

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland)	
Illuminating Company, and the Toledo)	
Edison company for Authority to)	Case No. 14-1297-EL-SSO
Provide for a Standard Service Offer)	
Pursuant to R.C. 4928.143 in the Form)	
of an Electric Security Plan)	

MOTION TO INTERVENE

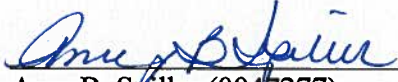
BY

DUKE ENERGY OHIO, INC.

Now comes Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and moves to intervene as a full party of record in the above-captioned proceedings pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The basis for Duke Energy Ohio's motion is set forth in the attached memorandum in support, which is incorporated herein by reference.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in blue ink, appearing to read "Amy B. Spiller", is written over a horizontal line.

Amy B. Spiller (0047277)

Deputy General Counsel

Jeanne Kingery (0012172)

Associate General Counsel

Duke Energy Business Services LLC

139 East Fourth Street

1303-Main

Cincinnati Ohio 45202

513-287-4359 (telephone)

513-287-4385 (facsimile)

amy.spiller@duke-energy.com (e-mail)

MEMORANDUM IN SUPPORT

I. Introduction

R.C. 4928.141 requires each electric utility, such as Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (FirstEnergy), to provide a standard service offer (SSO) “of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service.” FirstEnergy currently provides that SSO in the form of an electric security plan (ESP), approved under R.C. 4928.143, that will terminate on May 31, 2016.¹ On August 4, 2014, FirstEnergy filed its application for a new ESP, to become effective on June 1, 2016.² Duke Energy Ohio – an electric utility with interests in the competitive and wholesale markets – will be affected by FirstEnergy’s proposed ESP and thus seeks intervention pursuant to R.C. 4903.221.

II. Legal Standard

R.C. 4903.221(B) sets forth the criteria that the Public Utilities Commission of Ohio (Commission) is required to consider in ruling on applications to intervene. These criteria include:

- (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.

¹ *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, Opinion and Order (July 18, 2012).

² *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. 14-1297-EL-SSO, Application (August 4, 2014) (FirstEnergy ESP IV Application).

- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.³

The Commission has provided additional detail on the intervention requirements through the promulgation of O.A.C. 4901-1-11. Specifically, that rule requires that the Commission allow intervention by a person who has a “real and substantial interest in the proceeding” and who “is so situated that the disposition of the proceeding may...impair or impede [their] ability to protect that interest, unless the person’s interest is adequately represented by existing parties.”⁴ Consistent with the statutory provisions, the rule also lists several factors for the Commission to consider in determining whether a potential intervenor meets that standard:

- (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.
- (5) The extent to which the person’s interest is represented by existing parties.⁵

As discussed below, Duke Energy Ohio satisfies these criteria and its intervention in these proceedings is therefore warranted.

III. Duke Energy Ohio Should be Granted Intervention in These Proceedings.

As part of its fourth ESP, FirstEnergy is proposing a competitive process of purposes of procuring all of the supply needed to serve its SSO load.⁶ FirstEnergy has further proposed bid documents for such a competitive process that are similar the bid documents currently used by

³ R.C. 4903.221.

⁴ O.A.C. 4901-1-11(A).

⁵ O.A.C. 4901-1-11(B).

⁶ FirstEnergy ESP IV Application, at pp. 6-8.

Duke Energy Ohio.⁷ Duke Energy Ohio is a prospective participant in the competitive procurement process proposed by FirstEnergy. As such, Duke Energy Ohio has a real and substantial interest in these proceedings and its intervention is warranted so that Duke Energy Ohio may protect the same.⁸ Intervention is further appropriate as Duke Energy Ohio has conducted several competitive procurements and can thus effectively aid in the development of such procurements for FirstEnergy.⁹

Duke Energy Ohio's intervention is also warranted given the proposals advanced by FirstEnergy in respect of the Ohio Valley Electric Corporation (OVEC). Duke Energy Ohio has an interest in OVEC and should be permitted to intervene in order to protect that interest.¹⁰ That is, Duke Energy Ohio's intervention would enable it to protect its considerable investment in this facility, and in the partnership going forward. Moreover, the Company is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest.

Duke Energy Ohio has a real and substantial interest in these proceedings that is directly related to the merits of the case. No existing party represents Duke Energy Ohio's interests. Further, Duke Energy Ohio's participation will contribute to the development of the issues and

⁷ *Id.*, Supporting Testimony of FirstEnergy witness Miller.

⁸ See generally, *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, *et al.*, Entry (July 8, 2011)(After having supported its motion to intervene with the contention that it is a potential bidder in Duke Energy Ohio's proposed competitive auction, AEP Ohio granted intervention in Duke Energy Ohio's SSO proceeding) and *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 12-426-EL-SSO, *et al.*, Opinion and Order, at pg. 5 (September 4, 2013)(same).

⁹ See, e.g., *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, *et al.*, Entry (July 8, 2011)(Arguing that it is a participant in numerous state auctions and can aid in the development of a competitive procurement process, AEP Ohio granted intervention in Duke Energy Ohio's SSO proceeding).

