

In the Matter of the Application of )  
Duke Energy Ohio Inc., Concerning its ) Case No. 13-431-EL-POR  
Energy Efficiency and Peak-Demand )  
Reduction Programs and Portfolio )  
Planning. )

Ohio Partners for Affordable Energy (“OPAE”) moves to intervene in this application of Duke Energy Ohio, Inc. (“Duke”) concerning Duke’s Energy Efficiency and Peak-Demand Reduction Programs and Portfolio Planning (“Portfolio Application”). In its application, Duke proposes that its customers continue to pay, over the next three years, for a number of current energy efficiency programs in addition to a number of new programs. Duke also asks for its customers to pay the extra costs associated with its shared savings mechanism for which Duke is seeking a one-year extension. The reasons for granting OPAE’s Motion to Intervene are further set forth in the attached Memorandum in Support.

/s/Colleen L. Mooney  
Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, OH 45839-1793  
Telephone: (419) 425-8860  
or (614) 488-5739  
FAX: (419) 425-8862  
e-mail: [cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of                     )  
Duke Energy Ohio Inc., Concerning its        ) Case No. 13-431-EL-POR  
Energy Efficiency and Peak-Demand            )  
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**MEMORANDUM IN SUPPORT**

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Duke filed this Portfolio Application, pursuant to Ohio Admin. Code 4901:1-39-04, seeking approval of a new portfolio of energy efficiency and peak demand reduction programs. Duke is also seeking a one-year extension of its current shared savings cost recovery mechanism set forth in Case No. 11-4393-EL-RDR. In that case, Duke agreed in a Stipulation with OPAE and others that the shared savings cost recovery mechanism would expire on December 31, 2015. Duke is now seeking to extend the shared savings mechanism to run through December 31, 2016.

The shared savings mechanism requires Duke's customers to pay Duke an incentive for energy efficiency and peak demand savings once those savings exceed 100% of the benchmarks set forth in R.C. 4928.66. Once the 100% threshold is surpassed, Duke is permitted to collect shared savings on the entire amount of energy efficiency and peak demand savings, including those savings below 100% of the benchmark. All of Duke's distribution customers pay Duke a percentage of the savings resulting from the energy efficiency implemented by program participants when the statutory benchmark is exceeded. The percentage that customers pay Duke is on a sliding scale where Duke can share

in up to 13% of the savings that exceed the benchmark depending upon the amount of savings by which Duke exceeds the benchmark.

In support of its proposal to extend the shared savings mechanism, Duke refers to the Stipulation that allowed for the current shared savings mechanism. The terms of that Stipulation, however, were “not deemed binding with respect to related issues that may arise in any other proceeding.” Therefore, the extent to which Duke is now using the Stipulation in Case No. 11-4393-EL-RDR as precedent for its current request to extend the shared savings mechanism is inappropriate under the terms of that agreement.

Under Duke’s new application, both the portfolio programs and the shared savings recovery mechanism would run from January 1, 2014 until December 31, 2016. Duke not only proposes to continue the programs that were part of its current portfolio plan set forth in Case No. 11-4393-EL-RDR, but also seeks to add a number of new programs.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. The interests of OPAE’s clients may be “adversely affected” by this application, if OPAE’s clients were unrepresented in this application where Duke seeks to continue or institute new programs that have costs that customers pay. Because Duke’s application includes extending its current energy efficiency portfolio and its shared savings cost recovery mechanism and the addition of new energy efficiency programs, OPAE has satisfied the “adversely affected” element of the intervention standard in R.C. 4903.221.

In addition, in determining whether to permit intervention, the following criteria are to be considered: the nature of the person's interest; the extent to which that interest is represented by existing parties; the person's potential contribution to a just and expeditious resolution of the proceeding; and, whether granting the intervention will unduly delay or unjustly prejudice any existing party. OPAE meets all four of these criteria for intervention in this application.

OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans; as such, OPAE has a real and substantial interest in this matter, which will address Duke's energy efficiency, peak load reduction, and demand side management programs and portfolio planning. Additionally, OPAE includes as members non-profit organizations located in the service area that will be affected by this proceeding.<sup>1</sup> Moreover, many of OPAE's members are community action agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, community action is charged with advocating for low-income residents of their communities. OPAE also provides essential services in the form of bill payment assistance programs and weatherization and energy efficiency services to low income customers of Duke. OPAE members are also ratepayers of Duke.

OPAE's primary interest in this case is to protect the interests of low and moderate income Duke customers and OPAE members whose provision of electric service will be affected by this proceeding. Further, OPAE has been recognized by the Commission in the past as an advocate for consumers, particularly low-income consumers, and OPAE members who will be affected by the outcome of this case.

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<sup>1</sup> A list of OPAE members can be found on the website: [www.ohiopartners.org](http://www.ohiopartners.org).

For the above reasons, OPAE has a direct, real and substantial interest in this matter. The disposition of this matter may impair or impede OPAE's ability to protect its interests. No other party to the matter will adequately represent the interests of OPAE. OPAE is a rare organization that serves as an advocate, service provider and non-profit customer group. No other party represents this group of interests. OPAE's participation in this matter will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues raised by this docket.

Therefore, OPAE is entitled to intervene in this proceeding with the full powers and rights granted by statute and by the provisions of the Commission's Codes of Rules and Regulations to intervening parties.

Respectfully submitted,

/s/Colleen Mooney  
Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, OH 45840  
Telephone: (419) 425-8860  
FAX: (419) 425-8862  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene and Memorandum in Support was served on the persons stated below via electronic transmission this 10<sup>th</sup> day of May 2013.

### **SERVICE LIST**

William Wright  
Attorney General's Office  
Public Utilities Commission of Ohio  
180 East Broad St., 6<sup>th</sup> Fl.  
Columbus, OH 43215  
William.wright@puc.state.oh.us

Amy Spiller  
Elizabeth H. Watts  
Duke Energy Ohio  
155 East Broad Street, 21st Floor  
Columbus, OH 43215  
Elizabeth.Watts@duke-energy.com  
Amy.Spiller@duke-energy.com

Trent A. Dougherty  
Cathryn N. Loucas  
Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212-3449  
TDougherty@theOEC.org  
CLoucas@theOEC.org

Nicholas McDaniel  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212  
NMcDaniel@elpc.org

Michael J. Schuler  
Kyle Kern  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
schuler@occ.state.oh.us  
kern@occ.state.oh.us

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**5/10/2013 3:12:21 PM**

**in**

**Case No(s). 13-0431-EL-POR**

Summary: Motion to Intervene and Memorandum in Support electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy