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FAX

City of Cleveland

Frank G. Jackson, Mayor

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PUCO

February 12, 2010

Betty McCauley
The Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

**Re: Motion to Intervene of the City of Cleveland in Case
Nos. 09-1947-EL-POR, 09-1948-EL-POR, 09-1949-EL-
POR, 09-1942-EL-EEC, 09-1943-EL-EEC, 09-1944-EL-
EEC, 09-580-EL-EEC, 09-581-EL-EEC, & 09-582-EL-
EEC**

Dear Ms. McCauley:

Enclosed is a faxed copy of the City of Cleveland's Post-Hearing Reply Brief for filing in the above-referenced dockets. I have mailed the original and necessary copies to you as well.

If you have any questions regarding this filing, please contact me at (216) 664-2569.

Sincerely,

A handwritten signature in dark ink, appearing to read 'St. L. Beeler'.

Steven L. Beeler
Assistant Director of Law
Utilities

Enclosure

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 SAM Date Processed FEB 12 2010

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Edison Company, The Cleveland)	
Electric Illuminating Company, and the)	Case Nos. 09-1947-EL-POR
Toledo Edison Company for Approval of)	09-1948-EL-POR
Their Energy Efficiency and Peak)	09-1949-EL-POR
Demand Reduction Program Portfolio)	
Plans for 2010 through 2012 and)	
Associated Cost Recovery Mechanisms)	
)	
In the Matter of the Application of)	
Ohio Edison Company, The Cleveland)	Case Nos. 09-1942-EL-EEC
Electric Illuminating Company, and the)	09-1943-EL-EEC
Toledo Edison Company for Approval)	09-1944-EL-EEC
of Their Initial Benchmark Reports)	
)	
In the Matter of the Energy Efficiency)	
and Peak Demand Reduction Program)	Case Nos. 09-580-EL-EEC
Portfolio of Ohio Edison Company, The)	09-581-EL-EEC
Cleveland Electric Illuminating Company)	09-582-EL-EEC
and the Toledo Edison Company)	
)	

**MOTION TO INTERVENE AND MEMORANDUM OF SUPPORT
OF INTERVENTION FILED ON BEHALF
OF THE CITY OF CLEVELAND**

Pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11, the City of Cleveland (Cleveland) respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned dockets, as a full party of record, and the full powers and rights granted to an intervening party.

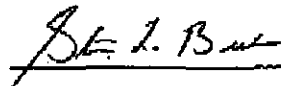
As more fully set forth in the attached Memorandum of Support of Intervention, Cleveland submits that it has a direct, real, and substantial interest in the issues and

matters involved in the above-captioned proceedings, and that it is so situated that the disposition of the proceedings, as a practical matter, without its participation may impair or impede its ability to protect its interests. Cleveland further submits that its participation in this docket will not cause undue delay, will not unjustly prejudice any existing party, and will contribute the just and expeditious resolution of the issues and concerns raised in these proceedings.

Moreover, inasmuch as others in these proceedings will not adequately represent Cleveland's interests, Cleveland respectfully submits that it is entitled to intervene in these proceedings, with the fully powers and rights granted to an intervening party.

WHEREFORE, Cleveland respectfully requests the Commission to grant its Motion to Intervene.

Respectfully Submitted,



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Attorneys for the City of Cleveland

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Edison Company, The Cleveland)	
Electric Illuminating Company, and the)	Case Nos. 09-1947-EL-POR
Toledo Edison Company for Approval of)	09-1948-EL-POR
Their Energy Efficiency and Peak)	09-1949-EL-POR
Demand Reduction Program Portfolio)	
Plans for 2010 through 2012 and)	
Associated Cost Recovery Mechanisms)	
)	
In the Matter of the Application of)	
Ohio Edison Company, The Cleveland)	Case Nos. 09-1942-EL-EEC
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of Their Initial Benchmark Reports)	
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In the Matter of the Energy Efficiency)	
and Peak Demand Reduction Program)	Case Nos. 09-580-EL-EEC
Portfolio of Ohio Edison Company, The)	09-581-EL-EEC
Cleveland Electric Illuminating Company)	09-582-EL-EEC
and the Toledo Edison Company)	
)	

**MEMORANDUM OF SUPPORT
OF INTERVENTION**

Pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11, the City of Cleveland (Cleveland) respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned dockets, as a full party of record, and the full powers and rights granted to an intervening party. For the below reasons, Cleveland respectfully submits that the Commission should grant its Motion to Intervene.

I. Intervention Criteria

For purposes of considering requests for leave to intervene, OAC §4901-1-11(A) provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: ... (2) [t]he person has a real and substantial interest in the proceeding, and 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.

Further, R.C. §4903.221(B) provides that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

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

O.A.C. §4901-1-11(B) also provides the following factors in considering requests to intervene:

- (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 proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.

II. Discussion

Cleveland is a municipal corporation empowered by Article XVIII of the Ohio Constitution to provide for the health, safety, and welfare of its citizens. Cleveland and many of its citizens are consumers of electric service that is provided by the Cleveland Electric Illuminating (CEI), an investor-owned utility applying for approval of: (1) its energy efficiency and peak demand reduction program portfolio plans for 2010 through 2012 and associated cost recovery mechanisms; and (2) its initial benchmark reports.

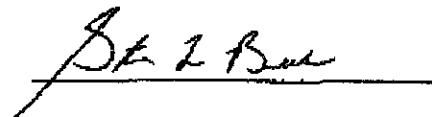
The City of Cleveland is an extremely large user of CEI services and this proceeding will be a significant impact on the cost and manner in which Cleveland obtains its retail electric services. The above-captioned proceedings will also have a real, substantial, and adverse impact on residential customers. More than Fifty Percent (50%) of Cleveland residential customers rely upon CEI for electric service. Consequently, Cleveland and its citizens have a real and substantial interest in these proceedings. Other participants do not adequately represent the interest of Cleveland and its citizens, and without Cleveland's participation the disposition of the proceeding may, as a practical matter, impair or impede Cleveland's ability to protect its interest and the interests of its citizens.

Cleveland has been actively involved in electric service matters before this Commission for many years and in many cases. Cleveland seeks to intervene and participate in this matter to represent the perspective of a municipal customer as well as the perspective of Cleveland's citizens relative to all issues which may arise. To the extent that it is appropriate and efficient, Cleveland intends to coordinate its participation with that of other interested groups.

For all of the reasons set forth above, Cleveland has direct, real, and substantial interests in the issues in these proceedings, which can only be protected by its participation. Disposition of the proceeding without Cleveland's participation may, as a practical matter, impair Cleveland's ability to protect its interests and interests of its citizens. Cleveland's participation will contribute to the full development and the just and equitable resolution of the issues likely to be raised in this proceeding, and Cleveland's participation will not cause any delay, nor will intervention unduly prolong this proceeding.

WHEREFORE, Cleveland respectfully submits that the Commission must grant its Motion to Intervene.

Respectfully Submitted,



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Attorneys for the City of Cleveland

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum in Support of Intervention of the City of Cleveland was served upon the following parties of record or as a courtesy, via ordinary U.S. mail, express mail, hand delivery, or electronic transmission on February 12, 2010.



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