

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )	
Energy Ohio, Inc., for Recovery of )	Case No. 15-534-EL-RDR
Program Costs, Lost Distribution )	
Revenue, and Performance Incentives )	
Related to its Energy Efficiency and )	
Demand Response Programs. )	

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**OHIO PARTNERS FOR AFFORDABLE ENERGY'S  
MOTION TO INTERVENE  
AND  
MEMORANDUM IN SUPPORT**

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Ohio Partners for Affordable Energy ("OPAE") hereby respectfully moves for leave to intervene in the above-captioned matter pursuant to R.C. §4903.221 and Rule 4901-1-11 of the Public Utilities Commission of Ohio's ("Commission") Code of Rules and Regulations, with full powers and rights granted by the Commission specifically, by statute or by the provisions of the Commission's Code of Rules and Regulations to intervening parties. The reasons for granting this motion are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,

/s/Colleen Mooney  
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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

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Ohio Partners for Affordable Energy (“OPAE”) requests permission to intervene in this matter pursuant to Section 4903.22.1, Revised Code, and the Commission’s Code of Rules and Regulations contained in Rule 4901-01-11 of the Ohio Administrative Code. The Commission, in ruling upon a motion to intervene in its proceedings, shall consider the following criteria:

- (1) The nature and extent of the intervenor’s interest.
- (2) The legal position advanced by the prospective intervenor and its probable relationship to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding.
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

As an Ohio non-profit corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans, OPAE has a real and substantial interest in this proceeding. Moreover, the membership of OPAE includes a number of non-profit organizations with facilities receiving electric service from Duke Energy Ohio (“Duke”).<sup>1</sup> Residential customers,

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<sup>1</sup> OPAE’s membership list can be found at: [www.ohiopartners.org](http://www.ohiopartners.org).

including OPAE's low-income bill payment assistance and weatherization clients, will be affected by Duke's application. Non-residential customers, such as OPAE's non-profit organizations, will also be affected.

OPAE has been an intervenor in Duke's applications for recovery of program costs, lost distribution revenue, and performance incentives related to Duke's Energy Efficiency and Demand Response programs. OPAE was an intervenor in Duke's Case No. 11-4393-EL-RDR, in which the Commission approved a stipulation, signed by OPAE and other parties, to establish cost recovery methods for Duke's Rider EE/PDR. OPAE was also an intervenor in Duke's Case No. 13-753-EL-RDR, which addressed calendar year program costs for 2012 and expected costs for 2013. OPAE was also an intervenor in Case No. 14-457-EL-RDR, which addressed calendar year program costs for 2013 and expected costs for 2014. This case will address calendar year 2014 costs and expected 2015 costs.

The issues addressed in the 2014 case remain unresolved. In the 2014 case, OPAE addressed the matter of the Stipulation and Recommendation in Case No. 11-4393-EL-RDR, which stated that the shared savings incentive mechanism shall expire at the end of 2015 and shall be reevaluated by all interested parties no sooner than the third quarter of 2014 to allow interested parties to assess the reasonableness and effectiveness of the incentive mechanism and to consider whether or not they support its further use for the remaining year of the five-year portfolio. Case No. 11-4393-EL-RDR, Opinion and Order (August 15, 2012) at 8.

Likewise, in Duke's Case No. 13-431-EL-POR, under Paragraph 3 of the Stipulation and Recommendation, in the third quarter of 2014, all interested parties were allowed to evaluate the reasonableness and effectiveness of Duke's shared savings incentive mechanism to determine whether it should be continued through 2016, the end of the plan period. The parties could agree to maintain the incentive mechanism or to modify it. If the parties did not agree, they could seek a Commission's determination whether an incentive mechanism should be implemented for 2016. Case No. 13-431-EL-POR, Opinion and Order (December 4, 2013) at 6. In short, the shared savings approach for Duke does not continue in the final year of the plan period, 2016, unless the parties affirmatively agree to maintain it.

Another related issue still outstanding is the new legislation, Senate Bill 310, which affects all electric distribution utilities' portfolio filings. The question has been raised whether any modifications to Duke's currently existing portfolio are now permitted under the new legislation. OPAE has argued that no modifications are permitted under the new statute.

An additional issue still unresolved is the use of banked savings to achieve the shared savings incentive. As in the 2014 case, Duke has calculated in this case an annual savings achievement that allows it to earn the shared savings incentive. However, Duke again used banked impacts from previous years to achieve its benchmark. While Duke may be permitted to use banked savings to meet compliance levels for benchmark purposes, Duke should not be permitted to use banked savings to earn the shared savings incentive. If Duke is

permitted to earn shared savings incentives in years in which it failed to meet its energy efficiency benchmark, it would earn incentives for its inability to meet the legislatively created target in those years.

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 and concerns raised in this proceeding. Furthermore, other parties to the proceeding will not adequately represent the interests of OPAE. The extensive background of OPAE and its membership provides a unique and important viewpoint on matters at issue in this docket.

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

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum of Support was served by electronic mail upon the persons identified below on this 23rd day of April 2015.

/s/Colleen Mooney

Colleen L. Mooney

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