

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company for Authority to Modify)
Certain Accounting Practices and for Tariff)
Approvals.)

Case No. 07-1003-EL-ATA
Case No. 07-1004-EL-AAM

**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT
OF INDUSTRIAL ENERGY USERS-OHIO**

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September 11, 2007

Attorneys for Industrial Energy Users-Ohio

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Illuminating Company, and The Toledo)	Case No. 07-1003-EL-ATA
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MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO

Industrial Energy Users-Ohio ("IEU-Ohio") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matters with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

On August 29, 2007, the Ohio Supreme Court ("Court") affirmed in part and reversed in part the Commission's orders approving a Rate Certainty Plan ("RCP") for Ohio Edison Company ("OE"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("TE") (collectively, "FirstEnergy"). *Elyria Foundry Company, et al., v. Pub. Util. Comm.*, 114 Ohio St.3d 305, 871 N.E.2d 1176 (2007). In its opinion, the Court held that the Commission violated Section 4928.02(G), Revised Code, when it permitted FirstEnergy to collect deferred increased fuel costs through future distribution rate cases, or to alternatively use excess fuel-cost recovery to reduce deferred distribution-related expenses, and remanded the RCP to the Commission to remedy the statutory violation. *Id.* at 317. On September 10, 2007, FirstEnergy

submitted the instant Application on Remand to address recovery of increased fuel costs during the 2006-2008 time period in light of the Court's remand.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceedings, and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay these proceedings and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in these proceedings. The interests of IEU-Ohio will not be adequately represented by other parties to the proceedings and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

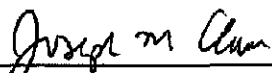
In support of this Motion to Intervene, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at http://www.ieu-ohio.org/public/about_ieu-ohio/members. IEU-Ohio's members purchase substantial amounts of electric and related services from FirstEnergy, which is a public utility subject to the jurisdiction of the Commission.

IEU-Ohio's members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end, IEU-Ohio has worked and will continue to work to produce legislative, regulatory, and market outcomes that are consistent with the state policy contained in Section 4928.02, Revised Code.

Many of IEU-Ohio's member companies are served by FirstEnergy and may be affected by FirstEnergy's Application on Remand. Additionally, the resolution of these issues may affect Ohio's larger effort to restructure its laws regulating the electric industry. Therefore, IEU-Ohio has a real and substantial interest inasmuch as these proceedings may directly or indirectly impact the provision of electric service to IEU-Ohio members' manufacturing facilities. Specifically, IEU-Ohio's direct interest in

these proceedings is the result of the effect that these proceedings shall have upon the price, adequacy, and reliability of the electric supply and related services within Ohio, including the areas presently served by FirstEnergy.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene and Memorandum in Support of Industrial Energy Users-Ohio* was served upon the following parties of record this 11th day of September 2007, via first class mail, postage prepaid.



Joseph M. Clark

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