

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion to intervene and that Constellation NewEnergy, Inc. and Exelon Generation Company, LLC, each be made a full party of record.

Respectfully Submitted,



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**MEMORANDUM IN SUPPORT OF THE JOINT MOTION TO INTERVENE OF  
CONSTELLATION NEWENERGY, INC.  
AND EXELON GENERATION COMPANY, LLC**

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code (“OAC”), establish the standard for intervention as a full party of record in the above-styled proceeding. Rule 4901-1-11, OAC, states in part:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

\* \* \*

The 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.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio (the “Commission”) considers in implementing the above rule are the nature of the intervenor’s interest, the extent that interest is represented by existing parties, the intervenor’s potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. *See also*, Section 4903.221(B), Revised Code, upon which the above rule is authorized. A review of these factors in light of following facts supports granting Constellation’s intervention.

Constellation NewEnergy, Inc. (“CNE”) provides electricity and energy-related services to retail customers in Ohio, as well as in 15 other states, the District of Columbia and two Canadian provinces. CNE serves over 15,000 megawatts of load and over 10,000 customers. CNE holds a certificate as a competitive retail electric service (“CRES”) provider from the Commission to engage in the sale of CRES to retail customers in Ohio.

Exelon Generation Company, LLC (“Exelon Generation”) owns or controls approximately 30,000 megawatts of generation, including nuclear, fossil, hydroelectric, solar, landfill gas, and wind generation assets. Exelon Generation is the nation’s largest nuclear operator, and the ninth largest wind energy generator. Exelon Generation owns the nation’s largest urban solar power plant, which is located in Chicago, and owns two of the largest hydroelectric facilities in the eastern United States. Exelon Generation sells wholesale energy and capacity products to municipalities, cooperatives, investor-owned utilities, retail suppliers, retail energy aggregators, merchant participants, power marketers, and major commodity trading houses.

On May 29, 2014, Duke Energy Ohio, Inc. (“Duke”) filed an application for a Standard Service Offer (“SSO”) pursuant to Section 4928.143, Revised Code. Duke’s current Electric Security Plan will expire on May 31, 2015. Duke is proposing an Electric Security Plan that will take effect for the three years immediately thereafter (from June 1, 2015 through May 31, 2018).

CNE and Exelon Generation (collectively, “Constellation”) have existing and potential business interests in the State that will be affected by Duke’s proposed ESP. The Commission’s decision in the matter will affect the viability of the competitive retail and wholesale electric markets in Ohio, in which CNE and Exelon Generation provide electric power and other products and services to retail and wholesale customers. CNE and Exelon Generation have been active parties in numerous Commission proceedings regarding ESPs. Specifically as to Duke, CNE (along with Exelon Generation in 2012 and beyond) participated in Duke’s other ESP and MRO cases, Case Nos. 08-920-EL-SSO et al., 10-2586-EL-SSO, 11-3549-EL-SSO et al., and in

an “offshoot” – Duke’s competitive bidding process case, Case No. 11-6000-EL-UNC.<sup>1</sup> Constellation’s extensive experience in matters regarding the development of competitive retail markets and a competitive bidding process will assist the Commission in the development of a more complete record in this matter.

This motion for intervention precedes the July 8, 2014 deadline established by the Attorney Examiner. The motion is also being filed well in advance of the hearing. Thus, the intervention is timely and should not unduly delay the instant proceedings. Finally, because of their unique expertise and participation in the competitive retail and wholesale markets in Ohio and across the country, Constellation will be able to assist in the development of a full and complete record to assist the Commission in its consideration of Duke’s proposals.

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion to intervene, and that CNE and Exelon Generation each be made a full party of record. For purposes of receiving service in the proceeding, in addition to the undersigned, Constellation requests that the following persons be placed on the official service list:

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<sup>1</sup> Also, CNE (along with Exelon Generation in 2012 and beyond) actively participated in all of the other electric distribution utilities’ ESP proceedings -- The Dayton Power and Light Company ESP I (08-1094-EL-SSO, et al.) and ESP II (12-426-EL-SSO, et al.); FirstEnergy Companies ESP I (08-935-EL-SSO), MRO (08-936-EL-SSO), ESP II (10-388-EL-SSO), ESP III (12-1230-EL-SSO); and AEP Ohio ESP I (08-917-EL-SSO, et al.), ESP II (11-346-EL-SSO), ESP III (13-2385-EL-SSO, et al.).

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Joint Motion to Intervene was served this 1<sup>st</sup> day of July, 2014 by electronic mail, upon the persons listed below.



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