

FILE

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To: PUCO Docketing Date: February 20, 2009
Firm: From: Morgan E. Parke
Fax #: 614-466-0313 Pages: 19 (including cover page)

Subject: PUCO Case No. 08-935-EL-SSO

COMMENTS: Attached for filing in the above referenced docket, please find the Motion to Intervene of FirstEnergy Solutions Corp.; Memorandum in Support of Motion to Intervene of FirstEnergy Solutions Corp.; and Motion for Admission Pro Vice of Morgan E. Parke regarding the above case. The originals and the required number of copies will be sent via overnight mail for delivery tomorrow, Saturday, February 21, 2009. Please call me if you have any questions. Thank you.

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February 20, 2009

VIA FACSIMILE (614-466-4095) AND
OVERNIGHT DELIVERY

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

Dear Ms. Jenkins,

**Re: *Motion to Intervene of FirstEnergy Solutions Corp.; Memorandum in
Support of Motion to Intervene of FirstEnergy Solutions Corp.; and
Motion for Admission Pro Vice of Morgan E. Parke,
Case No. 08-935-EL-SSO***

Enclosed for filing, please find the originals and twenty-two (22) copies of the *Motion to Intervene of FirstEnergy Solutions Corp.; Memorandum in Support of Motion to Intervene of FirstEnergy Solutions Corp.; and Motion for Admission Pro Vice of Morgan E. Parke.*

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,

MEP/kli
Enclosures
cc: Parties of Record

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

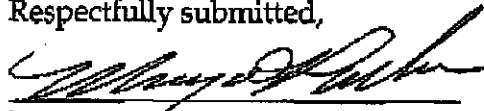
**In the Matter of the Application of
Ohio Edison Company, The Cleveland
Electric Illuminating Company and The
Toledo Edison Company for Authority
to Establish a Standard Service Offer
Pursuant to R.C. § 4928.143 in the Form
of an Electric Security Plan**

Case No. 08-935-EL-SSO

**MOTION TO INTERVENE OF
FIRSTENERGY SOLUTIONS CORP.**

Pursuant to Section 4903.221 of the Ohio Revised Code, and Section 4901-1-11 of the Commission's Rules (OAC § 4901-1-11), FirstEnergy Service Company, on behalf of its affiliate FirstEnergy Solutions Corp. (Solutions), moves to intervene in this proceeding. As explained in the attached Memorandum in Support, Solutions satisfies the criteria for intervention. Accordingly, the Commission should grant leave for Solutions to intervene as a party in this proceeding.

Respectfully submitted,



Morgan E. Parke, Esq. (0083005)*

Counsel of Record

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**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

**MEMORANDUM IN SUPPORT OF
MOTION TO INTERVENE OF
FIRSTENERGY SOLUTIONS CORP.**

FirstEnergy Solutions Corp. (Solutions) satisfies the criteria for intervention as a party in this proceeding. The Commission therefore should grant Solutions' motion to intervene as a party in this proceeding.

The criteria for intervention in a proceeding are that the party:

- has a real and substantial interest in the proceeding;¹
- has interests that will, as a practical matter, be affected by the Commission's disposition of the proceeding;²
- demonstrate that grant of its intervention will not prolong or delay proceeding unduly;³
- demonstrate that its participation will contribute significantly to full development and equitable resolution of the factual issues that are in play in the proceeding;⁴ and
- demonstrate that its interests are not represented by any other party to the proceeding.⁵

¹ OAC § 4901-1-11(A)(2).

² *Id.*

³ OAC, § 4901-1-11(B).

⁴ *Id.*

⁵ OAC, § 4901-1-11(B).

Solutions has a real and substantial interest in this proceeding. Specifically, this proceeding concerns, among other things, the Applicants' procurement of wholesale electric energy and capacity supply. Solutions owns and controls the electric output of significant electric generating resources that are located so as to provide generation supply in the Applicants' service territories. As such, Solutions may participate as a wholesale energy supplier in the Applicants' procurement processes. Accordingly, Solutions has a real and substantial interest in this proceeding. Furthermore, because the Commission's actions in this proceeding will address the structure and scope of the Applicants' wholesale energy procurement processes, the Commission's disposition of this proceeding may as a practical matter, affect Solutions' potential participation in the Applicants' wholesale energy procurement processes.

