a party for all purposes.

Respectfully submitted,



Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street, P.O. Box 1008

Columbus, Ohio 43216-1008

Tel: (614) 464-5401

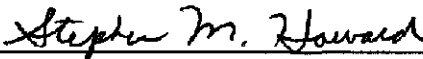
Fax: (614) 719-4772

E-mail: smhoward@vorys.com

***Attorneys for The Ohio Cable
Telecommunications Association***

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion to Intervene was served upon the following persons via email and via first-class U.S. mail, postage prepaid, this 17th day of October, 2008.



Stephen M. Howard

Paul Colbert, Esq.
Rocco D'Ascenzo, Esq.
Duke Energy-Ohio
139 East Fourth Street
Cincinnati, OH 45201
paul.colbert@duke-energy.com
rocco.dascenzo@duke-energy.com

Thomas J. O'Brien, Esq.
Sally W. Bloomfield, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
tobrien@bricker.com
sbloomfield@bricker.com

David C. Rinebolt, Esq.
Colleen L. Mooney, Esq.
Ohio Partners for Affordable Energy
337 South Main Street, 4th Floor, Suite 5
P. O. Box 1793
Findlay, OH 45839-1793
drinebolt@aol.com
cmooney@columbus.rr.com

David F. Boehm, Esq.
Michael L. Kurtz, Esq.
Boehm, Kurtz & Lowry
36 East 7th Street, Suite 1510
Cincinnati, OH 45202-4454
dboehm@bkllawfirm.com
mkurtz@bkllawfirm.com

John W. Bentine, Esq.
Mark S. Yurick, Esq.
Chester, Wilcox & Saxbe LLP
65 East State Street, Suite 1000
Columbus, OH 43215-4213
jbentine@cwslaw.com
myurick@cwslaw.com

Ann M. Hotz, Esq.
Jeffrey M. Small, Esq.
Jacqueline Lake Roberts, Esq.
Office of Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
hotz@occ.state.oh.us
small@occ.state.oh.us
roberts@occ.state.oh.us
idzkowski@occ.state.oh.us

Stephen Reilly, Esq.
Office of the Attorney General
Public Utilities Commission of Ohio
180 East Broad Street, 6th Floor
Columbus, OH 43215
Stephen.Reilly@puc.state.oh.us

Mary W. Christensen
Christensen Christensen Donchatz
Kettlewell & Owens, LLP
100 East Campus View Blvd., Suite 360
Columbus, OH 43235-4679
mchristensen@columbuslaw.org