

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of  
Duke Energy Ohio, Inc. for a Waiver.**

**Case No. 16-1096-EL-WVR**

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**MOTION TO INTERVENE BY THE CITY OF CINCINNATI**

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The City of Cincinnati (“City”) respectfully moves to intervene in this case pursuant to Ohio Revised Code Section 4903.221 and Ohio Administrative Code Rule 4901-1-11. The City has a real and substantial interest in this proceeding and its interest, which may be prejudiced by the outcome of this proceeding, is not adequately represented by existing parties. Thus, as set forth more fully in the attached Memorandum in Support, the City respectfully requests that the Commission grant this timely request to intervene.

Respectfully submitted,

**PAULA BOGGS MUETHING (0080018)  
CITY SOLICITOR**

/s/ Jessica L. Powell

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**In the Matter of the Application of  
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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE  
BY THE CITY OF CINCINNATI**

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**I. INTRODUCTION**

On May 13, 2015, Duke Energy Ohio, Inc. (“Duke”) filed an application with the Public Utilities Commission of Ohio (“Commission or “PUCO”) requesting a temporary waiver to the requirement that it provide residential customers with personal notice on the day of service disconnection. The requirement from which Duke seeks a waiver is set forth in Ohio Adm.Code 4901:1-18-06(A)(2), which states:

“On the day of disconnection of service, the utility company shall provide the customer with personal notice. If the customer is not at home, the utility company shall provide personal notice to an adult consumer. If neither the customer nor an adult consumer is at home, the utility company shall attach written notice to the premises in a conspicuous location prior to disconnecting service.”

To satisfy the personal notice requirement, Duke sends technicians to the customer’s property to disconnect the service; however, with advancements in technology, i.e., advanced metering infrastructure (“AMI”), Duke is now able to remotely disconnect and/or reconnect electric service for customers with AMI. Accordingly, Duke has requested a waiver of the aforementioned requirement to provide personal notice on the day of disconnection.

Furthermore, Duke seeks to implement a two-year pilot program through which Duke will employ alternative efforts to notify customers of potential disconnections. More specifically,

Duke states that it will send customers a text message notification on the day of disconnection, as well as an automated phone call to the customer. Further, Duke states that it will provide a one-time bill insert to inform customers that it will no longer schedule technician visits to the customer's premises on the day of disconnection. Duke has assured the Commission that it will still send utility personnel to the premises of those customers who do not have AMI or who are classified as "Critical Care" customers.

## **II. LEGAL STANDARD**

Ohio Adm.Code 4901-1-11(A) provides that any party shall be permitted to intervene where that party can show it "has a real and substantial interest in the proceeding, and the [party] is so situated that the disposition of the proceeding, may, as a practical matter, impair or impede [its] ability to protect that interest, unless the [party's] interest is adequately represented by existing parties." As the Commission has recognized, "[t]he regulation's text is very similar to Civ. R. 24 – the rule governing intervention in civil cases in Ohio – which is generally liberally construed in favor of intervention." *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387 (2006) (internal quotations omitted).

In considering a motion to intervene, the Commission examines the following criteria: 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 intervenor's interest is represented by existing parties. *See* R.C. 4903.221; Ohio Adm.Code 4901-1-11(B). The City of Cincinnati's ("City") Motion to Intervene satisfies each of these factors.

### **III. ARGUMENT**

#### **A. The Nature and Extent of the City's Interest**

The City has real and substantial interest in this case given that Duke is seeking to alter the notice requirements for disconnecting residential customers' electric service. More specifically, the City has an obvious and urgent interest in ensuring that its taxpaying residents receive adequate notice before potentially being disconnected from a vital public utility service. Consequently, the City has a real and substantial interest in this proceeding.

#### **B. The Legal Position Asserted By The City**

The City seeks to intervene to ensure that the Commission thoroughly considers and evaluates the legal issues and the potential consequences to many City residents that would result if Duke obtains the relief it is seeking.

#### **C. The City's Intervention Will Not Unduly Prolong or Delay the Proceeding.**

On May 13, 2016, Duke filed its application in the instant case. On August 5, 2016, the attorney examiner set a procedural schedule in the case establishing August 19, 2016, as the deadline to file motions to intervene. Given that the City's Motion to Intervene and accompanying Memorandum in Support are being filed on August 19, 2016, the City's Motion to Intervene is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.<sup>1</sup>

#### **D. The City Will Contribute To The Full Development Of Factual Issues, And The City's Interests Are Not Already Represented By Existing Parties.**

Duke provides electric service to the City and its hundreds of thousands of taxpaying residents; consequently, the City is uniquely situated to contribute to the full development of

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<sup>1</sup> See Ohio Adm.Code 4901:1-11(E) (providing that a motion to intervene "will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding").

factual issues in this case, which concern efforts by Duke to amend its notice requirements before disconnecting residential customers' electric service. The City shares a special relationship with its taxpaying residents who may be directly and adversely impacted by the outcome of this proceeding. These interests are not already represented by existing parties, as no other party currently involved in this proceeding is charged with protecting the interests of Duke customers who live and pay taxes in the City.

Finally, the City has substantial experience in Commission proceedings, experience which may benefit the Commission's review of Duke's application. The City's participation will significantly contribute to the full development and resolution of the issues raised by Duke's application.

#### **IV. CONCLUSION**

WHEREFORE, the City respectfully requests that the Commission grant this Motion to Intervene and allow the City to be made a party of record to this proceeding.

Respectfully submitted,

**PAULA BOGGS MUETHING (0080018)**  
**CITY SOLICITOR**

/s/ Jessica L. Powell

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**CERTIFICATE OF SERVICE**

I certify that this Motion to Intervene and Memorandum in Support were filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 19th day of August, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Mark T. Keaney  
One of Attorneys for the City of Cincinnati

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

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Summary: Motion to Intervene and Memorandum In Support electronically filed by Mr. Mark T Keaney on behalf of City of Cincinnati