

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter Of The Application Of Duke)	
Energy Ohio, Inc. For Authority To Establish)	
A Standard Service Offer Pursuant To Section)	Case No. 14-841-EL-SSO
4928.143 Revised Code, In The Form Of An)	
Electric Security Plan, Accounting Modifications)	
And Tariffs For Generation Service)	
)	
In The Matter Of The Application Of Duke)	
Energy Ohio, Inc. For Authority To Amend)	Case No. 14-842-EL-ATA
Its Certified Supplier Tariff, P.U.C.O. No. 20)	

**MOTION TO INTERVENE
BY THE
SIERRA CLUB**

For the reasons set forth in the accompanying Memorandum in Support, the Sierra Club moves the Public Utilities Commission of Ohio for leave to intervene in the above-captioned cases pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, and to grant to the Sierra Club the full powers and rights specifically authorized by statute or by the provisions of the Ohio Administrative Code.

Respectfully submitted,

/s/ Christopher J. Allwein

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**MEMORANDUM IN SUPPORT OF MOTION TO INERVENE OF THE
SIERRA CLUB**

I. Introduction

The Sierra Club seeks intervention in these proceedings where Duke Energy Ohio, Inc. (“Duke” or “Company”) has submitted an Application to establish a Standard Service Offer. Sierra Club seeks to participate in these proceedings because Sierra Club and its members may be adversely affected by the Public Utilities Commission of Ohio (“PUCO” or “Commission”) rulings in these matters. The Application and subsequent proceedings will present several issues of interest to Sierra Club including but not limited to the modifications to the Alternative Energy Rider and the source of generation proposed as part of the Price Stabilization Rider. These and other issues, which are a part of these proceedings, may directly impact Sierra Club’s local, regional and national interests in promoting alternative energy, reducing reliance on coal-fired generation and

encouraging energy diversification, and protecting the interests of their members who reside in the Company's service territories. As such, Sierra Club is entitled to intervene in these proceedings.

II. Legal Standard

Ohio law states that a party may intervene in a Commission proceeding if that party "may be adversely affected by a public utilities commission proceeding."¹ In the determination of whether a party may be adversely affected for purposes of intervention, the Commission is required to evaluate:

- (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's rules similarly provide that any person may intervene where "[t]he person has a real and substantial interest in the proceeding."³ The PUCO regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining whether a party may be "adversely affected," and also purport to add a fifth factor regarding "the extent to which the person's interest is represented by existing parties."⁴

¹ R.C. 4903.221.

² R.C. 4903.221(B).

³ Ohio Adm. Code 4901-1-11(A)(2).

⁴ Ohio Adm. Code 4901-1-11(B).

As the Ohio Supreme Court recently held, intervention in Commission proceedings “ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission].”⁵ The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even under extenuating circumstances.⁶ Sierra Club satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

III. Sierra Club is entitled to intervene under §4903.221 because the organization and its members may be adversely affected by the outcome of these proceedings.

Sierra Club is entitled to intervene in these proceedings because Sierra Club satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome. First, the nature and extent of Sierra Club’s interests in these proceedings are real and substantial,⁷ as the issues involved herein are directly related to Sierra Club’s interests in promoting advanced and alternative energy and reducing our nation’s reliance on outdated coal generation, and that will have a positive and direct economic, public health, and environmental impacts on Sierra Club’s members and its mission in Ohio and nationwide.

In particular, Sierra Club is the nation's oldest and largest grassroots environmental organization. It has 2.4 million members and supporters in 65 Chapters,

⁵ *Ohio Consumers’ Counsel v. Pub. Util Comm’n of Ohio* (2006), 111 Ohio St. 3d 384, 388, 2006 Ohio 5853, 856 N.E.2d 940.

⁶ See e.g. *In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party’s failure to file within the deadline).

⁷ R.C. 4903.221(B)(1).

over 400 local groups nationwide and over 25,000 members and supporters in Ohio. Sierra Club was founded in 1892 and has been actively concerned with electric utility issues since it first engaged in protection of America's scenic resources from hydropower development.

The Sierra Club's statement of purpose is "To explore, enjoy and protect the wild places of the Earth, to practice and promote the responsible use of the Earth's ecosystem and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives." The Sierra Club has been involved in promotion of responsible local and national energy policy almost since its first year.

Sierra Club has also been granted intervention in numerous Ohio cases.⁸

These proceedings present issues that are directly relevant to the interests of Sierra Club and its members. For example, the Company is proposing an agreement to source energy from coal generation through 2040. This agreement has not been proposed because it is necessary but instead is being proposed as a potential hedge against market volatility. As such, the interests of Sierra Club in this proceeding stems from the direct and indirect impacts specific issue outcomes will have on the energy generation for the State of Ohio and surrounding areas and the electric bills of their members in Duke's service territory.

⁸ See, for example, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan*, Case No 12-1230-EL-SSO, Entry at ¶4 (May 15, 2012).

Second, the desire of Sierra Club to promote advanced energy and reduced reliance on Coal in Ohio is directly related to the issues of this case. Specifically, this case directly involves support for coal generation from specific sources for a period of twenty-six years.

Third, Sierra Club's intervention will not unduly prolong or delay the proceeding⁹ as this motion is being filed by the deadline set for intervention¹⁰ and Sierra Club is able to comply with all case management deadlines established by the Commission and/or agreed to by the parties.

Fourth, intervention by Sierra Club will significantly contribute to the full development of the record in these proceedings.¹¹ Sierra Club will bring significant expertise to bear in these proceedings. Sierra Club's staff and consultants have extensive experience in resource planning, analyzing the potential for energy capacity and diversification, and in the laws and regulations regulating energy production. The Sierra Club has intervened in energy generation resource and coal generation cases in many states, and has been recently involved in several matters before this Commission. As such, Sierra Club should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

IV. Sierra Club may intervene because Sierra Club and its members have a “real and substantial interest” in these proceedings as presented in Ohio Administrative Code 4901-1-11(B).

⁹ R.C. 4903.221(B)(3) .

¹⁰ Attorney Examiner Entry at 2 (June 6, 2014.).

¹¹ R.C. 4903.221(B)(4).

Sierra Club may also intervene in these proceedings because they satisfy each of the five factors listed in the PUCO rules demonstrating that they have a “real and substantial interest” in these proceedings.¹² The first four factors are identical to those set forth under §4903.221(B) and, therefore, Sierra Club should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, Sierra Club’s interests in this proceeding will not be fully represented by other parties¹³ because none of the other parties can adequately represent Sierra Club’s interests as a national environmental organization that is interested in both environmental protection and promotion of alternative sources of generation over coal generation.

V. Conclusion

For the foregoing reasons, the Sierra Club respectfully request that their Motion to Intervene be granted, and Sierra Club be authorized to participate as full parties to these proceedings.

Respectfully submitted,

/s/ Christopher J. Allwein

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¹² Ohio Adm.Code 4901-1-11(B).

¹³ Ohio Adm.Code 4901-1-11(B)(5).

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Motion to Intervene* and the *Memorandum in Support of the Motion to Intervene* has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on June 26, 2014.

/s/Christopher J. Allwein
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Summary: Motion to Intervene electronically filed by Mr. Christopher J. Allwein on behalf of
SIERRA CLUB