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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the University of Cincinnati for Approval of a Unique Arrangement with Duke Energy Ohio, Inc.	))))	Case No. 09-1818-EL-AEC

MOTION TO INTERVENE
BY
DUKE ENERGY OHIO

Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) hereby moves for intervention in the above-styled proceeding, as a full party of record, pursuant to the provisions of Section 4903.221, Revised Code, and Rule 4901-1-11 of the Ohio Administrative Code (O.A.C.). Duke Energy Ohio has a real and substantial interest in this case and meets the statutory and regulatory criteria for intervention, as is more fully set forth in the accompanying Memorandum in Support.

NOW, THEREFORE, Duke Energy Ohio respectfully requests that its Motion to Intervene be granted and that it be made a full party of record.

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Respectfully submitted,

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MEMORANDUM IN SUPPORT

Paragraph (B) of Section 4903.221, Revised Code, provides that, in considering motions to intervene, the Public Utilities Commission of Ohio (Commission) must consider the following four criteria:

> (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 the prospective intervenor will unduly prolong or delay the proceedings;
> (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

The Commission's administrative rules also address interventions. Paragraph (A) of Rule 4901-1-11, O.A.C., requires a movant to be granted intervention if that movant demonstrates that it 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." That rule goes on, in paragraph (B), to set forth additional factors that are to be considered in deciding whether to grant intervention:

> In deciding whether to permit intervention under paragraph (A)(2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner shall consider:
>
> > (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 the prospective intervenor will unduly prolong or delay the proceedings.
> > (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

(5) The extent to which the person's interest is represented by existing parties.

On November 17, 2009, the University of Cincinnati (UC) filed an application asking for Commission approval of a unique arrangement between UC and Duke Energy Ohio. That arrangement, as stated by UC in its application, is intended to allow UC to convert its 48 MW generation facility from natural gas to an alternative energy source.

Duke Energy Ohio, as the other party to the unique arrangement proposed by UC in its application, has a discrete interest in this proceeding through its direct involvement in negotiating and implementing the unique arrangement after approval. As the Company intends to support the position of UC, Duke Energy Ohio's interests are directly related to the merits of UC's application. This support will not unduly delay or prolong the resolution of this proceeding. In addition, as Duke Energy Ohio will, under the proposed arrangement, incur various expenses that will be recovered through existing rate mechanisms, Duke Energy Ohio's participation will develop more fully the issues related to its treatment of those expenses. No other party is in the position of being able to provide this information for the Commission.

As UC states in its application, the proposed arrangement will require UC to sell to Duke Energy Ohio, on an annual basis, 50,000 renewable energy credits (RECs) generated from an Ohio-sited source for $10.00 per REC. Each REC represents one megawatt hour (MWh) that UC creates from its gas turbines. Under Section 4928.64, Revised Code, Duke Energy Ohio is required to provide an escalating portion of the electricity supply required for its standard service offer from alternative energy resources. That requirement may, according to Section 4928.65, Revised Code, be met through the use of RECs. Duke Energy Ohio's purchase of RECs from UC will address the nonsolar

aspect of this statutory requirement for alternative energy through an Ohio-sited resource and, thereby, further the state policies set forth in Section 4928.02, Revised Code. The cost of Duke Energy Ohio's acquisition of the RECs will flow through its fuel and purchased power rider.

In addition to the RECs that would become available to Duke Energy Ohio, this unique arrangement would result in increased overall efficiency in generation resources. Under Duke Energy Ohio's tariffs, the save-a-watt rider (Rider SAW) is designed to compensate the Company for achieving energy efficiency results, including recovery of revenues lost. UC is, and will remain, a participant in Duke Energy Ohio's Commission-approved peak load management program (PowerShare), one of the programs available under the save-a-watt program. Under PowerShare, as Duke Energy Ohio's load reaches peak periods, or if the source is more economical or efficient than Duke Energy Ohio's own resources, the Company will be able to call upon UC to reduce its dependence on Duke Energy Ohio's capacity through the use of UC's more efficient and clean generation capabilities. Thus, the energy saving within the Duke Energy Ohio system will also result in overall energy saving due to the substitution of the UC, landfill-gas based generation. This improved overall efficiency, which addresses state policy as set forth in Section 4928.02, Revised Code, will result in additional recovery by Duke Energy Ohio under Rider SAW.

NOW, THEREFORE, Duke Energy Ohio respectfully requests that its motion to intervene be granted and that it be made a full party of record.

Respectfully submitted,

Amy B. Spiller
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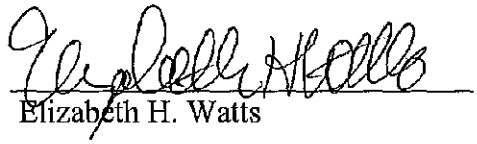
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via first class U.S. Mail, postage prepaid, this 14th day of December 2009, upon the following:

M. Howard Petricoff
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008



Elizabeth H. Watts