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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Authority to Establish a) Case No. 11-3549-EL-SSO
Standard Service Offer Pursuant to Section)
4928.143, Revised Code, in the Form of an)
Electric Security Plan, Accounting)
Modifications and Tariffs for Generation)
Service.)

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Authority to Amend its) Case No. 11-3550-EL-ATA
Certified Supplier Tariff, P.U.C.O. No. 20.)

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Authority to Amend its) Case No. 11-3551-EL-UNC
Corporate Separation Plan.)

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**MOTION FOR LEAVE TO INTERVENE OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Now come Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (jointly "Constellation"), who, pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, move for intervention in the above styled proceeding as full parties of record. The reasons supporting the intervention are contained in the accompanying Memorandum in Support.

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion for leave to intervene and that Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. each be made a full party of record.

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Respectfully Submitted,

M. Howard Petricoff
M. Howard Petricoff (0008287) *by SMH*
Michael J. Settineri (0073369)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
Tel. (614) 464-5414
Fax (614) 464-6350
mhpetricoff@vorys.com
mjsettineri@vorys.com

Attorneys for Constellation NewEnergy, Inc. and
Constellation Energy Commodities Group, Inc.

**MEMORANDUM IN SUPPORT OF
THE MOTION TO INTERVENE OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record.

Rule 4901-1-11 of the Ohio Administrative Code states in part:

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

* * *

(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.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio (the "Commission") considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. (See also R.C. 4903.221(B) upon which the above rule is authorized). A review of these factors in light of following facts supports granting Constellation's intervention.

Constellation NewEnergy, Inc. ("CNE") provides electricity and energy-related services to retail customers in Ohio as well as in 15 other states, the District of Columbia and two Canadian provinces and serves over 15,000 megawatts of load and over 10,000 customers. CNE holds a certificate as a competitive retail electric supplier ("CRES") from the Commission to engage in the competitive sale of electric service to retail customers in Ohio. CNE currently provides service to retail electric customers in Ohio.

Constellation Energy Commodities Group, Inc. (“CCG”) provides wholesale power and risk management services to wholesale customers (distribution utilities, co-ops, municipalities, power marketers, utilities and other large load serving entities), throughout the United States and Canada, in both regulated and restructured energy markets. CCG is active in the PJM Interconnection, L.L.C. and Midwest Independent System Operator (“MISO”) wholesale power markets and has sold power for wholesale delivery in Ohio. CNE and CCG are subsidiaries of Constellation Energy Group, Inc.

On June 20, 2011, Duke Energy Ohio, Inc. (“Duke”) filed an application for a Standard Service Offer (“SSO”) pursuant to Section 4928.141, Revised Code. Duke’s current Electric Security Plan will expire on December 31, 2011. Duke is proposing an Electric Security Plan that is intended to last almost a decade.

Constellation has existing and potential business interests in the State that will be affected by the outcome of the proceeding. The Commission’s decision in the matter will affect the viability of the competitive retail and wholesale electric markets in Ohio in which CCG and CNE provides electric power and other products and services to retail and wholesale customers. CNE and CCG have been active parties before the Commission in numerous previous proceedings regarding the proposal of a market rate offer (“MRO”) and ESPs. Constellation participated in the first Duke Energy Ohio ESP Case, Case No. 08-920-EL-SSO. CNE and CCG’s extensive experience in matters regarding the development of a competitive bidding process and competitive retail markets will assist the Commission in the development of a more complete record in this matter.

This motion for intervention precedes the July 6, 2011 deadline established by the attorney examiner. The motion is also being filed more than five days before the hearing

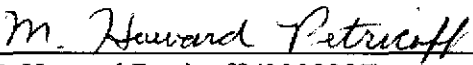
deadline established in Rule 4901-1-29. Thus, the intervention is timely and should not unduly delay the instant proceedings. Finally, because of its unique expertise and participation in the competitive retail and wholesale markets in Ohio and across the country, Constellation will be able to assist in the development of a full and complete record to assist the Commission in its consideration of the Application.

