

FILE

7  
RECEIVED-DOCKETING  
2008 SEP -5 AM 11:52  
PUCO

**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 ) **Case No. 08-935-EL-SSO**  
Authority to Establish a Standard )  
Service Offer Pursuant to )  
Section 4928.143, Revised Code in the )  
Form of an Electric Security Plan. )

**MOTION TO INTERVENE OF  
THE NATIONAL ENERGY MARKETERS ASSOCIATION**

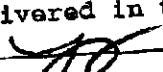
Now comes the National Energy Marketers Association ("NEM") pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code ("OAC"), and moves for intervention in the above styled docket as a full party of record. NEM has a real and substantial interest in this matter for the reasons set forth in the accompanying memorandum in support.

WHEREFORE, for the reasons stated below, NEM requests that its motion for intervention be granted and that it be made a full party of record.

Respectfully Submitted,

/s/ S. Howard as per telephone authorization  
Craig G. Goodman, Esq.  
President  
National Energy Marketers Association  
3333 K. Street, N.W., Suite 110  
Washington, D.C. 20007  
Tel. (202) 333-3288  
Fax (202) 333-3266  
Email: cgoodman@energymarketers.com

Attorney for National Energy  
Marketers Association

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business  
technician  Date Processed 9.5.08

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of</b>	)	
<b>Ohio Edison Company, The Cleveland</b>	)	
<b>Electric Illuminating Company, and</b>	)	
<b>The Toledo Edison Company for</b>	)	<b>Case No. 08-935-EL-SSO</b>
<b>Authority to Establish a Standard</b>	)	
<b>Service Offer Pursuant to</b>	)	
<b>Section 4928.143, Revised Code in the</b>	)	
<b>Form of an Electric Security Plan.</b>	)	

**MEMORANDUM IN SUPPORT**

On July 31, 2008, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (hereinafter "FirstEnergy") filed an application to establish a standard service offer in the form of an electric security plan pursuant to Section 4928.143, Revised Code. NEM participated in previous FirstEnergy rate restructuring proceedings and the continued ability of NEM's members to participate in the restructured electric market in the FirstEnergy service territory will be affected by the outcome of the instant case.

**I. NEM SHOULD BE GRANTED INTERVENTION AS A PARTY OF RECORD**

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code ("OAC"), NEM moves for intervention in the above styled docket as a full party of record. NEM has a real and substantial interest in this matter for the reasons set forth herein.

Rule 4901-1-11 of the OAC 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.

Among the factors to be considered are the nature of the intervenor's interests, the extent those interests are 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. *Id.* See also R.C. 4903.221(B). A review of these factors in light of following facts requires NEM's intervention.

The National Energy Marketers Association (NEM) is a national, non-profit trade association representing leading retail suppliers of natural gas, electricity as well as energy, telecom and financial related products, services, information and advanced technologies to millions of homeowners, small businesses and large industrial consumers throughout the United States, Canada and the European Union. NEM's membership includes wholesale energy suppliers, independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges, demand side and load management firms, direct marketing organizations, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies. NEM members are committed to helping federal and state lawmakers and regulators to implement a consumer-focused, value-driven transition to a transparent, reliable, price and technology competitive retail marketplace for energy-related products, services, information and innovative electrical applications and technologies.

NEM, as a representative of a regionally diverse group of providers of energy and energy-related services, has an interest to advocate the implementation of rates, tariffs, operating procedures, standards of conduct, rules, and policies that will ensure the development and maintenance of an efficient, reliable and price competitive electric market on FirstEnergy's system and in Ohio generally. As electric marketers and providers of energy-related services and technologies, various NEM members are serving *and intend to serve customers in the Ohio electric market, including the residential, commercial, and industrial customer segments in all of the utilities' service territories.* The ability of NEM's members to fairly compete in the restructured electric industry and thus bring the benefits of additional competition to Ohio electric consumers will be affected by the outcome of this proceeding.

