

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Long-Term Forecast)
Report of Ohio Power Company and) Case No. 10-501-EL-FOR
Related Matters.)

In the Matter of the Long-Term Forecast)
Report of Columbus Southern Power) Case No. 10-502-EL-FOR
Company and Related Matters.)

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

Pursuant to Ohio Revised Code § 4903.221 and O.A.C. 4901-1-11, FirstEnergy Solutions Corp. ("FES") moves to intervene in these proceedings. FES has a number of real and substantial interests in these proceedings and its interests, which may be prejudiced by the results of these proceedings, are not adequately represented by existing parties. Thus, as set forth more fully in the attached memorandum in support, FES respectfully requests that the Commission grant this request to intervene.

Respectfully submitted,



Mark A. Hayden (0081077)

Attorney

FIRSTENERGY SERVICE COMPANY


76 South Main Street

Akron, OH 44308

(330) 761-7735

(330) 384-3875 (fax)

haydenm@firstenergycorp.com

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James F. Lang (0059668)
Laura C. McBride (0080059)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
1400 KeyBank Center
800 Superior Ave.
Cleveland, OH 44114
(216) 622-8200
(216) 241-0816 (fax)
jlang@calfee.com
lmcbride@calfee.com
talexander@calfee.com

Attorneys for FirstEnergy Solutions Corp.

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

In late December 2010, Columbus Southern Power Company and Ohio Power Company (collectively, the “Companies”) supplemented their long-term forecast report (“LTFR”), which Staff has found to be a substantial change to the Companies’ previous 2010 LTFR filing.¹ The Companies’ new, supplemental LTFR includes information regarding “the Companies’ intent on entering into a potential capital leasing arrangement for a total of 49.9 MW of solar energy resources” at a reclaimed AEP mine (“Turning Point”).² However, the Companies recently revealed in their Application for approval of their standard-service offer (“SSO”) pursuant to R.C. § 4928.143 (the “ESP”) that the Companies intend to seek reimbursement for their Turning Point venture via a non-bypassable rider – just one of the concerning aspects of the Companies’ proposed ESP.³ Indeed, the Companies acknowledge in their ESP Application that the information that “demonstrate[s] the need for the capacity associated with the Turning Point

¹ See Motion for Hearing, filed Jan. 12, 2011.

² See Supplement, filed Dec. 20, 2010, at p. 5.

³ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to § 4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan*, Case Nos. 11-0346-EL-SSO and 11-0348-EL-SSO, Application, filed Jan. 27, 2011, pp. 10-11.

project” and, thus, their request for a non-bypassable charge, is found in these LTFR proceedings.⁴

R.C. § 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding” may intervene in the proceeding. The Commission’s own rules reinforce the right to intervene:

Upon timely motion, any person *shall be* permitted to intervene in a proceeding upon a showing that . . . [t]he 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.

O.A.C. 4901-1-11(A) (emphasis added). “The regulation’s text is very similar to Civ. R. 24 – the rule governing intervention in civil cases in Ohio – which is generally liberally construed in favor of intervention.” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387 (2006) (internal quotations omitted). In considering a motion to intervene, the Commission’s rule directs that the Commission should consider: the nature and extent of the intervenor’s interest; the legal position advanced by the intervenor and its probable relation to the merits of the case; whether intervention will unduly prolong or delay the proceedings; whether the intervenor will significantly contribute to full development and equitable resolution of the factual issues; and the extent to which the intervenor’s interest is represented by existing parties. *See* O.A.C. 4901-1-11(B)(1)-(5); *see also* R.C. § 4903.221(B)(1)-(4). FES’s motion to intervene satisfies each of these factors.

