

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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2008 SEP 10 PM 4:50

In the Matter of the Application of Ohio) Case No. 08-935-EL-SSO
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.)

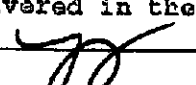
PUCO

In the Matter of the Application of Ohio) Case No. 08-936-EL-SSO
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.)

THE FIRSTENERGY COMPANIES' MEMORANDUM CONTRA
MOTION TO INTERVENE OF DAVID HUGHES, KELLI O'NEILL,
AND RONALD O'CONNELL

INTRODUCTION

On September 4, 2008, Citizen Power, Inc ("Citizens Power") filed a Motion to Intervene in the above-captioned cases. Its motion seeks intervention not only of the Citizen Power organization, but also three individuals: David Hughes, Kelli O'Neill, and Ronald O'Connell (collectively, "the individuals"). For the reasons set forth below, the Commission should deny intervention to the three individuals included in the Citizens Power motion.

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ARGUMENT

A. The Individuals' Motion to Intervene Should Be Denied.

The individuals, who seek intervention along with Citizen Power, have not established that they meet the criteria for intervention. Their motion should be denied, for two independent reasons.

1. The Individuals Have Not Shown a Real and Substantial Interest in these Cases.

Under the Commission's rules, parties seeking intervention bear the burden of showing that they have "a real and substantial interest in the proceeding." *See* O.A.C. 4901-1-11(A) (stating parties "shall be permitted to intervene in a proceeding *upon a showing*" of certain criteria) (emphasis added). The individuals have not met their burden.

Little is said regarding the individuals in the Citizen Power motion. The only statement about them is an introductory note revealing that they are directors of Citizen Power and customers of The Cleveland Electric Illuminating Company ("CEI"). (*See* Citizen Power Mot., p. 2.) Besides this note, the motion makes no other mention of the individuals, but instead describes how Citizen Power satisfies the criteria for intervention.

The motion thus fails to make any showing related to the standards of R.C. 4903.221 or Rule 4901-1-11. It sets forth *no* argument or discussion concerning their distinct interest in these cases, much less that it is "real and substantial." O.A.C. 4901-1-11(A)(2). Since no such showing was made, the individuals have not met their burden of justifying intervention, and their motion should be denied.

2. The Individuals' Interests Are Fully Represented by Existing Parties to these Proceedings.

Even if the individuals had established a real and substantial interest in these proceedings, intervention would still be unjustified. Rule 4901-1-11(A)(2) provides that intervention should be denied if the prospective intervenor's "interest is adequately represented by existing parties." *See also id.* 4901-1-11(B)(5) (stating that examiners shall consider "[t]he extent to which the person's interest is adequately represented by existing parties").

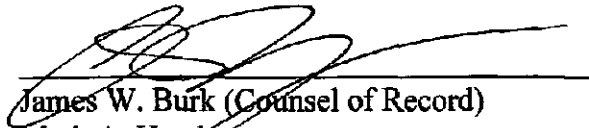
As noted, the only statement about the individuals is that they are customers of CEI and directors of Citizen Power. OCC already fully represents the individuals' interests as residential customers. *See* R.C. 4911.02. If Citizen Power's motion to intervene is granted, their interests as members of Citizen Power will be fully represented as well. Therefore, the individuals' interests are fully represented here, and their motion to intervene should be denied.

CONCLUSION

For the reasons set forth above, the Commission should deny the motion to intervene of David Hughes, Kelli O'Neill, and Ronald O'Connell.

September 10, 2008

Respectfully submitted,



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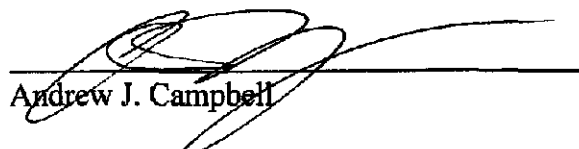
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra the Motion to Intervene of David Hughes, Kelli O'Neill, and Ronald O'Connell was electronically delivered to the following persons, this 10th day of September, 2008:



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