

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for Approval )  
of an Economic Development Arrangement ) Case No. 18-450-EL-AEC  
Between AK Steel Corporation and Duke )  
Energy Ohio, Inc. )

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**MOTION TO INTERVENE AND COMMENTS OF  
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

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Pursuant to R.C. 4903.221 and Ohio Adm. Code 4901-1-11 and 4901:1-38-05(F), the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene and submit comments in this matter with the full powers and rights granted to intervening parties. OMAEG has real and substantial interests that this proceeding may adversely affect and no existing parties adequately represent those interests. The Commission should grant this motion because OMAEG satisfies the standard for intervention set forth by statute and in the Commission's rules. A memorandum in support is attached.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

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On March 15, 2018, the AK Steel Corporation (AK Steel) filed an Application with the Public Utilities Commission of Ohio (Commission) for a Reasonable Arrangement (Proposed Arrangement).<sup>1</sup> AK Steel states that it has been enrolled in Duke Energy Ohio, Inc.’s interruptible load program,<sup>2</sup> which Duke proposes to eliminate in its current electric security plan proceeding.<sup>3</sup> The Proposed Arrangement would include AK Steel’s Middletown, Ohio facility and would give AK Steel a rate credit from Duke in exchange for AK Steel’s agreement to interrupt part of its load. Per the Application, the Proposed Arrangement would commence June 1, 2018 or the date of its approval, whichever is later, and would run until May 31, 2025.<sup>4</sup>

The Proposed Arrangement effectively serves as an interruptible load program for AK Steel, in place of the program Duke seeks to terminate in its current ESP proceeding. Under the Proposed Arrangement, AK Steel would receive a monthly credit for its interruptible demand.

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<sup>1</sup> See Application for Expedited Approval of a Reasonable Arrangement (March 15, 2018) (Application). OMAEG notes that AK Steel uses inconsistent terms in its Application. The matter is captioned as a “Economic Development Arrangement,” but the Application states that it is for a reasonable arrangement under Ohio Adm. Code 4901:1-38-05, and not an economic development arrangement under Ohio Adm. Code 4901:1-38-03. Ohio Adm. Code 4901:1-38-05, however, authorizes the filing of unique arrangements. Given that the Proposed Arrangement does not satisfy the requirements for an economic development arrangement under Ohio Adm. Code 4901:1-38-03, OMAEG considers this to be an Application for a unique arrangement, but will use the terminology “Proposed Arrangement.”

<sup>2</sup> Id. at 2.

<sup>3</sup> See Motion to Intervene by Duke Energy Ohio, Inc. at 2 (March 16, 2018) (Duke Motion to Intervene).

<sup>4</sup> Application at 2.

That credit would be equal to its monthly interruptible demand multiplied by the PJM Base Residual Auction (BRA) market, multiplied by .7.<sup>5</sup> Beginning in 2021 and through the end of the Proposed Arrangement, the monthly credit would be capped at \$4.63 million.<sup>6</sup> The credit received under the Proposed Arrangement cannot result in a negative monthly bill from Duke for transmission and distribution service, but any excess credits can be “banked” to offset future wires charges.<sup>7</sup> The total amount of credits received over the term of the Proposed Arrangement is \$25.8 million.<sup>8</sup>

AK Steel does not commit to adding jobs, maintaining current employment levels, or undertaking capital investments in exchange for the Proposed Arrangement.<sup>9</sup> Instead, it cites to the benefits to the system of having the “buffer” of an interruptible load and commits to maintaining the ability to interrupt up to 110 MW of its load.<sup>10</sup> The terms of any potential interruption include that interruptions are limited to emergency events and AK Steel must receive at least two-hours’ notice of the interruption. AK Steel also must refund the credits received in the preceding 12 months if it fails to interrupt upon receiving such notice.<sup>11</sup>

Duke has already intervened and stated that its “willingness to participate in [the Proposed Arrangement] is contingent upon the Commission’s approval of a recovery mechanism for the credits AK Steel seeks to receive.”<sup>12</sup> Thus, other ratepayers in Duke’s service territory

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<sup>5</sup> Id. at 2-3.

<sup>6</sup> Id. at 3.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> See Application.

<sup>10</sup> Id. at 2-3.

<sup>11</sup> Id. at 3.

<sup>12</sup> Duke Motion to Intervene at 4.

will be required to bear the costs of the credits that the Proposed Arrangement provides for AK Steel.

Ohio Adm. Code 4901-1-11 and Ohio Adm. Code 4901:1-38-05(F) permit intervention by an affected party who has a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party. Similarly, R.C. 4903.221 authorizes intervention where a party: may be adversely affected by the proceeding; will contribute to a full development and equitable resolution of factual issues; and will not unduly prolong or delay the proceedings.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. OMAEG members purchase electric services from Duke and may be responsible for any revenue shortfall or costs arising from the Proposed Arrangement.

