

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio for Authority to Establish a)
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.)

Case No. 11-3549-EL-SSO

In the Matter of the Application of Duke)
Energy Ohio for Authority to Amend its)
Certified Supplier Tariff, P.U.C.O. No. 20)

Case No. 11-3550-EL-ATA

In the Matter of the Application of Duke)
Energy Ohio for Authority to Amend its)
Corporate Separation Plan.)

Case No. 11-3551-EL-UNC

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**MOTION TO INTERVENE
BY
ENERNOC, INC.**


EnerNOC, Inc. ("EnerNOC") respectfully requests permission to intervene in the above-captioned cases.¹ EnerNOC provides demand response and energy efficiency programs to Ohio retail customers. EnerNOC has an interest in advocating for equal opportunities for demand response providers to participate in the procurement of electric services in southwest Ohio.

The reasons the Public Utilities Commission of Ohio ("Commission") should grant EnerNOC's Motion are further set forth in the attached Memorandum in Support.

¹ EnerNOC's request is made pursuant to Ohio Revised Code §4903.221 and Ohio Adm. Code §4901-1-11

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Respectfully submitted,



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MEMORANDUM IN SUPPORT

EnerNOC is a leading developer and provider of clean and intelligent energy solutions to commercial, institutional, and industrial end-use customers, as well as electric power grid operators and utilities. EnerNOC's technology-enabled demand side response and energy management solutions help both customers and grid operators optimize the balance of electric supply and demand.

EnerNOC manages aggregated demand response resources across numerous commercial, institutional and industrial customer verticals, including, education, government, health care, hospitality, retailing, commercial real estate, agri-business, manufacturing, and more. EnerNOC currently manages over 5,300 MWs of demand response resources throughout North America –

including Ohio -- and in the United Kingdom.²

EnerNOC actively manages aggregated demand response resources participating in broad variety of reliability-based programs, economic price-response programs, and ancillary service markets. EnerNOC is a direct market participant in wholesale electricity markets including ISO-New England, PJM Interconnections, New York ISO, and the Electric Reliability Council of Texas (ERCOT). In addition, EnerNOC provides demand-side management services through bilateral arrangements with utilities throughout North America, in both investor-owned and public power utility systems in the Tennessee Valley Authority Region, Arizona, California, Colorado, Florida, Idaho, Maryland, Vermont, and Washington. EnerNOC also provides demand-response services in open-market programs in Ontario, Canada and in the United Kingdom.

EnerNOC has a direct interest in, and may be adversely affected by, the outcome of these cases. The June 20, 2011 Application states that Duke proposes to supply generation through a “bifurcated structure, with capacity supplied by the Company to all customers and energy procured via competitive auctions....”³ EnerNOC has been a direct market participant in wholesale electricity markets, including in other Ohio markets. EnerNOC anticipates participating in southwest Ohio as well. The opportunities for demand response providers to participate under the terms of the Application should not provide competitive advantages or competitive disadvantages to any party. R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. EnerNOC’s interests may be adversely affected by these cases because of the terms and conditions of the curtailment service opportunities considered by Duke. Therefore, this

² As of December 31, 2011.

³ Application at 8.

element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of EnerNOC's interest is to provide demand response and energy efficiency services to the customers of Duke. This interest is different from that of any other party and especially different from that of the utility.

Second, EnerNOC's legal position relates to how demand response and energy efficiency services should be provided to Ohio retail customers. Duke's retail customers should be allowed to participate in any programs offered in Ohio and there should be no financial incentive for retail customers to participate in Duke's demand response and energy efficiency programs over others. This position is directly related to the merits of the cases pending before the Commission.

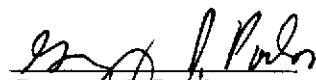
Third, EnerNOC's intervention will not unduly prolong or delay the proceedings. EnerNOC's issues in this proceeding are narrow. In addition, EnerNOC has experience practicing before the state and federal commissions. This will allow for the efficient processing of these cases.

Fourth, EnerNOC's intervention will contribute to the full development and equitable

resolution of the factual issues. EnerNOC has and will develop information that this Commission should consider for equitably and lawfully deciding the cases in the public interest.

EnerNOC meets the criteria set forth in Ohio R.C. §4903.221, Ohio Adm. Code §4901-1-11, and the Commission should grant EnerNOC's Motion to Intervene.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene was served by regular U.S. Mail Service, postage prepaid, to the persons listed below on this 5th day of July, 2011.



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