¹⁰ *Id.* (AEP Ohio granted intervention, citing its status as a co-owner of generating assets as justifying such intervention). See also, *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 12-426-EL-SSO, *et al.*, Opinion and Order, at pg. 5 (September 4, 2013)(same).

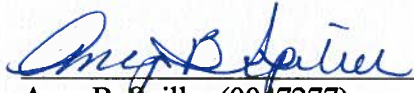
an equitable resolution. The Commission established October 1, 2014, as the deadline for intervention of interested parties in this proceeding. Duke Energy Ohio's intervention is thus timely and will not unduly prolong or delay this proceeding. Further, its interests are not represented by existing parties.

Given Duke Energy Ohio's own experience with an SSO in the form of an ESP, Duke Energy Ohio would also respectfully suggest that its intervention will significantly contribute to the full development and equitable resolution of the factual issues, based on its experience in the marketplace and understanding of competitive needs in general.

Duke Energy Ohio therefore respectfully requests that the Commission grant its motion to intervene and that it be made a full party of record.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in blue ink, reading "Amy B. Spiller".

Amy B. Spiller (0047277)

Deputy General Counsel

Jeanne Kingery (0012172)

Associate General Counsel

Duke Energy Business Services LLC

139 East Fourth Street

1303-Main

Cincinnati Ohio 45202

513-287-4359 (telephone)

513-287-4385 (facsimile)

amy.spiller@duke-energy.com (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 1st day of October, 2014, to the following parties.


Amy B. Spiller

Kevin R. Schmidt
88 East Broad Street, Suite 1770
Columbus, Ohio 43215
schmidt@sppgrp.com

**Counsel for the Energy Professionals
of Ohio**

Kimberly W. Bojko
Jonathan A. Allison
Rebecca Hussey
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Bojko@carpenterlipps.com
Allison@carpenterlipps.com
Hussey@carpenterlipps.com

**Counsel for the Ohio Manufacturers'
Association Energy Group
(OMAEG)**

Michael L. Kurtz
Kurt J. Boehm
Jody M. Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com

Counsel for the Ohio Energy Group

Joseph Olikier
Matthew White
6100 Emerald Parkway
Dublin, Ohio 43016
joliker@igsenergy.com
mswhite@igsenergy.com

Counsel for Interstate Gas Supply, Inc.

Joseph M. Clark
Direct Energy
21 East State Street, 19th Floor
Columbus, Ohio 43215
joseph.clark@directenergy.com

Counsel for Direct Energy Services, LLC, Direct Energy Business, LLC and Direct Energy Business Marketing, LLC

Samuel C. Randazzo
Frank P. Darr
Matthew R. Pritchard
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com

Counsel for Industrial Energy Users-Ohio

Christopher J. Allwein
Nolan M. Moser
Williams Allwein and Moser, LLC
1500 West Third Avenue, Suite 330
Columbus, Ohio 43212
callwein@wamenergylaw.com

Counsel for the Sierra Club

Gerit F. Hull
Eckert Seamans Cherin & Mellot, LLC
1717 Pennsylvania Avenue, N.W.
12th Floor
Washington, DC 20006
ghull@eckertseamans.com

Counsel for Direct Energy Services, LLC, Direct Energy Business, LLC and Direct Energy Business Marketing, LLC

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

Counsel for Ohio Partners for Affordable Energy

Steven T. Nourse
Matthew J. Satterwhite
Yazen Alami
American Electric Power Service Corporation
1 Riverside Plaza 29th Floor
Columbus, Ohio 43215
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com

Counsel for Ohio Power Company

Larry S. Sauer
Kevin F. Moore
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Larry.sauer@occ.ohio.gov
Kevin.moore@occ.ohio.gov

Counsel for Ohio Consumers' Counsel

Richard L. Sites
Ohio Hospital Association
155 East Broad Street, 15th Floor
Columbus, Ohio 43215-3620
ricks@ohanet.org

Counsel for Ohio Hospital Association

Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927
BarthRoyer@aol.com

Counsel for The Cleveland Municipal School District

Craig I. Smith
15700 Van Aken Blvd, Suite 26
Shaker Heights, Ohio 44140
wtpmlc@aol.com

Counsel for Material Sciences Corporation

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
tobrien@bricker.com

Counsel for the Ohio Hospital Association

Michael K. Lavanga
Garrett Stone
Owen Kopon
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
8th Floor, West Tower
Washington, D.C. 20007
mkl@bbrslaw.com
gas@bbrslaw.com
ojk@bbrslaw.com

Counsel for Nucor Steel Marion

Adrian Thompson
Taft Stettinius & Hollister, LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114-2302
athompson@taftlaw.com

Counsel for The Cleveland Municipal School District

C. Todd Jones
Christopher L. Miller
Gregory H. Dunn
Jeremy M. Grayem
Ice Miller LLP
250 West Street
Columbus, Ohio 43215
Christopher.Miller@icemiller.com
Gregory.Dunn@icemiller.com
Jeremy.Grayem@icemiller.com

