

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc. for Recovery of)	
Program Costs, Lost Distribution Revenue)	Case No. 15-0534-EL-RDR
and Performance Incentives Related to its)	
Energy Efficiency and Demand Response)	
Programs.)	

**MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Pursuant to Ohio Revised Code (“ORC”) § 4903.221 and Ohio Administrative Code (“OAC”) 4901-1-11, the Environmental Law & Policy Center (“ELPC”) respectfully moves to intervene in the above-captioned proceeding. As explained more thoroughly in the attached Memorandum in Support, ELPC has a real and substantial interest in this case, in which Duke Energy Ohio, Inc. seeks recovery of costs and incentives pursuant to a stipulation in Case No. 13-0431-EL-POR to which ELPC is a signatory party.¹ Additionally, the interests of ELPC are not adequately represented by any other party to this matter and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

ELPC respectfully requests this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

¹ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak-Demand Reduction Portfolio Programs*, Case No. 13-431-EL-POR, Amended Stipulation and Recommendation (Sept. 9, 2013) (approved by Commission order entered December 4, 2013).

Respectfully submitted,

/s Justin Vickers

Justin Vickers (*pro hac vice* admission
pending), Staff Attorney
Environmental Law & Policy Center
35 E. Wacker Drive, Suite 1600
Chicago, IL 60601
P: 312-795-3736
jvickers@elpc.org

*Counsel for the Environmental Law &
Policy Center*

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc. for Recovery of)	
Program Costs, Lost Distribution Revenue)	Case No. 15-0534-EL-RDR
and Performance Incentives Related to its)	
Energy Efficiency and Demand Response)	
Programs.)	

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Ohio Revised Code (“ORC”) § 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“PUCO” or “Commission”) makes certain determinations. The Environmental Law & Policy Center (“ELPC”) is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding, and its interests are not adequately represented by the other parties hereto.

ORC § 4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission’s procedural rules at Ohio Administrative Code (“OAC”) 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets all of the factors required by statute and rule.

Pursuant to ORC § 4903.221, the Commission must consider:

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

ORC § 4903.221(B).

With respect to the first factor, ELPC has a substantial interest in the application of the Duke Energy Ohio, Inc. (“Duke”) to recover costs, lost distribution revenues, and performance incentives in connection with energy efficiency (“EE”) and peak demand reduction (“PDR”) programs that Duke implemented in 2014 to comply with ORC § 4928.66, pursuant to an Amended Stipulation approved by the Commission in Case No. 13-431-EL-POR.² As a signatory to the Amended Stipulation, ELPC has an interest in ensuring the protection and promotion of cost-effective energy efficiency programs in the state in accordance with its terms. Further, ELPC has members in Ohio and its work focuses on Ohio energy and environmental issues. Duke’s application affects these interests because it concerns Duke’s compliance with its EE and PDR obligations under the Amended Stipulation and under ORC § 4928.66.

As to the second factor, because of the potential impacts on ELPC and its Ohio members, ELPC seeks to ensure Duke’s application meets the applicable legal requirements and complies with the Amended Stipulation, and if not, recommend appropriate solutions.

Under the third factor, ELPC’s inclusion will not unduly delay or prolong the proceeding. This Motion to Intervene has been submitted in compliance with the deadline set by the

² *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak-Demand Reduction Portfolio Programs*, Case No. 13-431-EL-POR, Amended Stipulation and Recommendation (Sept. 9, 2013) (approved by Commission order entered December 4, 2013).

Commission in the procedural schedule for this case, and ELPC is committed to abiding by that schedule in order to achieve the efficient and orderly disposition of the questions presented.

Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective to bear. ELPC has expertise and experience throughout the Midwest regarding clean energy policy that will contribute to resolving the pending issues, and has participated in multiple proceedings involving Duke, including Case No. 13-431-EL-POR.

Similarly, ELPC meets the requirements set forth in OAC 4901-11-1(B):

- (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;
- [and]
- (5) The extent to which the person's interest is represented by existing parties.

The first four factors mirror those in ORC § 4903.221, and for the same reasons as stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on “green” economic development, including new manufacturing and job creation.

Finally, this Commission's policy is to “encourage the broadest possible participation in its proceedings.” *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry at 2 (January 14, 1986). ELPC's inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both ORC § 4903.221 and OAC 4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

Respectfully submitted,

/s Justin Vickers

Justin Vickers (*pro hac vice* admission pending), Staff Attorney
Environmental Law & Policy Center
35 E. Wacker Drive, Suite 1600
Chicago, IL 60601
P: 312-795-3736
jvickers@elpc.org

Counsel for the Environmental Law & Policy Center

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Intervene submitted on behalf of the Environmental Law & Policy Center was served by electronic mail, upon the following Parties of Record, this June 17, 2015.

/s Justin Vickers

Justin Vickers

William.wright@puc.state.oh.us Ryan.orourke@puc.state.oh.us Vesta.Miller@puc.state.oh.us Amy.Spiller@duke-energy.com Elizabeth.Watts@duke-energy.com cmooney@ohiopartners.org dboehm@BKLawfirm.com mkurtz@BKLawfirm.com kboehm@BKLawfirm.com jkylercohn@BKLawfirm.com Kyle.kern@occ.ohio.gov Bojko@carpenterlipps.com Hussey@carpenterlipps.com jvickers@elpc.org	Attorney Examiner: Christine.pirik@puc.state.oh.us
--	--

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/17/2015 3:49:47 PM

in

Case No(s). 15-0534-EL-RDR

Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Justin M Vickers on behalf of Environmental Law & Policy Center