

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Duke)	
Energy Ohio, Inc. for the Establishment of)	
a Charge Pursuant to Revised code Section)	Case No. 12-2400-EL-UNC
4909.18.)	
)	
In the Matter of the Application of Duke)	Case No. 12-2401-AAM
Energy Ohio, Inc. for Approval to Change)	
Accounting Methods.)	
)	
In the Matter of the Application of Duke)	
Energy Ohio, Inc. for the Approval of a)	Case No. 12-2402-EL-ATA
Tariff for a New Service.)	


**DPL ENERGY RESOURCES INC.'S MOTION TO INTERVENE AND
MEMORANDUM IN SUPPORT**

Pursuant to Section 4903.221 of the Ohio Revised Code (R.C.) and Rule 4901-1-11 of the Ohio Administrative Code (O.A.C.), DPL Energy Resources Inc. (DPLER or Company) hereby moves to intervene in this proceeding. The issues in this proceeding involve Duke Energy Ohio, Inc.'s (Duke Energy Ohio) application to establish the amount of a cost-based charge, pursuant to Ohio's newly adopted state compensation mechanism, for the provision by Duke Energy Ohio of capacity services throughout Duke Energy Ohio's service territory.¹ The resolution of the issues in the proceeding will have a direct impact on the strength and viability of the competitive retail energy markets in Ohio. DPLER is a competitive retail electric services provider, certified to provide retail electric services within Duke Energy Ohio's service territory. DPLER has a real and substantial interest in this proceeding and its interests are not adequately represented by

¹ Application of Duke Energy Ohio, Inc. , PUCO Case No. 12-2400-EL-UNC, at ¶2.

existing parties. For the reasons more fully explained in the attached memorandum, DPLER respectfully requests that the Commission grant this request to intervene.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

This proceeding involves the application of Duke Energy Ohio to establish the level of a cost-based charge, which Duke Energy Ohio may charge for capacity services throughout its service territory. The resolution of the issues in the proceeding will have a direct impact on wholesale energy suppliers' participation in the auction process.

Pursuant to R.C. §4903.221, any party who may be adversely affected by a public utilities commission proceeding may intervene provided that the motion to intervene is filed no later than a deadline set for intervention, or if none is set, five days prior to the scheduled date of a hearing. The intervention deadline set in this proceeding is October 15, 2012, and therefore this motion is timely.

In ruling upon applications to intervene in its proceedings, the Commission is directed to consider the following factors:

- (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.²

The Commission added an additional criterion to the requirement for intervention in proceedings before it. O.A.C. §4901-1-11(B), mirrors the statutory provisions found in 4903.221, and includes the additional criterion that the Commission consider the extent to which the movant's interest is represented by existing parties.

In satisfaction of the requirements set forth in RC §4903.221 and O.A.C Rule 4901-1-11(B), DPLER has a real and substantial interest in this present proceeding. DPLER's unique interest is not presently represented in this proceeding. DPLER can positively contribute to the proceeding and will not unduly delay the proceeding or prejudice any existing party. DPLER is a competitive retail electric services provider, certified to provide retail electric service in Duke Energy Ohio's certified territory. In fact, DPLER is currently serving both residential and nonresidential customers within Duke Energy Ohio's territory. DPLER has an important business interest in being able to compete successfully within Duke Energy Ohio's service territory. The change in capacity pricing proposed by Duke Energy Ohio in its application in this case may have a negative impact to the viability and health of the competitive market within Duke Energy Ohio's territory, and perhaps the state as a whole, thereby threatening the ability of DPLER to compete successfully. Additionally, while Duke does not specifically propose to raise wholesale capacity rates in its Application, the going-forward

² R.C. §4903.221


capacity rates are at issue in this proceeding and could be changed as a result of the Commission's decision in this case. DPLER has a direct, real, and substantial business interest in the issues and matters involved in the instant proceeding and should be granted intervention.

All of DPLER's specific interests are not represented by existing parties to this proceeding. As a sophisticated, knowledgeable participant, DPLER will contribute to the just and expeditious resolution of the issues being considered in this case. Furthermore, DPLER's participation in this proceeding will not cause undue delay nor will it unjustly prejudice any party. Finally, because of DPLER's unique expertise as a participant in Ohio's competitive retail electric service market, permitting DPLER to intervene will assist the Commission in achieving a better outcome to this proceeding.

CONCLUSION

Based on the above, DPLER has a direct, real, and substantial interest in the issues and matters involved in this proceeding. DPLER's interests can only be protected by its participation in this proceeding. Accordingly, DPLER respectfully requests that the Commission grant DPLER's Motion to Intervene in this matter.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served via electronic mail this 15th day of October, 2012 upon the following:

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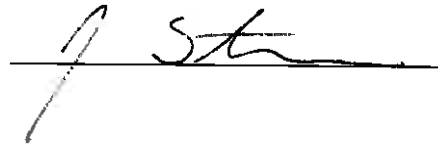
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A handwritten signature in black ink, appearing to read "D. Hart", is written over a horizontal line.

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mrs. Angela N. Hogan on behalf of DPL Energy Resources, Inc.