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PUCO

July 6, 2011

Ms. Barcy McNeil
Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, OH 43215-3793

Re: *In Re Duke Energy Ohio's Application to Establish a Standard Service Offer,
PUCO Case No. 11-3549-EL-SSO, et al.*

Dear Ms. Jenkins:

Please find enclosed for filing in the above captioned matter the original and twenty (20) copies of the *Motion to Intervene of Direct Energy Services, LLC and Direct Energy Business, LLC*. Please date stamp and return the additional copies.

Very truly yours,

BAILEY CAVALIERI LLC



Dane Stinson

Enclosures

cc: Counsel of Record

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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,) Case No. 11-3549-EL-SSO
Revised Code, in the Form of an Electric Security)
Plan, Accounting Modifications and Tariffs for)
Generation Services.)

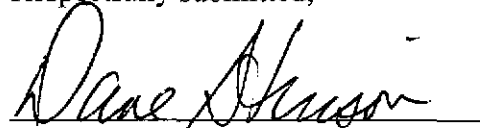
In the Matter of the Application of Duke Energy)
Ohio for Authority to Amend its Certified) Case No. 11-3550-EL-ATA
Supplier Tariff, P.U.C.O. No. 20.)

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
OF
DIRECT ENGERY SERVICES, LLC AND DIRECT ENERGY BUSINESS, LLC**

Direct Energy Services, LLC and Direct Energy Business, LLC (“Direct Energy”) respectfully move the Public Utilities Commission of Ohio for leave to intervene in the above-captioned cases pursuant to section 4903.221, Ohio Rev. Code, and rule 4901-1-11, Ohio Admin. Code. Direct Energy’s interests in these proceedings and the reasons supporting this Motion to Intervene are set forth in the attached Memorandum in Support.

Respectfully submitted,



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Attorney for Direct Energy

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Direct Energy Services, LLC and Direct Energy Business, LLC (“Direct Energy”) are certified by the Public Utilities Commission of Ohio (“PUCO”) to provide competitive retail electric service (“CRES”) throughout the state of Ohio, and hold Certificate Nos. 00-019E(6) and 00-005E(6), respectively. See PUCO Case Nos. 00-1936-EL-CRS (renewal certificate issued December 3, 2010) and 00-1758-EL-CRS (renewal certificate issued November 12, 2010). Direct Energy currently provides retail electric service to customers in Duke Energy Ohio’s service territory.

By its application filed June 20, 2011, Duke Energy Ohio seeks authority to establish a standard service offer, pursuant to section 4928.143, Ohio Rev. Code, in the form of an electric security plan. Direct Energy, through its membership in the Retail Energy Supply Association (“RESA”), was granted intervention and actively participated in Duke Energy Ohio’s recently concluded proceeding seeking authority for approval of a market rate offer. See *In the Matter of the Application of Duke Energy Ohio for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications, and Tariffs for Generation Service*, PUCO Case No. 10-2586-EL-SSO.

Rule 4901-1-11, Ohio Admin. Code, implements the provisions of Section 4903.221, Ohio Rev. Code,¹ governing intervention in proceedings before the PUCO. Pursuant to Rule

¹ Section 4903.221, Ohio Rev. Code, permits a “person who may be adversely affected” to intervene in a PUCO proceeding and provides the following criteria for the PUCO to consider in ruling upon applications for intervention:

- (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.

4901-1-11(A)(2), Ohio Admin. Code, the PUCO may grant intervention if a 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.” Under the rules, and consistent with the provisions of Section 4903.221, Ohio Rev. Code, the PUCO may consider the following criteria in making its determination:

- (1) The nature of the person’s interest;
- (2) The extent to which the person’s interest is represented by existing parties;
- (3) The person’s potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

Rule 4901-1-11(B), Ohio Admin. Code.

Direct Energy currently competes as a CRES provider in Duke Energy Ohio’s markets. Moreover, Direct Energy or its affiliate may compete in the auction proposed in these proceedings. As such, it has a real and substantial interest in these proceedings and seeks to intervene to protect its ability to compete in Duke Energy Ohio’s markets.

Direct Energy will not unduly prolong or delay these proceedings and, indeed, has filed this motion to intervene prior to the deadline for intervention established by Section 4903.221, Ohio Rev. Code, and the PUCO’s procedural entry issued in this proceeding on June 21, 2011. With its vast experience in the electric service industry, and active participation in Duke Energy Ohio’s prior SSO proceedings, Direct Energy will contribute significantly to the full development and resolution of the factual and legal issues in these proceedings. Moreover, Direct Energy’s financial interests in this proceeding cannot be adequately represented by any other party.

Wherefore, Direct Energy respectfully requests that the PUCO grant its motion to intervene in this proceeding. For purposes of receiving service in the proceeding, in addition to the undersigned, Direct Energy also requests that the following persons be placed on the official service list:

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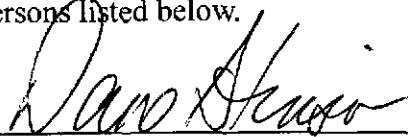
Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion to Intervene of Direct Energy Services, LLC and Direct Energy Business, LLC* was served by electronic mail this 6th day of July, 2011 on the persons listed below.



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