NEM, as a participant in restructuring proceedings nationwide, will be able to bring a broad perspective to the deliberative process, and its participation in this proceeding should aid the Commission by enhancing the quality of the record to be developed here. NEM can lend a unique perspective to this proceeding because its membership represents a diverse cross-section of market participants.

Even if other trade associations or individual marketers seek to intervene in this matter, NEM's interests and position are significant and unique given its industry diversity, its interest in serving Ohio's commercial, industrial, and residential customers, plus its current and early participation in restructuring in Ohio and other multiple jurisdictions on similar issues, and the substantial business interests of its members in the development of a viable electric market in Ohio. Thus, NEM's participation in these proceedings will not

cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and quick resolution of the issues and concerns raised in these proceedings.

As such, NEM and its members have a real and substantial interest in this proceeding that cannot be adequately represented or protected by any other party hereto. Under all these circumstances, then, NEM submits that good cause exists to grant it leave to intervene in this proceeding.

## **II. Conclusion**

WHEREFORE, for the reasons stated above, NEM requests that its motion for intervention be granted and that it be made a full party of record.

Respectfully submitted,

/s/ By S. Howard as per telephone authorization  
Craig G. Goodman, Esq.  
National Energy Marketers Association  
3333 K Street, NW, Suite 110  
Washington, DC 20007  
Tel: (202) 333-3288  
Fax: (202) 333-3266  
Email: [cgoodman@energymarketers.com](mailto:cgoodman@energymarketers.com)  
Web site: [www.energymarketers.com](http://www.energymarketers.com)

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 28th day of August, 2008 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.

/s/  
Stephen M. Howard

Arthur Korkosz / James Burk  
Mark Hayden / Ebony Miller  
First Energy  
76 South Main Street, 18<sup>th</sup> Floor  
Akron, OH 44308-1890  
korkosza@firstenergycorp.com  
burkj@firstenergycorp.com  
haydenm@firstenergycorp.com  
elmiller@firstenergycorp.com

Joseph Clark  
McNees, Wallace & Nurick  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, OH 43215  
jclark@mwnm.com

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

Garrett Stone  
Brickfield Burchette Ritts & Stone  
1025 Thomas Jefferson Street N.W.  
8<sup>th</sup> Floor West Tower  
Washington DC 20007  
gas@bbrslaw.com

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

Lance M. Keiffer  
Lucas County/NOAC  
711 Adams Street, Second Floor  
Toledo, OH 43264-1680  
lkeiffer@co.lucas.oh.us

David Boehm  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202-4454  
dboehm@bkllawfirm.com

Sheilah McAdams  
City of Maumee  
204 W. Wayne Street  
Maumee, OH 43537  
sheilahmc@aol.com

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

Jeffrey Small  
Office of Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
small@occ.state.oh.us  
roberts@occ.state.oh.us  
reese@occ.state.oh.us  
poulos@occ.state.oh.us

Leslie A. Kovacik  
City of Toledo/NOAC  
420 Madison Avenue, 4<sup>th</sup> Floor  
Toledo, OH 43604  
leslie.kovacik@toledo.oh.gov

David I. Fein  
Cynthia A. Fonner  
Constellation Energy Group, Inc.  
550 West Washington, Blvd., Suite 300  
Chicago, IL 60661  
[david.fein@constellation.com](mailto:david.fein@constellation.com)  
[cynthia.a.fonner@constellation.com](mailto:cynthia.a.fonner@constellation.com)

Barth E. Royer  
Bell & Royer, Co. LPA  
33 South Grant Avenue  
Columbus, OH 43215-3927  
barthroyer@aol.com

Nolan Moser  
Air & Energy Program Manager  
The Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212-3449  
nolan@theOEC.org

Henry Eckhart  
50 W. Broad Street, Suite 2117  
Columbus, OH 43215-3301  
henryeckhart@aol.com

Richard L. Sites  
Ohio Hospital Association  
155 E. Broad Street  
Columbus, OH 43215  
ricks@ohanet.org