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BEFORE
THE PUBLIC UTILITY COMMISSION OF OHIO

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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. 10-388-EL-SSO
)
)

) COUNCIL OF SMALLER
) ENTERPRISES' MOTION TO
) INTERVENE
)

Pursuant to Ohio Revised Code ("R.C.") Section 4903.221 and Ohio Administrative
Code Rule 4901-1-11, the Council of Smaller Enterprises ("COSE") respectfully requests that
the Public Utilities Commission of Ohio (the "Commission") grant COSE's motion for leave to
intervene in this proceeding. The reasons supporting COSE's intervention are contained in the
accompanying Memorandum in Support.

Respectfully submitted,



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BEFORE
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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.

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) **MEMORANDUM IN SUPPORT OF**
) **THE COUNCIL OF SMALLER**
) **ENTERPRISES' MOTION TO**
) **INTERVENE**

On March 23, 2010, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively "FirstEnergy") filed an Application for approval of an electric security plan ("ESP") in the above-captioned case in the form of a stipulation. COSE was not a party to the stipulation nor were they involved in any discussions occurring prior to the filing of the ESP.

R.C. Section 4903.221(B) and OAC Rule 4901-11(A)(2) govern intervention in Commission proceedings. Substantially similar in substance, these provisions explain that the Commission may consider the following in determining whether to grant intervention:

- (1) The nature and extent of the person's interest;¹
- (2) The legal position of the person seeking intervention and its relation to the merits of the case;²
- (3) Whether intervention would unduly delay the proceeding or unjustly prejudice any existing party;³

¹ ORC 4903.221(B)(1) and OAC 4901-1-11(B)(1).

² ORC 4903.221(B)(2) and OAC 4901-1-11(B)(2).

³ ORC 4903.221(B)(3) and OAC 4901-1-11(B)(3).

- (4) The person's potential contribution to full development and equitable resolution of the issues involved in the proceeding;⁴ and
- (5) The extent to which the person's interest is represented by existing parties.⁵

COSE has a real and substantial interest in the above-captioned proceeding. COSE represents 17,000 small commercial customers within FirstEnergy's territory. The small commercial class is not currently represented in this proceeding.

COSE has also served as an aggregator of electricity for its members since 1999 in FirstEnergy's territory. Through COSE's efforts, participating members have realized decreased energy costs, which has allowed them the opportunity to reallocate these resources to other areas of their businesses. Further, last year COSE was designated as one of the Administrators for FirstEnergy's Energy Efficiency and Demand Response program created as part of the Stipulation in last year's ESP proceeding (Case No. 08-935-EL-SSO). See generally *In the Matter of the Application of Ohio Ellison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Administrator Agreements and Statements of Work*, Case No. 09-553-EL-EEC. Administrators are designated in the Stipulation and seem to be the parties in Case No. 09-906-EL-SSO. COSE did not intervene in that proceeding and is not currently included as an Administrator in the as filed Stipulation.

The legal issues intended to be raised by COSE directly relate to both the merits of the case and this proceeding's potential impact on COSE and its members and program participants. Granting COSE's motion to intervene will not unduly delay these proceedings, or unjustly prejudice any existing party, because COSE is filing this motion prior to the Commission's deadline for intervening. COSE will work cooperatively with others in the case in order to

⁴ ORC 4903.221(b)(4) and OAC 4901-1-11(B)(4).

⁵ OAC 4901-1-11(B)(5).

maximize case efficiency where practical, but without compromising COSE's unique position in the State of Ohio.

COSE's intervention and involvement in this case will contribute to the development of a more complete understanding of the meaning and impacts of FirstEnergy's filing on COSE (as an Administrator of FirstEnergy's Energy Efficiency and Demand Response programs), and COSE's efforts regarding energy efficiency and peak demand reduction programs. Additionally, COSE was granted intervention, and actively participated in, FirstEnergy's electric security plan case (Case No. 08-935-EL-SSO), and has been an active participant in FirstEnergy's energy efficiency collaborative meetings implemented following the Commission approval of the ESP Stipulation in Case No. 08-935-EL-SSO.

Finally, COSE submits that no current party represents its interests, and disposition of this proceeding without its participation will impair or impede COSE's ability to protect its interests.

WHEREFORE, the Council of Smaller Enterprises respectfully requests that its motion to intervene be granted.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Intervene was served upon the parties of record listed below this 5th day of April, 2010 via first class mail.

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