

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy)
Ohio, Inc. to Amend Its Tariffs.) Case No. 16-862-GA-ATA

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

MOTION TO INTERVENE

Ohio Partners for Affordable Energy ("OPAE") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above-captioned application pursuant to R.C. §4903.221 and Section 4901-1-11 of the Commission's 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 to intervene are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,

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**BEFORE
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MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

Ohio Partners for Affordable Energy (“OPAE”) should be permitted to intervene in this matter pursuant to Section 4903.22.1, Revised Code, and the Commission’s Rules and Regulations contained in Rule 4901-01-11 of the Ohio Administrative Code. The above-referenced application is a request of Duke Energy Ohio, Inc., (“Duke”) to amend its tariffs so that Duke may collect a fixed delivery charge at a premise even for months when Duke has no customers at the premise.

In determining whether to permit intervention, the following criteria are to be considered: the nature of the person’s interest; the extent to which that interest is represented by existing parties; the person’s potential contribution to a just and expeditious resolution of the proceeding; and, whether granting the intervention will unduly delay or unjustly prejudice any existing party. OPAE meets all four criteria for intervention in this application.

OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans; as such, OPAE has a real and substantial interest in this matter, which will address Duke’s requested tariff amendment so as to collect a fixed delivery charge for natural gas distribution service at a premise during months when Duke has no customers at the premise. Additionally, OPAE includes as members non-profit organizations located in the service area that will be affected by this application.¹ Moreover, many of

¹ A list of OPAE members can be found on the website: www.ohiopartners.org.

OPAE's members are community action agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, community action is charged with advocating for low-income residents of their communities. OPAE also provides essential services in the form of bill payment assistance programs and weatherization and energy efficiency services to low-income customers of Duke.

OPAE's primary focus in this case is to protect the interests of low and moderate income Ohioans whose provision of natural gas distribution service may be affected by this application. Further, OPAE has been recognized by the Commission in the past as an advocate for consumers and particularly low-income consumers, who may be affected by the outcome of this case.

For the above reasons, OPAE has a direct, real and substantial interest in this matter. The disposition of this matter may impair or impede OPAE's ability to protect its interests. No other party to the matter will adequately represent the interests of OPAE. OPAE is a rare organization that serves as an advocate, service provider and nonprofit customer group. No other party represents this group of interests. 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 raised by this application.

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

Respectfully submitted,

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy)
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MOTION TO DISMISS AND MEMORANDUM IN SUPPORT

MOTION TO DISMISS

Pursuant to Ohio Administrative Code Rule 4901-1-12, Ohio Partners for Affordable Energy (“OPAE”) hereby respectfully moves the Public Utilities Commission of Ohio (“Commission”) to dismiss the above-captioned application. The reasons for granting this motion to dismiss are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy)
Ohio, Inc. to Amend Its Tariffs.) Case No. 16-862-GA-ATA

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS

Ohio Partners for Affordable Energy (“OPAE”) moves the Commission to dismiss this application, which Duke has styled as an application not for an increase in rates pursuant to Section 4909.18, Revised Code. The purpose of this application is to increase charges for the reconnection of service. Therefore, this application must be dismissed.

Duke is requesting that when service has been disconnected at the request of a customer, and the same person continues to live at the premises and requests service to be reconnected within a period of eight months, the person will be required to pay the avoided Fixed Delivery Service charges for the months without service and the reconnection fee. If this amendment were to be adopted, Duke would receive from customers an increase in fees for reconnection. Duke’s last distribution base rate case set a revenue requirement to be recovered from customers, and rates were designed to recover that revenue requirement. In designing rates, evidence was considered concerning the number of reconnections and the cost of reconnections to set a reconnection fee. A fixed customer service charge was also established supposedly within the

context of the revenue requirement, the number of customers receiving service, and the cost to serve those customers.

Duke claims that the amendment only results in “cost shifting” but there is no description of what costs are being shifted and from whom and to whom. Nor is there a description of the costs incurred and revenue gained from implementing the tariff amendment. There is no information about Duke’s costs to provide no service to non-customers. Given that Duke intends through this application to collect revenues from reconnected customers for months when there was no service at the premises, and given that current rates do not reflect Duke’s costs and revenues not to serve non-customers, it is apparent that this is an application for an increase in rates over the rates set in the last distribution base rate case.

In addition, this application demonstrates the impact on customers, and particularly low-income customers, of extremely high fixed delivery charges. A \$33.03 per month fixed delivery charge is so high that customers are choosing not to have heat and hot water during the summer and shoulder months. Eight months off the system saves a customer \$264.24. That is a lot of money for many customers. OPAE members regularly encounter families that simply turn off gas service all together and live in two or three rooms in their homes using electric space heaters to stay warm.

After the resident at the premise has disconnected the service, the resident is no longer a customer of Duke, whether the disconnection lasts a month or a year. With this application, Duke is asking that all residential

customers be treated like Percentage of Income Payment Plan (“PIPP”) customers, who are required to pay high fixed charges whether or not they are receiving service in order to re-qualify for PIPP annually. In return, PIPP customers receive an affordable rate. Duke is proposing to treat all customers like PIPP customers, but without the benefit of an affordable rate. A homeowner who closes up his permanent residence and moves to a vacation home during the summer will have to pay months of customer charges when he received no service to get reconnected, even though discontinuing gas service during that period is both a safety issue and a money saver.

A family that chooses to forego natural gas delivery service for part of the year is within its rights. The family simply pays for disconnection and reconnection, and pays the costs imposed on the system as determined in the last base rate case. It is irrational to allow Duke to collect the high fixed customer charges for months when Duke has no customer at the premises.

Duke apparently believes it is entitled to be paid a high fixed customer charge even in months when a household is not a customer. Basic contract law requires mutuality. Duke is asking to be paid when there is no contractual relationship with the residents of a home. Duke’s sense of entitlement is no cause for an increase in rates. Ohio law encourages customers to take control of their energy use. One way to do that is for a customer to cancel service when it is not needed. Customers should be able to choose when they take service.

The high fixed charge is causing customers to turn off service. This should not come as a surprise to anyone. Customers have a choice in Ohio, a choice of

suppliers and a choice whether or not to receive service. The application is an improper application for an increase in rates and should be dismissed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Intervene and Memorandum of Support and Motion to Dismiss and Memorandum in Support will be served electronically by the Commission's Docketing Division on the parties listed below who are electronically subscribed on this 4th day of May 2016.

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Case No(s). 16-0862-GA-ATA

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