OMAEG has been a participant in other cases involving unique arrangements or other reasonable arrangements,<sup>13</sup> and has an interest in ensuring that any benefits accruing to

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<sup>13</sup> See, e.g., *In the Matter of the Application for Establishment of a Reasonable Arrangement Between Presrite Corporation and The Cleveland Electric Illuminating Company*, Case No. 17-1981-EL-AEC, Entry at 1 (granting OMAEG's Motion to Intervene); *In the Matter of the Joint Application of Vadata, Inc. and Ohio Power Company for Approval of a Unique Economic Development Arrangement for Ohio Data Center Campuses*, Case No. 17-1827-EL-AEC, Motion to Intervene and Comments of the Ohio Manufacturers' Association Energy Group (September 21, 2017); *In the Matter of the Application of Globe Metallurgical, Inc. for Approval of a Unique Arrangement Between Ohio Power Company and Globe Metallurgical, Inc.*, Case No. 16-737-EL-AEC, Entry at 1 (August 4, 2016) (granting OMAEG's Motion to Intervene).

customers, and the resultant discounted rates that are wholly funded by other Duke customers, are just and reasonable.<sup>14</sup> OMAEG also has an interest in ensuring that unique arrangements and other reasonable arrangements further the policy of the state of Ohio prescribed by R.C. 4928.02.<sup>15</sup> Additionally, OMAEG has an interest in ensuring that no unreasonable or anticompetitive effects arise from reasonable arrangements.

Specific to this Application, and as OMAEG has stated in previous proceedings, it is important that opportunities such as interruptible load programs, if they exist at all, be non-discriminatory and available to all similarly-situated customers.<sup>16</sup> OMAEG has also advocated that interruptible load programs be available to customers across the state, and not just to a few select customers.<sup>17</sup> When creating or offering discount programs, economic development/incentive programs, or economic retention tools, it is also imperative that the programs offered across the state be uniform, having similar terms and conditions, so as to not be anti-competitive among competing businesses.<sup>18</sup> Moreover, Duke's intervention plainly states that the Proposed Arrangement would impose a financial burden on customers. The Application

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<sup>14</sup> Ohio Adm. Code 4901:1-38-05(B)(1) ("Each customer applying for a unique arrangement bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code"); R.C. 4905.35 ("No public utility shall give any undue or unreasonable preference or advantage to any . . . firm . . . or subject any . . . firm to any undue or unreasonable prejudice or disadvantage.").

<sup>15</sup> Ohio Adm. Code 4901:1-38-05(C) ("Each applicant applying for approval of a unique arrangement . . . shall describe how such arrangement furthers the policy of the state of Ohio embodied in section 4928.02 of the Revised Code.").

<sup>16</sup> See *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company for Authority to Provide a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Application for Rehearing of the Ohio Manufacturers' Association Energy Group at 18, 60-63 (May 2, 2016).

<sup>17</sup> See *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan, et al.*, Case Nos. 13-2385-EL-SSO, et al., Application for Rehearing of the Ohio Manufacturers' Association Energy Group at 12 (June 29, 2015).

<sup>18</sup> *Id.* at 10-13; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company for Authority to Provide a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Application for Rehearing of the Ohio Manufacturers' Association Energy Group at 60-63 (May 2, 2016)

provides for up to \$25.8 million in rate credits. Under Ohio Adm. Code 4901:1-38-08, Duke is able to collect this revenue from other customers.

A reasonable arrangement should balance any purported benefits to the state and local economies with the costs required to achieve such benefits. The cost-benefit analysis should consider all of the applicant's rate discounts paid for by other customers and compare that to the other commitments made by the applicant. The Commission should ensure there is proper alignment between benefits received under the proposed arrangement and any commitment(s) undertaken by AK Steel.

OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. OMAEG is regularly and actively involved in Commission proceedings and, as in previous proceedings, OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the issues in this proceeding. OMAEG's interest will not be adequately represented by other parties to the proceeding and its timely intervention will not unduly delay or prolong the proceeding.

As discussed above, OMAEG satisfies the criteria for intervention set out in R.C. 4903.221 and Ohio Adm. Code 4901-1-11 and 4901:1-38-05(F). OMAEG, therefore, respectfully requests that the Commission grants this motion, allows OMAEG to intervene with the full powers and rights granted by the Commission to intervening parties, and makes OMAEG a full party of record. OMAEG further requests that the Commission give due consideration to the comments articulated herein.

Respectfully submitted,

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*Counsel for OMAEG*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served upon all parties of record via electronic mail on April 4, 2018.

/s/ Kimberly W. Bojko  
Kimberly W. Bojko



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Summary: Motion To Intervene And Comments Of The Ohio Manufacturers' Association Energy Group electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group