

139 East Fourth Street, Room 2500 AT II
P.O. Box 980
Cincinnati, Ohio 45201-0960
Tel: 513-419-1847
Fax: 513-419-1846
anita.schafer@duke-energy.com

Anita M. Schafer
Sr. Paralegal

RECEIVED-DOCKETING DIV

2009 JUN 11 AM 9: 20

PUCO

VIA OVERNIGHT MAIL DELIVERY

June 10, 2009

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Re: Case No. 09-495-EL-UNC

Dear Docketing Division:

Enclose please find an original and twelve copies of the Application of Duke Energy Ohio, the Motion of Duke Energy Ohio for Leave to File a Corporate Separation Plan Instant, the Duke Energy Ohio's Second Amended Corporation Separation Plan. Please date-stamp the two extra copies of the enclosures and return in the envelope provided.

Should you have any questions, please contact me at (513) 419-1847.

Very truly yours,



Anita M. Schafer
Senior Paralegal

Enclosures

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 _____ Date Processed JUN 11 2009

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV
2009 JUN 11 AM 9:22

In the Matter of the Application of)
Duke Energy Ohio for Approval of)
the Second Amended Corporate Separation)
Plan Under Section 4928.17, Revised Code)
and 4901:1-37 Ohio Administrative Code)

Case No. 09- **495** -EL-UNC

PUCO

**APPLICATION OF
DUKE ENERGY OHIO**

Duke Energy Ohio requests approval for its Second Amended Corporate Separation Plan (Plan) pursuant to Section 4928.17, Revised Code and Section 4901:1-37-05, Ohio Administrative Code. The proposed Plan is consistent with the above-mentioned codes and is designed to ensure a competitive market, prevent unfair competitive advantage, prohibit the abuse of market power and to effectuate Ohio state policy.

Duke Energy Ohio is operating pursuant to its Amended Corporate Separation Plan approved by the Public Utilities Commission of Ohio (Commission) in Case No. 99-1658-EL-ETP, and as amended in Case No. 03-93-EL-ATA, et al. The Commission approved Duke Energy Ohio's Corporate Separation Plan as filed in Case No. 99-1658-EL-ETP, including a requirement that Duke Energy Ohio transfer its assets to an electric wholesale generator (EWG) by December 31, 2004. The Commission granted Duke Energy Ohio one waiver in Case No. 03-93-EL-ATA, et al., to avoid transferring its generating assets to an EWG until December 31, 2008. Subsequently, also in Case No. 03-93-EL-ATA, et al, the Commission ordered Duke Energy Ohio to amend its Corporate Separation Plan to restrict Duke Energy Ohio from transferring its generating assets to an EWG until after the expiration of its Rate Stabilization

Plan. Duke Energy Ohio received approval from the Commission in Case No. 08-920-EL-SSO, et al. for its Amended Corporate Separation Plan to remain in effect.

On July 2, 2008 in Case No. 08-777-EL-ORD, Commission Staff proposed a number of changes to the Ohio Administrative Code to adopt new rules for the Amended Substitute Bill 221. In the Finding and Order dated September 17, 2008 the Commission clarified that within sixty days of the effective date of O.A.C. Section 4901:1-37 each electric utility was to file a corporate separation plan.

The Plan being filed with this Application, complies with the requirements set out in Ohio Administrative Code, Section 4901:1-37-05. Also, as required, the Plan is a stand-alone document and includes the following required components of §4901:1-37-05:

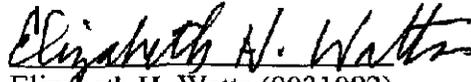
- (1) Provisions that maintain structural safeguards.
- (2) Provisions that maintain separate accounting.
- (3) A list of all current affiliates identifying each affiliate's product(s) and/or service(s) that it provides.
- (4) A list identifying and describing the financial arrangements between the electric utility and all affiliates.
- (5) A code of conduct policy that complies with this chapter and that employees of the electric utility and affiliates must follow.
- (6) A description of any joint advertising and/or joint marketing activities between the electric utility and an affiliate that the electric utility intends to utilize, including when and where the name and logo of the electric utility will be utilized, and explain how such activities will comply with this chapter.
- (7) Provisions related to maintaining a cost allocation manual (CAM).
- (8) A description and timeline of all planned education and training, throughout the holding company structure, to ensure that electric utility and affiliate employees know and can implement the policies and procedures of this rule. The information shall be maintained on the electric utility's public web site.
- (9) A copy of a policy statement to be signed by electric utility and affiliate employees who have access to any nonpublic electric utility information, which indicates that they are aware of, have read, and will follow all policies and procedures regarding limitation on the use of nonpublic electric utility information. The statement will include a provision stating that failure to observe these limitations will result in appropriate disciplinary action.

- (10) A description of the internal compliance monitoring procedures and the methods for corrective action for compliance with this chapter.
- (11) A designation of the electric utility's compliance officer who will be the contact for the commission and staff on corporate separation matters. The compliance officer shall certify that the approved corporate separation plan is up to date and in compliance with the commission's rules and orders. The electric utility shall notify the commission and the director of the utilities department (or their designee) of changes in the compliance officer.
- (12) A detailed description outlining how the electric utility and its affiliates will comply with this chapter. The format shall identify the provision and then provide the description.
- (13) A detailed listing of the electric utility's electric services and the electric utility's transmission and distribution affiliates' electric services.
- (14) A complaint procedure to address issues concerning compliance with this chapter, which, at a minimum, shall include the following:
 - (a) All complaints, whether written or verbal, shall be referred to the compliance officer designated by the electric utility to handle corporate separation matters or the compliance officer's designee.
 - (b) The complaint shall be acknowledged within five working days of its receipt.
 - (c) A written statement of the complaint shall be prepared and include the name of the complainant, a detailed factual report of the complaint, all relevant dates, the entities involved, the employees involved, and the specific claim.
 - (d) The results of the preliminary investigation shall be provided to the complainant in writing within thirty days after the complaint was received, including a description of any course of action that was taken.
 - (e) The written statements of the complaints and resulting investigations required by paragraphs (B)(14)(c) and (B)(14) (d) of this rule shall be kept in the CAM, in accordance with rule 4901;L37-08 of the Administrative Code for a period of not less than three years.
 - (f) This complaint procedure shall not in any way limit the rights of any person to file a formal complaint with the commission.

This Second Amended Corporate Separation Plan conforms to both the Ohio Revised Code and the Ohio Administrative Code by supporting the policy of the state in promoting competition and protecting against unfair competitive advantage. Furthermore, it makes provision for separate accounting, a code of conduct, proper financial arrangements through the Cost Allocation Manual, employee training, and compliance monitoring.

Duke Energy Ohio respectfully requests that the Commission issue an Order approving the Second Amended Corporate Separation Plan.

Respectfully submitted,



Elizabeth H. Watts (0031092),

Assistant General Counsel

Rocco O. D'Ascenzo

Senior Counsel

Amy B. Spiller

Associate General Counsel

Duke Energy Ohio

139 E. Fourth Street

P.O. Box 960

Cincinnati, Ohio 45201-0960

Phone: 513-419-1871

Facsimile: 513-419-1846