

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Duke Energy Ohio, Inc. for Authority to) Case No. 19-1750-EL-UNC
Adjust its Power Forward Rider.)

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

Pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 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. has applied for approval of its initial infrastructure modernization plan. Additionally, ELPC's interests 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.

November 8, 2019

Respectfully submitted,

/s/ Caroline Cox
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In the Matter of the Application of)
Duke Energy Ohio, Inc., for Authority to) Case No. 19-1750-EL-UNC
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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Ohio Revised Code 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, including in Duke Energy Ohio, Inc.’s service territory, 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.

R.C. 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 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 R.C. 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.

R.C. 4903.221(B).

With respect to the first factor, ELPC has a substantial interest in the consideration and possible implementation of the Infrastructure Modernization Plan filed by Duke Energy. As described in Duke Energy's application, the Plan includes upgrades to Duke Energy's customer information system, a pilot electric vehicle program, and a "smart city" infrastructure program. ELPC has an interest in ensuring the cost-effective implementation of several of these technologies to reduce energy consumption, increase renewable generation, and produce corresponding environmental benefits. Moreover, several of ELPC's members are located in Duke Energy's service territory, and ELPC has an interest in ensuring that the proposed costs and implementation of the Plan do not adversely impact those members. Further, ELPC has members in Ohio in and beyond Duke Energy's service territory, and its work focuses on Ohio energy and environmental issues. Duke Energy's filing affects these interests because it relates to the effective design of the grid.

As to the second factor, because of the potential impacts on ELPC and its Ohio members, ELPC seeks to ensure Duke Energy's application meets the applicable legal requirements, and if not, recommend appropriate solutions. Additionally, ELPC seeks the Commission's careful scrutiny of Duke Energy's proposal to ensure it is reasonably designed to modernize Duke Energy's distribution infrastructure for the benefit of Duke Energy customers, several of whom are ELPC members.

Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding. The Commission has not yet set a procedural schedule for the case, and ELPC is committed to working within any schedule that this Commission imposes 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. ELPC has participated in multiple proceedings in Ohio as well as other states regarding distribution modernization efforts.

Similarly, ELPC meets the requirements set forth in Ohio Adm. Code 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 R.C. 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 R.C. 4903.221 and Ohio Adm. Code 4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

Respectfully submitted,

/s/ Caroline Cox
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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 filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on November 8, 2019. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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Summary: Motion to Intervene electronically filed by Ms. Caroline Cox on behalf of Environmental Law and Policy Center