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion for leave to intervene and that CNE and CCG each be made a full party of record. For purposes of receiving service in the proceeding, in addition to the undersigned, Constellation requests that the following persons be placed on the official service list:

David I. Fein
Vice President, Energy Policy - Midwest
Constellation Energy Group, Inc.
550 West Washington, Blvd., Suite 300
Chicago, IL 60661
312.704.8499
david.fein@constellation.com

Cynthia Fonner Brady
Senior Counsel
Constellation Energy Resources, LLC
550 West Washington, Blvd., Suite 300
Chicago, IL 60661
312.704.8518
cynthia.brady@constellation.com

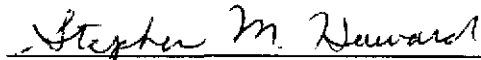
Respectfully Submitted,


M. Howard Petricoff (0008287)
Michael J. Settineri (0073369) *by SMH*
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
Tel. (614) 464-5414
Fax (614) 464-6350
mhpetricoff@vorys.com
mjsettineri@vorys.com

Attorneys for Constellation NewEnergy, Inc. and
Constellation Energy Commodities Group, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 1st day of July, 2011 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.


Stephen M. Howard

David F. Boehm
Michael L. Kurtz
Boehm, Kurtz & Lowry
36 E. Seventh St., Suite 1510
Cincinnati, OH 45202
dboehm@BKLLawfirm.com
mkurtz@BKLLawfirm.com

Thomas J. O'Brien
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215-4291
tobrien@bricker.com

Samuel C. Randazzo
McNees Wallace & Nurick
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com

Jeffrey L. Small
Joseph P. Serio
Melissa R. Yost
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
small@occ.state.oh.us
serio@occ.state.oh.us
yost@occ.state.oh.us

William Wright
Chief, Attorney General's Section
Public Utilities Commission of Ohio
180 E. Broad St., 6th Floor
Columbus, OH 43215
w.wright@puc.state.oh.us

Jesse A. Rodriguez, Esq.
Public Policy & Affairs Manager
PHV #1115-2011
Exelon Generation Company, LLC
300 Exelon Way
Kennett Square, PA 19348
(610) 765-6610
Jesse.rodriguez@exeloncorp.com

Amy B. Spiller
Elizabeth H. Watts
Rocco O. D'Ascenzo
Duke Energy Ohio
139 E. Fourth Street, 1303-Main
P.O. Box 961
Cincinnati, OH 45201-0960
Amy.spiller@duke-energy.com
Elizabeth.watts@duke-energy.com
Rocco.d'ascenzo@duke-energy.com

David I. Fein
Vice President, Energy Policy - Midwest
Constellation Energy Group, Inc.
550 West Washington, Blvd., Suite 300
Chicago, IL 60661
312.704.8499
david.fein@eonstellation.com

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 W. Lima Street
Findlay, OH 45840
Cmooney2@columbus.rr.com

Douglas E. Hart
441 Vine Street, Suite 4192
Cincinnati, OH 45202
dhart@douglasshart.com

David A. Kutik
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114
dakutik@jonesday.com

Sandy I-ru Grace, Esq.
Assistant General Counsel
Exelon Business Services Company
PHV #1122-2011
101 Constitution Avenue N.W.
Suite 400 East
Washington, DC 20001
(202) 347-7500
Sandy.grace@exeloncorp.com

Cynthia Fonner Brady
Senior Counsel
Constellation Energy Resources, LLC
550 West Washington, Blvd., Suite 300
Chicago, IL 60661
312.704.8518
cynthia.brady@constellation.com

Trent A. Dougherty
Nolan Moser
E. Camille Yancy
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43215-3449
trent@theOEC.org
Nolan@theOEC.org
Camille@theOEC.org

Mark A. Hayden
FirstEnergy Service Company
76 S. Main Street
Akron, OH 44308
haydenm@firstenergycorp.com

Allison E. Haedt
Jones Day
P.O. Box 165017
Columbus, OH 43216-5017
aehaedt@jonesday.com

James F. Lang
Laura C. McBride
N. Trevor Alexander
Calfee, Halter & Griswold LLP
1400 KeyBank Center
800 Superior Avenue
Cleveland, OH 44114
jlang@calfee.com
lmcbride@calfee.com
talexander@calfee.com

Mary W. Christensen
Christensen & Christensen LLP
8760 Orion Place, Suite 300
Columbus, OH 43240-2109
mchristensen@columbuslaw.org

Lisa G. McAllister
Matthew W. Warnock
Bricker & Eckler LLP
100 S. Third Street
Columbus, OH 43215-4291
lmcalister@bricker.com
mwarnock@bricker.com

John W. Bentine
Mark S. Yurick
Zachary D. Kravitz
Chester Willcox & Saxbe LLP
65 E. State St., Suite 1000
Columbus, OH 43215
jbentine@cwsllaw.com
myurick@cwsllaw.com
zkravitz@cwsllaw.com