

Douglas E. Hart
Attorney at Law

11-3549-EL-SSO
11-3550-EL-ATA
11-3551-EL-UNC

1/6

6

FAX

FILE

July 5, 2011

VIA FAX

Ms. Renee Jenkins
Chief, Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

Re: In the Matter of the Application of Duke Energy Ohio for Approval 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

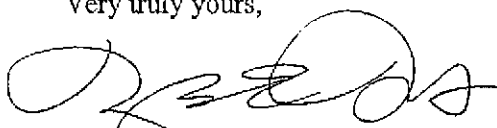
In the Matter of the Application of Duke Energy Ohio for Authority to Amend Its
Certified Supplier Tariff, P.U.C.O. No. 20, Case No. 11-3550-EL-ATA

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

Dear Ms. Jenkins:

Enclosed please find the Motion to Intervene and Memorandum in Support of Eagle
Energy, LLC, which is five (5) pages in length, to be filed in this proceeding. The original and
20 copies will be sent by overnight delivery. As indicated by the Certificate of Service, all
parties will be served copies by e-mail.

Very truly yours,


Douglas E. Hart

DEH
Enclosures

PUCO

2011 JUL -5 PM 2:42

RECEIVED-DOCKETING DIVISION
July 5, 2011
Date Processed 7/5/2011
Technician *RE*

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy)
Ohio for Approval to Establish A Standard Service)
Offer Pursuant To Section 4928.143, Revised Code,) Case No. 11-3549-EL-SSO
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 for Authority to Amend Its Certified Supplier) Case No. 11-3550-EL-ATA
Tariff, P.U.C.O. No. 20)

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

**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT
OF EAGLE ENERGY, LLC**

Eagle Energy, LLC ("Eagle") hereby moves the Commission, pursuant to Revised Code § 4903.221 and Rule 4901-1-11, to intervene as a party to the above-captioned proceedings. As set forth in the Memorandum in Support, this motion is timely, Eagle has a real and substantial interest in these proceedings, is so situated that the disposition of these proceedings without its participation may impair or impede its ability to protect that interest, and its participation will contribute to a just result. No existing party represents Eagle's interest in these proceedings and its intervention will not unduly delay these proceedings or unjustly prejudice any existing party.

Respectfully submitted,



Douglas E. Hart (0005600)
441 Vine Street, Suite 4192
Cincinnati, OH 45202
(513) 621-6709
(513) 621-6981 fax
dhart@douglasshart.com
Attorney for Eagle Energy, LLC

MEMORANDUM IN SUPPORT

On June 20, 2011, Duke Energy Ohio filed an Application in the above captioned proceedings for approval of a standard service offer under Revised Code § 4928.143. Eagle is a Competitive Retail Electric Service Provider certificated by the Commission to provide aggregation, power marketer and power broker services within the State of Ohio. Eagle is active within the service area of Duke Energy Ohio. The application filed by Duke Energy Ohio could significantly impact competition for electric service.

The standard for intervention in Commission proceedings is governed by Revised Code § 4903.221, as further stated in Commission Rule 4901-1-11, Ohio Administrative Code:

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.

Factors that the Commission considers when applying the rule include 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.

In its June 21, 2001 Entry, the Commission has established a July 6, 2011 deadline for intervention. Therefore, this Motion to Intervene is timely.

Eagle has a real and substantial interest in this proceeding. Eagle provides alternative energy supply, electricity and natural gas consulting and aggregation services to commercial, industrial and governmental entities. Eagle is active in the energy market served by Duke Energy Ohio and many Eagle customers are customers of Duke Energy Ohio. Eagle was a party to Duke Energy Ohio's most recent SSO proceeding, Case No. 10-2586-EL-SSO. The

availability of robust competition in the business of electric supply is critical to Eagle's business. Eagle has substantial experience with procuring alternative energy supplies in a competitive market and with aggregation service and will assist in reaching a just resolution of this case. No other party is situated the same as Eagle or represents its interests. Eagle's participation in this case will not delay the proceeding as Eagle is aware of the existing procedural schedule and will comply with it.

Consistent with the requirements of Revised Code § 4903.221 and Commission Rule 4901-1-11, Eagle is a real party in interest herein; its interest is not represented by existing parties; it will contribute to the just and expeditious resolution of the issues and concerns raised in these proceedings; and its participation in these proceedings will not cause undue delay or unjustly prejudice any existing party. For these reasons, Eagle respectfully requests that this motion to intervene in the above-captioned proceedings be granted.

Respectfully submitted,



Douglas E. Hart (0005600)
441 Vine Street, Suite 4192
Cincinnati, OH 45202
(513) 621-6709
(513) 621-6981 fax
dhart@douglasehart.com

Attorney for Eagle Energy, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum in Support was served upon the parties of record listed below this 5th day of July, 2011 by electronic service.



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

John Jones
 Steven Beeler
 Assistant Attorney General
 Public Utilities Commission of Ohio
 180 East Broad Street, 6th Floor
 Columbus, OH 43215
John.Jones@puc.state.oh.us
Steven.Beeler@puc.state.oh.us

Samuel C. Randazzo
 Frank P. Darr
 Joseph E. Olikier
 McNees Wallace & Nurick LLC
 21 East State Street, 17th Floor
 Columbus, OH 43215-4228
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com

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

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

David F. Boehm
 Michael L. Kurtz
 Boehm, Kurtz & Lowry
 36 East Seventh Street, Suite 1510
 Cincinnati, OH 45202
dboehm@bkllawfirm.com
mkurtz@bkllawfirm.com

Colleen L. Mooney
 Ohio Partners for Affordable Energy
 231 West Lima Street
 Findlay, Ohio 45839-1793
Cmooney2@columbus.rr.com

Trent A. Dougherty
 Nolan Moser
 E. Camille Yancey
 Ohio Environmental Council
 1207 Grandview Avenue, Suite 201
 Columbus, OH 43212-3449
trent@theoec.org
nolan@theoec.org
camille@theoec.org

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

Tara C. Santarelli
Environmental Law & Policy Center
1207 Grandview Ave., Suite 201
Columbus, OH 43212
tsantarelli@elpc.org

John W. Bentine
Mark Yurick
Zachary D. Kravitz
Chester, Wilcox & Saxbe, LLP
65 East State Street, Suite 1000
Columbus, OH 43215-4213
jbentine@cwslaw.com
myurick@cwslaw.com
zkravitz@cwslaw.com

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

M. Howard Petricoff
Michael J. Settineri
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
mhpetricoff@vorys.com
mjsettineri@vorys.com

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

Cynthia Fonner Brady
Senior Counsel
Constellation Energy Resources, LLC
550 W. Washington St., Suite 300
Chicago, IL 60661
Cynthia.brady@constellation.com

Matthew J. Satterwhite
Erin C. Miller
American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
mjsatterwhite@aep.com
ecmiller1@aep.com

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

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

Allison E. Haedt
Jones Day
325 John H. McConnell Blvd.
Suite 600
Columbus, OH 43215-2673
aehaedt@jonesday.com

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