

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates.	)	Case No. 21-0887-EL-AIR
	)	
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	)	Case No. 21-0888-EL-ATA
	)	
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	)	Case No. 21-0889-EL-AAM
	)	

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

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Pursuant to Ohio Revised Code § 4903.221 and O.A.C. 4901-1-11, the City of Cincinnati hereby moves to intervene in these proceedings. Cincinnati has a number of real and substantial interests in these proceedings and its interests, which may be prejudiced by the results of these proceedings, are not adequately represented by existing parties. Thus, as set forth more fully in the attached memorandum in support, Cincinnati respectfully requests that the Commission grant this timely request to intervene.

Respectfully submitted,

/s/ James F. Lang

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE  
OF THE CITY OF CINCINNATI**

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**I. Introduction**

In this proceeding Duke Energy Ohio, Inc. (“Duke”) seeks approval of an increase in the rates that its consumers pay for electric distribution service, tariff modifications, and changes in accounting methods (“Application”). The manner in which this proceeding is resolved could significantly affect both Cincinnati as a purchaser of electricity and Cincinnati residents. Cincinnati accordingly has a real and substantial interest in this proceeding, and the Commission’s disposition of this proceeding may impair or impede Cincinnati’s ability to protect that interest. Thus, Cincinnati respectfully requests that the Commission grant its motion to intervene in this proceeding.

**II. Legal Standard**

R.C. § 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding” may intervene in the proceeding. The Commission’s own rules reinforce the right to intervene:

Upon timely motion, any person *shall be* permitted to intervene in a proceeding upon a showing that . . . [t]he 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.

O.A.C. 4901-1-11(A) (emphasis added). "The 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's rule directs that the Commission should consider: the nature and extent of the intervenor's interest; the legal position advanced by the intervenor and its probable relation to the merits of the case; whether intervention will unduly prolong or delay the proceedings; whether the intervenor will significantly contribute to full development and equitable resolution of the factual issues; and the extent to which the intervenor's interest is represented by existing parties. *See* O.A.C. 4901-1-11(B)(1)-(5); *see also* R.C. § 4903.221(B)(1)-(4). Cincinnati's motion to intervene satisfies each of these factors.

### **III. Argument**

#### **A. The Nature And Extent Of Cincinnati's Interest**

Cincinnati is directly affected by the Application as a customer in Duke's service territory. In particular, the Greater Cincinnati Waterworks and the Metropolitan Sewer District of Greater Cincinnati (owned by Hamilton County but managed and operated by Cincinnati) are significant consumers, and Cincinnati also is a street lighting customer with an interest in high efficiency lighting. Cincinnati is also impacted by the Application on behalf of its residents, who are all customers in Duke's service territory and who are accordingly affected by the proposals in the Application. This indirect impact includes, among other things, the impact of the Application on

economic development and low-income customers. The structure and pricing of Duke's Application will directly impact both Cincinnati and its residents. As such, Cincinnati has a substantial interest in the outcome of this proceeding and in ensuring that the rates are established appropriately. That interest cannot be represented by any other party to this proceeding, as no other party to this proceeding represents Cincinnati's interest as a customer and on behalf of its residents.

**B. The Legal Position Asserted By Cincinnati**

Cincinnati supports Duke's goals of providing safe and reliable service. However, the specific details regarding how the Application is implemented may have a significant impact on Cincinnati and its residents. As such, Cincinnati seeks to intervene to ensure that Duke's Application is implemented in an orderly manner consistent with all relevant legal principles.

**C. Cincinnati's Intervention Will Not Unduly Prolong Or Delay The Proceedings.**

The Application was filed on October 1, 2021. To date, no procedural schedule or deadline for interventions has been set. As a result, Cincinnati's Motion to Intervene is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.<sup>1</sup>

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

Cincinnati is uniquely situated to contribute to the full development of factual issues in this case as one of the largest municipalities in Duke's service territory. Cincinnati has substantial experience in Commission proceedings, which experience may benefit the Commission's review

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<sup>1</sup>See O.A.C. 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").

of the Application.<sup>2</sup> Cincinnati's participation will significantly contribute to the full development and resolution of the issues raised by the Application.

Cincinnati's interests are not already represented by existing parties, as no other party currently involved in this proceeding currently represents Cincinnati's interests as a customer and municipality.

Respectfully submitted,

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<sup>2</sup> See, e.g., Case No. 16-1975-EL-CSS; Case No. 14-0841-EL-SSO; Case No. 17-1263-EL-SSO; Case No. 17-0032-EL-AIR.

### **CERTIFICATE OF SERVICE**

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 17th day of November 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. A courtesy copy was also emailed to the following:

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Summary: Motion to Intervene of The City of Cincinnati and Memorandum in  
Support electronically filed by Ms. Gretchen L Jewell on behalf of City of Cincinnati