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PUCO

August 23, 2007

Ms. Renee J. Jenkins  
Director, Administration Department  
Secretary to the Commission  
Docketing Division  
The Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, OH 43215

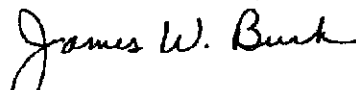
RE: PUCO Case No. 07-796-EL-ATA, Case No. 07-797-EL-AAM  
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric  
Illuminating Company, and The Toledo Edison Company for Approval of a  
Competitive Bidding Process for Standard Service Offer Electric Generation  
Supply, Accounting Modifications Associated with Reconciliation Mechanism  
and Phase In, and Tariffs for Generation Service  
Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo  
Edison Company's Memorandum Contra Citizen Power's Motion to Intervene

Dear Ms. Jenkins:

Enclosed for filing please find the original and twelve (12) copies of *Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company's Memorandum Contra Citizen Power's Motion to Intervene* regarding the above-referenced case which was fax-filed today. Please file the attached. File-stamp the two extra copies and return them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,

  
James W. Burk

JWB:ls  
By Federal Express Priority Overnight  
Enclosures 12

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**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Edison	)	
Company, The Cleveland Electric Illuminating	)	
Company, and The Toledo Edison Company	)	
for Approval of a Competitive Bidding Process	)	Case No. 07-796-EL-ATA
for Standard Service Offer Electric Generation	)	Case No. 07-797-EL-AAM
Supply, Accounting Modifications Associated	)	
with Reconciliation Mechanism and Phase In,	)	
and Tariffs for Generation Service.	)	

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON COMPANY'S MEMORANDUM CONTRA  
CITIZEN POWER'S MOTION TO INTERVENE**

Come now Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("Companies") and hereby respectfully files their Memorandum Contra Citizen Power's Motion to Intervene in this proceeding. For the reasons more fully set forth below, the Commission should deny Citizen Power's Motion to Intervene in this proceeding.

I. Introduction

Citizen Power identifies no discernible interest or group that it represents in its Motion for Intervention in this proceeding. Citizen Power's office, as identified in its Motion to Intervene, is not a customer of any of the Companies for electric service. Those groups or individuals that Citizen Power purports to represent are each already represented by at least one other intervening party in this proceeding. Having been granted intervention in a past proceeding on an unopposed basis is not grounds to grant intervention in this proceeding. The Companies request that the Commission deny Citizen Power's Motion to Intervene.

## II. Citizen Power Represents No Discernible Group or Interest

While Citizen Power states that it has a concern for almost every type of customer of the Companies, and expresses an interest in a number of different topics, the specific nature and extent of its interest is indeterminable. For example, Citizen Power states it is concerned about nearly every facet of the electric utility industry and beyond including whether: 1) FirstEnergy Corp.<sup>1</sup> has a monopoly over generation service; 2) the continued failure of Ohio's electric restructuring process; 3) the impact of a competitive bidding process on rates for residential and business customers; 4) environmental consequences of the proceeding; 5) adequacy and reliability of electric supply; and 6) the ability of customers to have the choice to select "green power". Apparently, they are concerned about everything, even matters outside of the scope of this proceeding, and including issues that are more appropriately addressed in the legislative process. A person cannot simply make general statements about a broad range of concerns or interests, some beyond the scope of the proceeding, and then expect the Commission to automatically grant intervention. As required by O.R.C. 4903.221 and O.A.C. 4901-1-11, the Commission must be able to judge the nature and extent of a person's interest in the proceeding, and based upon the Motion to Intervene, the Commission cannot do so.

## III. Citizen Power is not a Customer of the Companies and the Interests it Purports to Represent are Adequately Represented by Other Intervenors.

Although its Motion to Intervene identifies an office address within the service territories of the Companies in its Motion to Intervene, Citizen Power is not a customer of the Companies for electric service. Further, the individuals, groups, and interests it purports to represent are

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<sup>1</sup> The correct name of the holding company is FirstEnergy Corp.

already adequately represented by other Intervenor. For example, Citizen Power points out that its Trustees are customers of the Companies. If this is correct, then as individual residential customers these persons are adequately represented by the Ohio Office of Consumers' Counsel. Citizen Power also expresses a general concern about the rate impact of the competitive bidding process on residential and small business customers. But the interest of these customers are specifically represented by the OCC as to residential customers and by numerous cities, towns, townships representing both the residents and businesses of all sizes in their communities. Further, there are multiple intervenors in the case representing varying sizes of business customers. Not to leave anyone out, Citizen Power also expresses concern about low-income customers, but these customers' interests are ably represented in the proceeding by Ohio Partners for Affordable Energy. And Citizen Power's environmental concerns are already covered by the Ohio Environmental Council. As part of its determination, pursuant to O.A.C. 4901-1-11(B)(5), the Commission must consider whether the interest of the person seeking intervention is represented by other parties. Despite its shot-gun approach of superficially expressing concern for every interest and customer group, all such interests and groups, at least the ones within the scope of the proceeding, are already represented by other parties.<sup>2</sup> Therefore, Citizen Power does not meet the requirement set out in O.A.C. 4901-1-11(B)(5).

IV. The Granting of Unopposed Interventions in the Past is Not Grounds for Granting Intervention in the Present Proceeding.

Citizen Power relies heavily on its representation that it has been granted intervention in cases a few times in the past, some of which were cases before the Commission. The most

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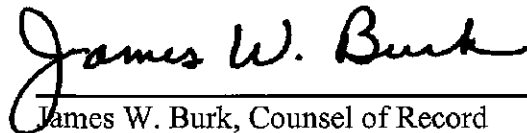
<sup>2</sup> If in fact Citizen Power does represent a distinct group of customers with interests unique to this proceeding, it should be required to disclose the identity of such customers and a description of that unique interest.

recent reference is to the Companies' transition case from 8 years ago, where Citizen Power's Motion to Intervene went unopposed. While the scope of that case was much broader and involved different issues, the simple fact that a person was granted intervention on an unopposed basis several years in the past in an unrelated proceeding does not constitute grounds for the granting of intervention in the present proceeding. With each case, the prospective intervenor must meet all of the requirements to intervene as set out in the Ohio Revised Code and the Ohio Administrative Code. As has been shown above, in this case for this proceeding, Citizen Power falls short of that mark and its Motion to Intervene should be denied.

V. Conclusion

For all of the foregoing reasons, the Companies respectfully request that the Commission deny the Motion to Intervene of Citizen Power, and for all other relief just and proper in the premise.

Attorneys for Applicants

A handwritten signature in black ink that reads "James W. Burk". The signature is written in a cursive style with a horizontal line underneath it.

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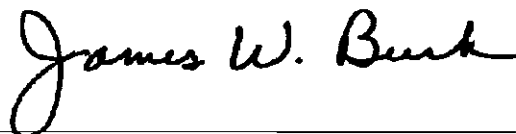
Email: burkj@firstenergycorp.com

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On behalf of Ohio Edison Company,  
The Cleveland Electric Illuminating Company,  
and The Toledo Edison Company

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Memorandum Contra was served upon all of the parties of record in this proceeding set forth below by First Class Mail, postage prepaid, this 23<sup>rd</sup> day of August 2007.



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