

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)	
Edison Company, The Cleveland Electric)	
Illuminating Company, and The Toledo)	Case Nos. 08-0935-EL-SSO
Edison Company, for Authority to)	
Establish a Standard Service Offer)	
Pursuant to R.C. § 4928.143 in the Form)	
of an Electric Security Plan)	
)	

**MOTION FOR LEAVE TO INTERVENE OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Now come Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (jointly “Constellation”), who, pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, move for intervention in the above styled proceeding as full parties of record. The reasons supporting the intervention are contained in the accompanying Memorandum in Support.

By separate motion, requests for admission *Pro Hac Vice* for Cynthia A. Fonner, Senior Counsel for Constellation has been filed in the above styled proceeding. Constellation asks that if approved she be added to the official service list along with David Fein who is a representative corporate officer. Contact information for the additional counsel and corporate representative are provided in the attached Memorandum in Support.

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion for leave to intervene and that Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. each be made a full party of record.

Respectfully Submitted,

/s/

M. Howard Petricoff (0008287)

Stephen M. Howard (0022421)

VORYS, SATER, SEYMOUR AND PEASE LLP

52 East Gay Street

P. O. Box 1008

Columbus, Ohio 43216-1008

Tel. (614) 464-5414

Fax (614) 464-6350

Attorneys for Constellation NewEnergy, Inc. and
Constellation Energy Commodities Group, Inc.

**MEMORANDUM IN SUPPORT OF
THE MOTION TO INTERVENE OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record.

Rule 4901-1-11 of the Ohio Administrative Code states in part:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

* * *

(2) The 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.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio (the "Commission") considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. (See also R.C. 4903.221(B) upon which the above rule is authorized). A review of these factors in light of following facts supports granting Constellation's intervention.

Constellation NewEnergy, Inc. ("CNE") provides electricity and energy-related services to retail customers in Ohio as well as in 15 other states, the District of Columbia and two Canadian provinces and serves over 15,000 megawatts of load and over 10,000 customers. CNE holds a certificate as a competitive retail electric supplier ("CRES") from the Commission to engage in the competitive sale of electric service to retail customers in Ohio. CNE currently provides service to retail electric customers in Ohio.

Constellation Energy Commodities Group, Inc. (“CCG”) provides wholesale power and risk management services to wholesale customers (distribution utilities, co-ops, municipalities, power marketers, utilities and other large load serving entities), throughout the United States and Canada, in both regulated and deregulated energy markets. CCG is active in the PJM Interconnection, L.L.C. and Midwest Independent System Operator (“MISO”) wholesale power markets and has sold power for wholesale delivery in Ohio. CNE and CCG are subsidiaries of Constellation Energy Group, Inc.

In the instant matter, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy”) filed an application (the “Application”) for authority to establish a Standard Service Offer in the form of an Electric Security Plan pursuant to R.C. § 4928.143 to be effective on January 1, 2009.

Constellation has business interests in the State that will be affected by the outcome of the proceeding. As a potential supplier of electric power and energy in the State, Constellation has an interest in the instant proceeding as the Commission assesses whether the Application is consistent with Senate Bill 221, which became law effective July 31, 2008, and makes other decisions that will affect the viability of the competitive electric market in Ohio in which CCG provides electric power and other products and wholesale customers and in which CNE is a supplier of electric power and energy to retail customers.

This motion for intervention precedes all discovery or other procedural termination dates. The motion is also being filed more than five days before the hearing deadline established in Rule 4901-1-29. Thus, the intervention is timely and should not unduly delay the instant proceedings. Finally, because of its unique expertise and participation in the competitive retail and wholesale markets in Ohio and across the country, Constellation will be able to assist in the

development of a full and complete record to assist the Commission in its consideration of the Application.

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion for leave to intervene and that CNE and CCG each be made a full party of record. For purposes of receiving service in the proceeding, in addition to the undersigned, Constellation requests that the following persons be placed on the official service list:

David I. Fein
Vice President, Energy Policy - Midwest
Constellation Energy Group, Inc.
550 West Washington, Blvd., Suite 300
Chicago, IL 60661
312.704.8499
david.fein@constellation.com

Cynthia A. Fonner
Senior Counsel
Constellation Energy Resources, LLC
550 West Washington, Blvd., Suite 300
Chicago, IL 60661
312.704.8518
cynthia.a.fonner@constellation.com

Respectfully Submitted,

/s/
M. Howard Petricoff (0008287)
Stephen M. Howard (0022421)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
P. O. Box 1008
Columbus, Ohio 43216-1008
Tel. (614) 464-5414
Fax (614) 464-6350

Attorneys for Constellation NewEnergy, Inc. and
Constellation Energy Commodities Group, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 20th day of August, 2008 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.

/s/

M. Howard Petricoff

Arthur Korkosz / James Burk
Mark Hayden / Ebony Miller
First Energy
76 South Main Street, 18th Floor
Akron, OH 44308-1890

David Boehm
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202-4454

Joseph Clark
McNees, Wallace & Nurick
21 East State Street, 17th Floor
Columbus, OH 43215

Sheilah McAdams
City of Maumee
204 W. Wayne Street
Maumee, OH 43537

Brian Ballenger
Ballenger & Moore Co., LPA
3401 Woodville Road, Suite C
Toledo, OH 43619

Matthew S. White
Chester, Wilcox & Saxbe
65 E. State Street, Suite 1000
Columbus, OH 43215

Garrett Stone
Brickfield Burchette Ritts & Stone
1025 Thomas Jefferson Street N.W.
8th Floor West Tower
Washington DC 20007

Jeffrey Small
Ohio Consumers Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

David Rinebolt
Ohio Partners for Affordable Energy
231 W. Lima Street
Findlay, OH 45839-1793

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Summary: Motion Motion for Leave to Intervene of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. electronically filed by Howard Petricoff on behalf of Constellation NewEnergy and Constellation Energy Commodities Group, Inc.