

**FILE**

**BOEHM, KURTZ & LOWRY**

ATTORNEYS AT LAW  
36 EAST SEVENTH STREET  
SUITE 1510  
CINCINNATI, OHIO 45202  
TELEPHONE (513) 421-2255  
TELECOPIER (513) 421-2764

RECEIVED-DOCKETING DIV

2009 JUL -8 AM 11:58

**PUCO**

**Via Overnight Mail**

July 7, 2009

Public Utilities Commission of Ohio  
PUCO Docketing  
180 E. Broad Street, 10th Floor  
Columbus, Ohio 43215

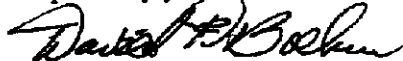
**In re: Case No. 09-495-EL-UNC**

Dear Sir/Madam:

Please find enclosed an original and twenty (20) copies of THE OHIO ENERGY GROUP'S MOTION FOR LEAVE TO INTERVENE AND MEMORANDUM IN SUPPORT filed today in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



David F. Boehm, Esq.

Michael L. Kurtz, Esq.

**BOEHM, KURTZ & LOWRY**

MLKkew

Encl.

Cc: Certificate of Service

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 JUL 08 2009

# CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 7<sup>th</sup> day of July, 2009 the following:



David F. Boehm, Esq.

Michael L. Kurtz, Esq.

DUKE ENERGY OHIO  
139 E FOURTH STREET P O BOX 960  
CINCINNATI OH 45201-0960

WATTS, ELIZABETH H. ATTORNEY AT LAW  
155 EAST BROAD ST., 21st FLOOR  
COLUMBUS OH 43215

SPILLER, AMY B  
139 FOURTH STREET 25 ATRIUM II  
CINCINNATI OH 45202

SCHAFER, ANITA  
PARALEGAL  
CINERGY CORP.  
139 E. FOURTH ST. P.O. BOX 960  
CINCINNATI OH 45201-0960

D'ASCENZO, ROCCO ATTORNEY AT LAW  
CINCINNATI GAS & ELECTRIC CO.  
139 EAST FOURTH ST, ROOM 2500 25th FLOOR,  
ATRIUM II BUILDING  
CINCINNATI OH 45201-0960

**BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO**

<b>In The Matter of the Application of Duke Energy</b>	<b>:</b>	<b>Case No. 09-495-EL-UNC</b>
<b>Ohio for Approval of the Second Amended</b>	<b>:</b>	
<b>Corporate Separation Plan Under Section 4928.17,</b>	<b>:</b>	
<b>Revised Code and 4901:1-37 Ohio Administrative</b>	<b>:</b>	
<b>Code</b>	<b>:</b>	

---

---

**THE OHIO ENERGY GROUP'S  
MOTION FOR LEAVE TO INTERVENE**

---

Pursuant to the Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-1-11, the Ohio Energy Group. ("OEG") moves for leave to intervene in this proceeding. The Public Utility Commission of Ohio ("Commission") should grant OEG leave to intervene because OEG has a real and substantial interest in the proceeding, and the Commission's disposition of this proceeding may impair or impede OEG's ability to protect that interest.

Respectfully submitted,



---

David F. Boehm, Esq.

Michael L. Kurtz, Esq.

**BOEHM, KURTZ & LOWRY**

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: [dboehm@BKLawfirm.com](mailto:dboehm@BKLawfirm.com)

[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)

July 7, 2009

**COUNSEL FOR OHIO ENERGY GROUP**

**BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO**

<b>In The Matter of the Application of Duke Energy</b>	<b>:</b>	<b>Case No. 09-495-EL-UNC</b>
<b>Ohio for Approval of the Second Amended</b>	<b>:</b>	
<b>Corporate Separation Plan Under Section 4928.17,</b>	<b>:</b>	
<b>Revised Code and 4901:1-37 Ohio Administrative</b>	<b>:</b>	
<b>Code</b>	<b>:</b>	

---

---

**MEMORANDUM IN SUPPORT OF  
THE OHIO ENERGY GROUP'S  
MOTION TO INTERVENE**

---

Pursuant to Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-01-11, the Public Utility Commission of Ohio should grant OEG leave to intervene in this proceeding.

OEG is a non-profit entity organized to represent the interests of large industrial customers in electric and gas regulatory proceedings before the Public Utility Commission of Ohio ("Commission"). OEG's members who are participating in this intervention are: AK Steel Corporation, Air Products & Chemicals, Inc., E.I. DuPont de Nemours & Co., Ford Motor Company, General Electric – Aircraft Engines, The Procter and Gamble Co., and Worthington Industries. These companies purchase electric distribution services from Duke Energy Ohio, Inc. Therefore, the interests of OEG's members may be directly affected by the outcome of this proceeding. OEG intends to play a constructive role in this case and provide information which will assist the Commission.

No other party to this proceeding can adequately represent OEG's interest. Intervention would not unduly delay the proceeding nor unjustly prejudice any existing party.

Accordingly, OEG has a real and substantial interest and is entitled to intervene in this action under Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-1-11.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David F. Boehm", is written over a horizontal line.

David F. Boehm, Esq.

Michael L. Kurtz, Esq.

**BOEHM, KURTZ & LOWRY**

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: [dboehm@BKLLawfirm.com](mailto:dboehm@BKLLawfirm.com)

[mkurtz@BKLLawfirm.com](mailto:mkurtz@BKLLawfirm.com)

**COUNSEL FOR THE OHIO ENERGY GROUP**

July 7, 2009