Solutions is willing to accept the record as it exists as of the date that this intervention is granted. Consequently, authorizing Solutions to intervene in this proceeding will not delay or unduly prolong this proceeding. In addition, Solutions has significant experience with supply of wholesale electric energy products, which means that Solutions is in a position to contribute significantly to the factual development of the record. Moreover, Solutions has significant experience with participating in regulatory proceedings, and therefore understands and accepts its responsibility to contribute to the equitable resolution of this proceeding.

No other parties are situated similarly to Solutions and Solutions' interests are not represented by any other parties to this proceeding. Accordingly, Solutions is the only entity that can represent adequately its interests in this proceeding.

To the extent that the Commission were to deem Solutions' intervention as untimely, grant of party status to Solutions is compelled by the following extraordinary circumstances.⁶

In an entry dated January 29, 2009, the Commission directed Staff to develop and circulate a proposal to establish an electric security plan for the Applicants.⁷ This plan is to address, among other issues, the terms and conditions that will control for the Applicants' wholesale power purchases. In the same entry, the Commission signaled its intention that the parties proceed on an "aggressive schedule" toward a possible agreement.⁸ This guidance suggests that the parties would work expeditiously toward an agreement that, if adopted by the Commission, will establish the terms and conditions that will control for the Applicants' wholesale power purchases. This recent development – expedited negotiations toward agreement and its further consideration by the Commission that will directly affect Solutions' interests – is an extraordinary circumstance that justifies grant of party status to Solutions in this proceeding. Furthermore, inasmuch as Solutions is willing to accept the record as it now exists in this proceeding, no party will be prejudiced by grant of party status to Solutions. Accordingly, grant of party status is warranted.

⁶ See OAC, § 4901-1-11(F).

⁷ PUCO Case No. 08-935-EL-SSO, *supra*, Entry, at ¶ 11 (January 29, 2009).

⁸ See *id.* at ¶¶ 12, 13.

WHEREFORE, as demonstrated above, Solutions satisfies the criteria for intervention and party status in this proceeding. Accordingly, the Commission should grant Solutions' motion to intervene as a party in this proceeding.

Respectfully submitted,



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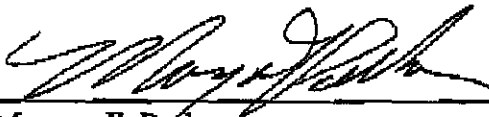
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene of FirstEnergy Solutions Corp.*, together with the accompanying Memorandum in Support, was served upon the following parties on the attached Service List this 20th day of February, 2009 by first class mail, postage prepaid.



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**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

**MOTION FOR ADMISSION PRO HAC VICE OF
MORGAN E. PARKE**

I. MOTION FOR ADMISSION PRO HAC VICE

Pursuant to Section 4901-1-08(B) of the Commission's Rules, Michael R. Beiting, an attorney licensed to practice law in the State of Ohio, hereby moves the Commission to permit Morgan E. Parke to appear and participate as counsel for FirstEnergy Solutions Corp. in the above-captioned case. The basis for this motion is set forth in the following Memorandum in Support.

II. MEMORANDUM IN SUPPORT

Mr. Parke is an attorney who is employed by FirstEnergy Service Company. Mr. Parke is licensed to practice law by the Supreme Court of the State of New York and by the Supreme Judicial Court of the Commonwealth of Massachusetts. On information and belief, Mr. Parke is an attorney in good standing in both of these jurisdictions.

The Supreme Court of the State of Ohio has granted corporate practitioner status to Mr. Parke for the 2007-2009 biennium, and has assigned attorney number 0083005.

Mr. Parke has participated in proceedings addressing energy and utility matters in various state and federal jurisdictions over many years. As an attorney employed by FirstEnergy Service Company, Mr. Parke represents FirstEnergy Solutions Corp. before the Federal Energy Regulatory Commission and in other jurisdictions.

III. CONCLUSION

For these reasons, the Commission should grant the above Motion for Admission Pro Hac Vice.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Admission Pro Hac Vice* of *Morgan E. Parke* was served upon the following parties on the attached Service List this 20th day of February, 2009 by first class mail, postage prepaid.


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