

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of ) Case No. 16-1096-EL-WVR  
Duke Energy Ohio, Inc. for a Waiver. )  
)  
)  
)  
)  
)

**MOTION TO INTERVENE by COMMUNITIES UNITED FOR ACTION**

In accordance with the Commission’s Administrative Provisions, OAC 4901-1-1, Communities United for Action moves that it be allowed to intervene as a full party in the waiver application of Duke Energy of Ohio cited above. The reasons supporting the granting of this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Noel M. Morgan  
Noel M. Morgan (0066904)  
Trial Attorney for Communities United for  
Action  
Legal Aid Society of Southwest Ohio, L.L.C.  
215 East Ninth Street, Suite 500  
Cincinnati, Ohio 45202  
Phone: (513) 362-2837; Fax: (513) 241-1187  
Email: (nmorgan@lascinti.org)

DATED: June 28, 2016

## MEMORANDUM IN SUPPORT

### I. INTRODUCTION

Communities United for Action (CUFA) is a nonprofit corporation based in Cincinnati, Ohio. CUFA is a multi-issue community organization that brings together organizations and communities representing a variety of cultural and ethnic backgrounds and economic levels, with particular emphasis on working class neighborhoods in Cincinnati's Millcreek Valley. CUFA's goals include mobilizing community residents to act as advocates on decisions that determine the quality of their lives. CUFA is comprised of almost 50 local organizations and institutions, including tenant associations, community councils, churches, and senior citizens organizations.

### II. THE STANDARDS FOR INTERVENTION

The standards for intervention are provided in both statute and the administrative code.

Rule 4901-1-11(A), Ohio Administrative Code, provides that

Upon timely motion, any person shall be permitted to intervene upon a showing that:

\*\*\*

(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

R.C. 4903-221 provides that the Commission consider the following criteria when ruling upon applications to intervene in proceedings.

- (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 prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

O.A.C. 4901-1-11(B) provides that

Upon timely motion, any person may be permitted to intervene in a proceeding upon a showing that the person has a real and substantial interest in the proceeding.

CUFA's intervention herein should be granted under any of these standards.

**III. CUFA'S INTERVENTION SHOULD BE GRANTED**

**A. CUFA'S Motion is Timely**

The instant motion has been filed before the deadline for the filing of Motions to intervene.

**B. CUFA has a Real and Substantial Interest in the Proceeding**

CUFA's constituency includes many low income customers, who would be disproportionately affected by the waiver.

**IV. CUFA'S INTERVENTION WILL CONTRIBUTE TO AN EQUITABLE RESOLUTION AND WILL NOT UNDULY PROLONG OR DELAY THE PROCEEDING.**

CUFA will not unduly delay this proceeding. CUFA intends to present important evidence that the Commission otherwise might not hear regarding the necessity for affordable and high quality service for lower income customers. CUFA has previously intervened in numerous telephone, gas, and electric proceedings and made significant contributions to the full development of an equitable and timely resolution of those cases.

**Conclusion**

CUFA meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. The PUCO should grant CUFA's Motion to Intervene.

Respectfully submitted,

/s/ Noel M. Morgan

Noel M. Morgan (0066904)  
Trial Attorney for Communities United for  
Action  
Legal Aid Society of Southwest Ohio, L.L.C.  
215 East Ninth Street, Suite 500  
Cincinnati, Ohio 45202  
Phone: (513) 362-2837; Fax: (513) 241-1187  
Email: ([nmorgan@lascinti.org](mailto:nmorgan@lascinti.org))

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below via electronic transmission this 28th day of June 2016.

/s/ Noel M. Morgan

\_\_\_\_\_  
Noel M. Morgan  
Attorney at Law

**SERVICE LIST**

William Wright  
Attorney General's Office  
Public Utilities Commission of Ohio  
30 E. Broad Street, 16th Floor  
Columbus, Ohio 43215  
[William.wright@ohioattorneygeneral.gov](mailto:William.wright@ohioattorneygeneral.gov)

Colleen Mooney  
Ohio Partners for Affordable Energy  
P.O. Box 12451  
Columbus, Ohio 43212  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)

Assistant Consumers' Counsel  
Christopher Healey (0086027)  
Staff Attorney  
**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
[terry.etter@occ.ohio.gov](mailto:terry.etter@occ.ohio.gov)

Amy B. Spiller  
Elizabeth H. Watts  
Duke Energy Ohio Inc.  
139 East Fourth Street  
1303-Main  
Cincinnati, Ohio 45202  
[Amy.Spiller@duke-energy.com](mailto:Amy.Spiller@duke-energy.com)  
[Elizabeth.Watts@duke-energy.com](mailto:Elizabeth.Watts@duke-energy.com)  
Attorney Examiners:  
[Nicholas.walstra@puc.state.oh.us](mailto:Nicholas.walstra@puc.state.oh.us)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/28/2016 4:35:21 PM**

**in**

**Case No(s). 16-1096-EL-WVR**

Summary: Motion CUFA Motion for Leave to intervene electronically filed by MR. NOEL M MORGAN on behalf of Communities United for Action