

In the Matter of the Annual Energy )  
Efficiency Portfolio Status Report of Duke ) Case No. 14-456-EL-EEC  
Energy Ohio, Inc. )

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the status of the energy efficiency and peak demand reduction programs of Duke Energy Ohio, Inc. ("Duke"), including programs that rely on residential customer participation, is reported for evaluation and comment. Program status reports are important indicators of a utility's efforts to achieve compliance with benchmarks in Ohio law for energy efficiency and peak demand reduction.<sup>1</sup>

<sup>1</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record

Michael J. Schuler

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (614) 466-7964 (Etter direct)

Telephone: (614) 466-9547 (Schuler direct)

[terry.etter@occ.ohio.gov](mailto:terry.etter@occ.ohio.gov)

[michael.schuler@occ.ohio.gov](mailto:michael.schuler@occ.ohio.gov)

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- (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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing Duke's residential customers in this case where their interest in programs related to controlling customers' energy usage and their costs is at issue. This interest is different from that of any other party and especially different from that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that programs directed at residential customers should be cost-effective and should properly maximize opportunities to achieve significant customer energy savings. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' energy efficiency and peak demand reduction programs in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To

intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case addressing Duke’s residential energy efficiency programs and their effect on customers’ ability to control energy costs.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.<sup>2</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC’s Motion to Intervene.

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<sup>2</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record

Michael J. Schuler

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (614) 466-7964 (Etter direct)

Telephone: (614) 466-9547 (Schuler direct)

[terry.etter@occ.ohio.gov](mailto:terry.etter@occ.ohio.gov)

[michael.schuler@occ.ohio.gov](mailto:michael.schuler@occ.ohio.gov)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 2<sup>nd</sup> day of June 2014.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

### **SERVICE LIST**

William Wright  
Chief, Public Utilities Section  
Attorney General's Office  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215  
[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)

Amy B. Spiller  
Elizabeth H. Watts  
Duke Energy Ohio  
139 E. Fourth Street, Suite 1303  
Cincinnati, Ohio 45202  
[amy.spiller@duke-energy.com](mailto:amy.spiller@duke-energy.com)  
[elizabeth.watts@duke-energy.com](mailto:elizabeth.watts@duke-energy.com)

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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.