Counsel for AICUO

Lisa M. Hawrot
Spilman Thomas & Battle, PLLC
Century Centre Building
1233 Main Street, Suite 4000
Wheeling, WV 26003
lhawrot@spilmanlaw.com

**Counsel for Wal-Mart Stores East, LP
and Sam's East, Inc.**

Barbara A. Langhenry
Harold A. Madorsky
Kate E. Ryan
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114-1077
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us

Counsel for The City of Cleveland

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
tobrien@bricker.com

**Counsel for the Ohio Hospital
Association**

Trent Dougherty
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
tdougherty@theOEC.org

**Counsel for the Ohio Environmental
Council and Environmental Defense
Fund**

Derrick Price Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com

**Counsel for Wal-Mart Stores East, LP
and Sam's East, Inc.**

Joseph P. Meissner
meissnerjoseph@yahoo.com

**Counsel for Citizens Coalition
Consumer Protection Association
Cleveland Housing Network, and The
Council for Economic Opportunities in
Greater Cleveland.**

O. Judson Scheaf, III
McDonald Hopkins, LLC
240 North Fifth Street, Suite 300
Columbus, Ohio 43215
jscheaf@mcdonaldhopkins.com

Counsel for Dynegy, Inc.

John Finnigan
128 Winding Brook Lane
Terrace Park, Ohio 45174
jfinnigan@edf.org

**Counsel for the Ohio Environmental
Council and Environmental Defense
Fund**

Thomas R. Hays
8355 Island Lane
Maineville, Ohio 45039
trhayslaw@gmail.com

Counsel for City of Toledo, Lucas County Board of Commissioners, City of Perrysburg, Lake Township Board of Trustees, City of Maumee, City of Oregon, City of Northwood, Village of Waterville, Village of Ottawa Hills, Perrysburg Township and Village of Holland

Marilyn L. Widman
Widman & Franklin, LLC
405 Madison Avenue, Suite 1550
Toledo, Ohio 43604
Marilyn@wflawfirm.com

Attorney for IBEW Local 245

Terrence O'Donnell
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, Ohio 43215
todonnell@dickinsonwright.com

Counsel for Mid-Atlantic Renewable Energy Coalition

Dane Stinson
Dylan Borchers
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
dstinson@bricker.com
dborchers@bricker.com

Counsel for Northeast Ohio Public Energy Council

Leslie Kovacik
420 Madison Avenue

LeslieKovacik@toledo.oh.gove

Counsel for City of Toledo, Lucas County Board of Commissioners, City of Perrysburg, Lake Township Board of Trustees, City of Maumee, City of Oregon, City of Northwood, Village of Waterville, Village of Ottawa Hills, Perrysburg Township and Village of Holland

Matthew R. Cox
Matthew Cox Law, Ltd.
88 East Broad Street, Suite 1560
Columbus, Ohio 43215
matt@matthewcoxlaw.com

Counsel for Smaller Enterprises

Glenn S. Krassen
Bricker & Eckler, LLP
1001 Lakeside Avenue, Suite 1350
Cleveland, Ohio 44114
gkrassen@bricker.com

Counsel for Northeast Ohio Public Energy Council

David C. Rineholt
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45840
drinebolt@ohiopartners.org

Counsel for Ohio Partners for Affordable Energy

Madeline Fleisher
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212
mfeisher@elpc.org

Counsel for Environmental Law & Policy Center

James W. Burk
Carrie M. Dunn
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

Counsel for FirstEnergy Service Company

Mark S. Yurick
Zachary D. Kravitz
Taft Stettinius & Hollister LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
myurick@taftlaw.com
zkravitz@taftlaw.com

Gregory Price
Mandy Willey
Attorney Examiners
Public Service Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215
Gregory.price@puc.state.oh.us
Mandy.willey@puc.state.oh.us

Kenneth Kreider
Keating Muething & Klekamp PLL
One East Fourth Street, Suite 1400
Cincinnati, Ohio 45202
kpkreider@kmmklaw.com

F. Mitchell Dutton
700 Universe Blvd.
Mitch.dutton@fpl.com

Counsel for NextEra Energy Power Marketing, LLC

David A. Kutik
Jones Day
901 Lakeside Avenue
Cleveland, Ohio 44114
dakutik@jonesday.com

William Wright
Attorney General's Office
Public Service Commission of Ohio
180 East Broad Street, 6th Floor
Columbus, Ohio 43215
William.wright@puc.state.oh.us

James F. Lang
N. Trevor Alexander
Calfee, Halter & Griswold LLP
The Calfee Building
1405 East Sixth Street
Cleveland, Ohio 44114
jlang@calfee.com
talexander@calfee.com

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Summary: Motion Motion to Intervene by Duke Energy Ohio, Inc. electronically filed by Brenda S. Carnahan on behalf of Spiller, Amy B. and Duke Energy Ohio, Inc. and Jeanne W. Kingery