FirstEnergy Solutions Corp. (“FES”) is an owner and operator of electric generating facilities located in Ohio and elsewhere. FES also currently provides competitive services to customers in Applicants’ service territories. The structure and pricing of the Companies’

⁴ *Id.* at p. 11.

proposed ESP – and specifically, the Companies’ request for a non-bypassable charge to recover the costs purportedly associated with the Turning Point venture – will directly impact FES’s ability to provide competitive services. FES, therefore, has a real and substantial interest in insuring that the competitive retail market for electric service in the Companies’ service territory is not harmed, including the potential for harm through such a non-bypassable charge that damages competition. By virtue of the Companies’ request for reimbursement in the ESP for the costs associated with Turning Point, FES has an additional real and substantial interest in “supporting information” associated with Turning Point. The Companies have recognized that this LTFR is intertwined with the ESP, as well as the Companies’ impending application for an increase in distribution rates.⁵

FES’s intervention also is proper and appropriate because of its substantial experience in the issues raised by these and the related ESP proceedings. FES has significant experience as a provider of a wide range of energy and energy-related products and services, including the generation and sale of electricity and energy planning and procurement, to wholesale and retail customers. Therefore, FES’s participation in these LTFR proceedings can assist the Commission and Staff in an assessment of the Companies’ forecasts associated with the Turning Point venture. FES also has substantial experience in promoting fair and open competitive markets through participation in Commission proceedings.⁶ These LTFR proceedings may impair or

⁵ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Case Nos. 11-351-EL-AIR, 11-352-EL-AIR, Mot. to Establish Test Period Dates and for Waiver of Certain Filing Requirements, filed Jan. 27, 2011 at p. 9 (noting that part of the LTFR “will be fully litigated as an adjunct to the Companies’ anticipated Electric Security Plan (ESP) filing and in parallel to this distribution rate case”).

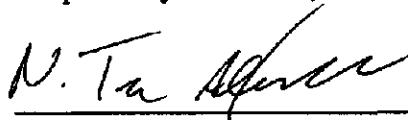
⁶ See, e.g., *In re Application of Duke Energy Ohio for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply*, Case No. 10-2586-EL-SSO, Mot. to Intervene of FES, filed Nov. 19, 2010; *In re Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a*

impede FES's ability to protect its and other CRES providers' interests, as well as FES's ability to fully develop the issues associated with the Companies' ESP Application. Thus, FES respectfully requests that the Commission grant its motion to intervene in this proceeding.

Finally, FES's request for intervention is timely and no other parties represent FES's interests. The Attorney Examiner has only recently scheduled a hearing on the issues raised by the Companies' supplement to their LTFR for March 9, 2011,⁷ and Staff has requested that the hearing be called and continued to permit further investigation and discussions.⁸ No other CRES providers or other parties with interests similar to those of FES have intervened. Therefore, FES's intervention will not unduly prolong or delay these proceedings, but rather will significantly contribute to the full development and resolution of the issues raised by the Companies' Supplemental LTFR and by their ESP.

WHEREFORE, FES respectfully requests that the Commission grant this Motion to Intervene and that it be made a party of record to these proceedings.

Respectfully submitted,



Mark A. Hayden (0081077)

Attorney

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

(330) 761-7735

(330) 384-3875 (fax)

haydenm@firstenergycorp.com

Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Case No. 09-906-EL-SSO, Mot. to Intervene of FES, dated Nov. 25, 2009.

⁷ Entry, filed Jan. 26, 2011.

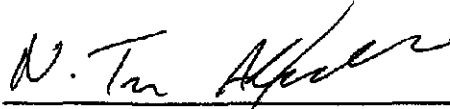
⁸ See Motion for Hearing, filed Jan. 12, 2011, at p. 2.

James F. Lang (0059668)
Laura C. McBride (0080059)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
1400 KeyBank Center
800 Superior Ave.
Cleveland, OH 44114
(216) 622-8200
(216) 241-0816 (fax)
jlang@calfee.com
lmcbride@calfee.com
tallexander@calfee.com

Attorneys for FirstEnergy Solutions Corp.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene of FirstEnergy Solutions Corp. and Memorandum in Support* thereof was served this ____ day of February, 2011, via e-mail and first-class U.S. mail, postage-prepaid, upon the parties below.



One of the Attorneys for FirstEnergy Solutions Corp.

Steven T. Nourse
Matthew J. Satterwhite
American Electric Power Corp.
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
stnourse@aep.com
mjsatterwhite@aep.com

Samuel C. Randazzo
Joseph E. Olikier
McNees Wallace & Nurick
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
joliker@mwncmh.com

Terry L. Etter
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
etter@occ.state.oh.us