

FILE

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 Authority to)
Establish a Standard Service Offer)
Pursuant to R.C. § 4928.143 in the Form)
of an Electric Security Plan)

Case No. 08-935-EL-SSO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company for Approval of a)
Market Rate Offer to Conduct a)
Competitive Bidding Process for Standard)
Service Offer Electric Generation Supply,)
Accounting Modifications Associated)
with Reconciliation Mechanism, and)
Tariffs for Generation Service.)

Case No. 08-936-EL-SSO

MOTION OF CITIZEN POWER, INC., DAVID HUGHES, KELLI O'NEILL, AND
RONALD O'CONNELL TO INTERVENE, MEMORANDUM IN SUPPORT
AND MOTION TO PRACTICE PRO HAC VICE BEFORE
THE COMMISSION

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September 3, 2008

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MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

Citizen Power respectfully submits that it should be permitted to intervene in these matters according to R.C. 4903.221 and the Commission's Rules and Regulations contained in Section 4901-1-11 of the Ohio Administrative Code. Moreover, Citizen Power should be permitted 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.

Citizen Power, Inc. is a not-for-profit research, education and advocacy organization (i.e. under Section 501 (c) (3) of the U. S. Internal Revenue Code), with offices in Ohio (at 2424 Dock Road, Madison, Ohio 44057), and Pennsylvania (at 2121

Citizen Power is a not-for-profit research, education and advocacy organization (i.e. under Section 501 (c) (3) of the U. S. Internal Revenue Code), with offices in Ohio and Pennsylvania. David Hughes is the Executive Director of Citizen Power, Kelli O'Neill and Ronald O'Connell are Directors of Citizen Power, Inc., and each of these Intervenor is a customer of Cleveland Electric Illuminating Company ("CEI"), an operating Company of FirstEnergy. A more detailed description of Citizen Power, the reasons for its intervention, and why such intervention should be granted by the Commission are set forth in the Memorandum in Support.

Respectfully submitted,



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MOTION TO INTERVENE OF CITIZEN POWER, INC., DAVID HUGHES, KELLI
O'NEILL, AND RONALD O'CONNELL

Citizen Power, Inc., David Hughes, Kelli O'Neill, and Ronald O'Connell
(collectively referred to as "Citizen Power") hereby respectfully move the Public Utilities
Commission of Ohio ("Commission"), pursuant to R.C. 4903.221 and Section 4901-1-11
of the Ohio Administrative Code, to intervene in the above-captioned case, 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.

Murray Avenue, Pittsburgh, Pennsylvania 15217). Citizen Power has established an Energy Education Project with the primary mission of promoting energy policies that protect the environment and low income customers. David Hughes is the Executive Director of Citizen Power, Kelli O'Neill and Ronald O'Connell are Directors of Citizen Power, and each of the Intervenors is a customer of The Cleveland Electric Illuminating Company, an operating company of FirstEnergy.

Citizen Power has a long history of involvement in electric regulatory matters. In the period from 1986 through 1989, Citizen Power, then known as "Concerned Citizens," intervened at the Commission in the Perry 1 and Beaver Valley 2 investigations concerning the prudence of the construction costs for the two nuclear power plants, and the case concerning the base rates of Cleveland Electric Illuminating Company. Citizen Power also intervened before the FERC in the FirstEnergy merger case (Docket No. ER 97-413). Furthermore, Citizen Power was granted intervention and actively participated in the FirstEnergy Transition Case before this Commission (Case Nos. 99-1212-EL-ETP, 99-1213-EL-ETP, and 99-1214-EL-ETP).

Citizen Power, and each of the named individual customers of CEI have a direct, real, and substantial interest in this proceeding. The above-captioned proceeding will directly affect the affordability of electricity for low-income customers, will determine the effectiveness of SB 221's energy efficiency mandates, and will decide how SB 221's renewable and alternative energy standards are applied. As part of its mission, Citizen Power has advocated for clean and affordable energy in multiple regulatory and legal proceedings. Thus, the interests of Citizen Power may be "adversely affected" by these proceedings, satisfying the intervention standard in R.C. 4903.221.

Citizen Power also meets the standard for intervention under R.C. 4903.221(B), which provides that the Commission shall consider in ruling on an intervention application:

- (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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, as evidenced above, the nature and extend of Citizen Power's interest in these proceedings are substantial. In addition, as an advocate for regulated electricity service, Citizen Power has a specific interest that the this proceeding follows SB 221's mandate that any accepted Electric Security Plan ("ESP") should be more favorable in the aggregate than the expected results of the Market Rate Offer ("MRO"). Second, Citizen Power's legal positions include, but are not limited to, the following: that the rates paid by residential customers, including low-income customers, should be fair and reasonable, that the energy efficiency standards of SB 221 are met, and that the benchmarks set forth in SB 221 relating to renewable and alternative energy are met. Third, since the proceeding has just started, granting Citizen Power's motion to intervene will not unduly prolong or delay the proceeding. Fourth, Citizen Power will contribute to the just, equitable, and expeditious resolution of the issues that are raised in these proceedings.

Citizen Power also meets the standard for intervention under Section 4901-1-11(B)(1)-(4) of the Ohio Administration Code, which is almost identical to the criteria

under R.C. 4903.221(B). In addition, other parties to these proceedings will not adequately represent Citizen Power's interests since Citizen Power is focused on both the environmental and the economic impacts of this proceeding.

For the reasons stated above, Citizen Power requests the Commission grant Citizen Power's motion to intervene.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum of Support and the attached Motion to Admit *Pro Hac Vice* was served electronically or by regular U.S. Mail upon the parties of record identified below in these cases on this 3rd day of September, 2008.


Theodore S. Robinson, Esq.

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**MOTION TO ADMIT THEODORE S. ROBINSON TO PRACTICE
PRO HAC VICE BEFORE THE COMMISSION**


Pursuant to Rule 4901-1-08(B) of the Ohio Administrative Code, William M. Ondrey Gruber (0005950), an attorney licensed to practice in the State of Ohio, respectfully petitions the Public Utilities Commission of Ohio ("Commission") to permit Theodore S. Robinson to practice *pro hac vice* before the Commission in the above-referenced proceedings. Mr. Robinson represents Citizen Power, a non-profit corporation registered in Ohio and Pennsylvania and working for safe, clean and affordable energy.

Mr. Robinson graduated from the University of Pittsburgh School of Law in May 2006, *cum laude*, and has been an active member of the Pennsylvania Bar since December of 2006, Member No. 203852. Mr. Robinson's representation of Citizen

Power includes the support of Citizen Power's activities related to the State of Ohio's utility services, including those relating to activities that the Commission has jurisdiction over.

Wherefore, William M. Ondrey Gruber requests that Theodore S. Robinson be permitted to practice before the Commission in the aforementioned proceedings.

Respectfully submitted,


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