

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio )  
Power Company for Approval of Full ) Case No. 12-1126-EL-UNC  
Legal Corporate Separation and )  
Amendment to Its Corporate Separation )  
Plan )

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**MOTION TO INTERVENE  
BY  
DUKE ENERGY OHIO, INC.**

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Comes now Duke Energy Ohio, Inc. (Duke Energy Ohio), by and through counsel, and moves to intervene, as a party of record in the above-captioned proceeding, pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The issues in this proceeding relate to the March 30, 2012, application of the Ohio Power Company (Ohio Power) seeking full corporate separation, to implement amendments to its current corporate separation plan, and waivers for certain filing requirements.<sup>1</sup> Specifically, Ohio Power states that it is proposing to separate the generation function from the transmission and distribution function and to transfer its generating assets to an affiliate.<sup>2</sup> Several of the generating assets at issue in this proceeding are co-owned by Duke Energy Ohio. Therefore, Duke Energy Ohio has a real and substantial interest in this proceeding that is not adequately represented by existing parties.

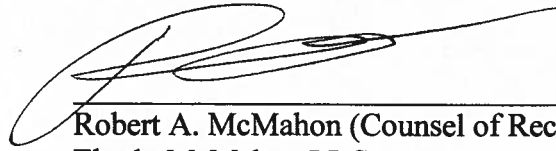
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<sup>1</sup> Ohio Power Company's Application for Approval of Full Corporate Separation and Amendment to its Corporate Separation Plan (March 30, 2012)

<sup>2</sup> *Id.*

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

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On March 30, 2012, Ohio Power Company (Ohio Power) filed an Application seeking full legal corporate separation, to implement amendments to its current corporate separation plan, and waivers for certain filing requirements.<sup>3</sup> Specifically, Ohio Power states that it is proposing to separate the generation function from the transmission and distribution functions.<sup>4</sup> As proposed in its Application, Ohio Power's transmission and distribution assets will remain with Ohio Power; however, Ohio Power plans to transfer its generating assets to an affiliate.<sup>5</sup> Ohio Power's Application also seeks a waiver of the Public Utilities Commission of Ohio's (Commission) rules. Ohio Power's Application also seeks a waiver of the Commission's rules that requires Ohio Power's Application to state the fair market value of the generating assets it plans to transfer as well as a waiver of any hearing in the proceeding.<sup>6</sup>

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<sup>3</sup> Ohio Power Company's Application for Approval of Full Corporate Separation and Amendment to its Corporate Separation Plan, at 1 (March 30, 2012).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 6-7.

Ohio law allows for intervention in a Commission proceeding based on the Commission's consideration of the nature and extent of the prospective intervenor's interest, the legal position advanced and its probable relation to the merits of the case, whether intervention will unduly prolong or delay the proceeding, and whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.<sup>7</sup> According to the Commission's rules, a person may intervene if that person has a real and substantial interest in the proceeding and the person is so situated that disposition may impair or impeded the person's ability to protect that interest, unless adequately represented by existing parties. Therefore, the Commission must consider, in addition to those factors spelled out in statute, the extent to which the person's interest is represented by existing parties.<sup>8</sup>

Regarding the criteria for intervention, Duke Energy Ohio's interest is unique as compared to other intervenors and parties to this proceeding. Particularly, Duke Energy Ohio jointly owns generation facilities with Ohio Power at the Killen Station<sup>9</sup>, William H. Zimmer Generating Station Unit 1<sup>10</sup>, Conesville Station Unit 4<sup>11</sup>, Walter C. Beckjord Station Unit 6<sup>12</sup> and the J.P. Stuart Plant<sup>13</sup>. Duke Energy Ohio has recently committed to transfer its ownership of generating assets to an affiliate. However, at present the utility still retains ownership of such facilities and will for some time until the asset transfer is completed. Because of this co-ownership issue, decisions made by AEP regarding the ownership of the aforementioned stations

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<sup>7</sup> R.C. 4903.221(B).

<sup>8</sup> O.A.C. 4901-1-11

<sup>9</sup> Killen Station is a 600 MW facility operated by DP&L, jointly owned by Duke Energy Ohio, Columbus Southern Power (CSP) and DP&L

<sup>10</sup> Zimmer Unit 1 is a 1300 MW generating unit in Moscow, Ohio, operated by Duke Energy Ohio, and co-owned by Duke Energy Ohio, DP&L and Ohio Power.

<sup>11</sup> Conesville Unit 4 is a 780 MW generating unit located in Conesville, Ohio, jointly owned by Ohio Power, Duke, and DP&L.

<sup>12</sup> Beckjord Unit 6 is a 434 MW generating unit located at the Walter C. Beckjord Station near New Richmond, Ohio, operated by Duke Energy Ohio and co-owned by Duke Energy Ohio, DP&L and Ohio Power.

<sup>13</sup> J.P. Stuart Plant is a 2,400 MW coal-fired plant located in Aberdeen, Ohio, operated by DP&L, and co-owned by DP&L, Duke Energy Ohio and Ohio Power.

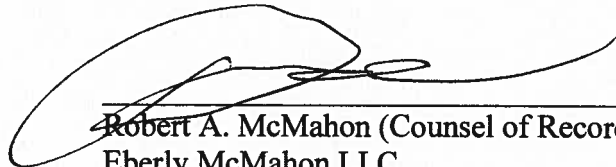
and the associated costs incurred will directly impact Duke Energy Ohio, at least until such time as the Company can complete its asset transfer. As such, Duke Energy Ohio should be permitted to intervene in order to protect its considerable investment in these plants, its own decisions regarding the continued ownership and operation of such assets, as well as the partnership regarding the co-ownership going forward. Thus, intervention is important to its ability to protect its business interests as the disposition of this proceeding may, as a practical matter, impede its ability to protect those interests.

Thus, Duke Energy Ohio has a real and substantial interest in the proceeding that is directly related to the merits of the case. No existing party represents Duke Energy Ohio's interests. Further, Duke Energy Ohio's participation will contribute to the development of the issues and an equitable resolution. Duke Energy Ohio's motion to seek intervention has been timely filed and its participation will not unduly prolong or delay this proceeding.

WHEREFORE, for the reasons set forth herein, Duke Energy Ohio respectfully requests that the Commission grant its motion for intervention in the above-captioned proceeding.

Respectfully submitted,

DUKE ENERGY OHIO, INC.



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## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered via U.S. mail (postage prepaid), personal, or electronic mail delivery on this the 10th day of April, 2012, to the following:



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Summary: Motion to Intervene by Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Rocco D'Ascenzo and McMahon, Robert