

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke) Case No. 14-0075-EL-POR
Energy Ohio, Inc. for Authority to Establish)
an Energy Efficiency Pilot Program.)
)

MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL AND ENVIRONMENTAL DEFENSE FUND

Pursuant to Ohio Rev. Code § 4903.221 and Ohio Admin. Code § 4901-1-11, the Environmental Defense Fund (“EDF”) and the Ohio Environmental Council (“OEC”), move for leave to intervene in the above captioned proceeding. As shown in the attached Memorandum in Support, EDF and OEC have a real and substantial interest in the proceeding and the disposition of this proceeding may impair or impede EDF’s and OEC’s ability to protect that interest.

Respectfully Submitted,

/s/Trent S. Dougherty

Trent A. Dougherty
(0079817)(Counsel of Record)
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
(614) 487-7506 - Telephone
(614) 487-7510 - Fax
TDougherty@theOEC.org

/s/ John Finnigan

John Finnigan (0018689)
Senior Regulatory Attorney
Environmental Defense Fund
128 Winding Brook Lane
Terrace Park, Ohio 45174
(513) 226-9558
jfinnigan@edf.org

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke) Case No. 14-0075-EL-POR
Energy Ohio, Inc. for Authority to Establish)
an Energy Efficiency Pilot Program.)
)

MEMORANDUM IN SUPPORT

Duke's application in this matter requests approval of a pilot program that assesses whether co-marketing and coordinating Duke's residential Smart Saver program with the Greater Cincinnati Energy Alliance's ("GCEA") energy efficiency investments (including leveraging GCEA's GC-Help financing program) will result in a higher customer adoption of energy efficiency measures. According to the application, Duke and GCEA seek to coordinate their efforts to leverage existing resources and increase overall customer adoption of energy efficiency, and Duke seeks approval of the resulting pilot program and cost recovery.¹

Ohio Revised Code Section 4903.221 provides that any "person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding." EDF and OEC seek leave to intervene in this proceeding pursuant to Ohio Rev. Code § 4903.22.1 and Ohio Admin. Code § 4901-1-11.

Ohio Revised Code Section 4903.221(B) outlines four factors that the Commission shall consider when ruling on a motion to intervene in a proceeding. First, pursuant to R.C. 4903.221(B)(1), the Commission shall consider "[t]he nature and extent of the prospective intervenor's interest."

¹ See Application at pp. 2-5.

EDF is a national non-profit membership organization engaged in linking science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. EDF has over 300,000 members nationwide and has 9,590 members in Ohio. EDF has been active in Ohio working on environmental policies including smart power, climate change, natural gas fracking and sustainable agriculture.

EDF, through its current programs aimed at advancing "smart" electric and gas system modernization, is pursuing initiatives at the state and national levels designed to ensure that grid investments maximize their potential to create a cleaner, more resilient electric and gas system. Specifically, EDF works extensively with public utility commissions, industry, academia and other stakeholders across the country and in this region to evaluate, improve and advance electric and gas system investment plans so that they realize a full range of resiliency, environmental, economic and consumer benefits. EDF aims to ensure that grid modernization investments provide: (1) benefits that outweigh the costs of the investments; and (2) accountability that dollars spent are providing tangible benefits. EDF also supports state energy policies that reduce greenhouse gas emissions.

The OEC is a non-profit, charitable organization comprised of a network of over 100 affiliated member groups whose mission is to secure healthy air, land, and water for all who call Ohio home. Throughout its 44-year history, OEC has been a leading advocate for fresh air, clean water, and sustainable energy use in Ohio. OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of energy efficiency resource standard. The OEC, thus, supports effective deployment of energy efficiency programs and their impact on the attainment or non-attainment of energy efficiency goals will have a direct effect on the air quality within Ohio and Ohio's contribution to climate change.

Second, pursuant to R.C. 4903.221(B)(2), the Commission shall consider “The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.” While OEC and EDF do not outline detailed legal arguments in this section, EDF and OEC maintain that Duke’s Application should be properly analyzed by interested parties to ensure that it complies with the letter and intent S.B. 221’s energy efficiency and PDR requirements, and whether the Duke/ GCEA pilot can be replicated in other areas of the state to increase overall adoption of energy efficiency.

Third, pursuant to R.C. 4903.221(B)(3), the Commission shall consider “Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.” OEC and EDF have significant experience dealing with electric utilities questions before the Commission and will not seek to delay the proceeding.

Fourth, pursuant to R.C. 4903.221(B)(4), the Commission shall consider “Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.” OEC has actively participated in the implementation of the efficiency, PDR, and renewable energy benchmarks established by S.B. 221 and added value to numerous other proceedings before the Commission. Furthermore, EDF has been similarly involved in cases such as these not only in Ohio, but throughout the nation.

OEC and EDF also satisfy the intervention requirements outlined in the Commission’s rules. The criteria for intervention established by O.A.C. 4901-1-11(A) are identical to those provided by R.C. 4903.221, with the exception that the rules add a fifth factor that the Commission shall consider when ruling on a motion to intervene. Pursuant to O.A.C. 4901-1-11(A)(5), the Commission shall consider “The extent to which the [intervenor’s] interest is represented by existing parties.” OEC and EDF’s interests are not fully represented by the

existing parties. As the leading advocates for Ohio's environment, no other party to this proceeding has the mission of securing healthy air for all Ohioans, and no other party has been a continuous participant in cases before the Commission for the specific purpose of furthering this mission.

Finally, we point out that it is the Commission's stated policy "to encourage the broadest possible participation in its proceedings."² The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

OEC meets all the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5) and therefore should be granted intervenor status in this proceeding.

WHEREFORE, OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/ Trent A. Dougherty
Trent A. Dougherty
(0079817)(Counsel of Record)
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
(614) 487-7506 - Telephone
(614) 487-7510 - Fax
TDougherty@theOEC.org

/s/ John Finnigan
John Finnigan (0018689)
Senior Regulatory Attorney
Environmental Defense Fund
128 Winding Brook Lane
Terrace Park, Ohio 45174
(513) 226-9558
jfinnigan@edf.org

² *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class or electronic mail this 14th day of March, 2014.

/s/Trent A. Dougherty _____
Trent A. Dougherty

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio
2500 Atrium II
139 East Fourth Street, P.O. Box 960
Cincinnati, Ohio 45201-0960
amy.spiller@duke-energy.com
Elizabeth.watts@duke-energy.com

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
cmooney@ohiopartners.org

Michael J. Schuler, Counsel of Record
Kyle L. Kern
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
michael.schuler@occ.ohio.gov
kyle.kern@occ.ohio.gov

William Wright
Devin Parram
Attorney General's Office
Public Utilities Commission Section
180 E. Broad Street, 6thFloor
Columbus, Ohio 43215-3793
Devin.parram@puc.state.oh.us
William.Wright@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/14/2014 5:02:53 PM

in

Case No(s). 14-0075-EL-POR

Summary: Motion Motion to Intervene and Memorandum in Support by the Ohio Environmental Council and Environmental Defense Fund electronically filed by Mr. Trent A Dougherty on behalf of Ohio Environmental Council and Environmental Defense Fund