

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In The Matter of the Application of</b>	<b>)</b>	
<b>Ohio Edison Company, The</b>	<b>)</b>	
<b>Cleveland Electric Company and the</b>	<b>)</b>	<b>Case No. 14-1297-EL-SSO</b>
<b>Toledo Edison Company for</b>	<b>)</b>	
<b>Authority to Provide for a Standard</b>	<b>)</b>	
<b>Service Offer Pursuant to R.C.</b>	<b>)</b>	
<b>4928.143 in the Form of an Electric</b>	<b>)</b>	
<b>Security Plan</b>	<b>)</b>	

---

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

---

The City of Cleveland ("Cleveland"), by and through its Director of Law, respectfully moves this Public Utilities Commission of Ohio (the "Commission") pursuant to Ohio Revised Code Section 4903.221 and Ohio Administrative Code Rule 4901-1-11, for leave to intervene in the above-captioned matter, as a party of record and with the full powers and rights granted to an intervening party. Cleveland has a direct, real, and substantial interest in the proceeding filed by the Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, "FirstEnergy") seeking approval of a standard service offer ("SSO") in the form of an electric security plan ("ESP"). As a practical matter, a disposition of the proceeding without Cleveland's participation may impair or impede Cleveland's ability to protect its interests. Cleveland's participation in this matter will contribute to the just and expeditious resolution of the proceeding without causing an undue delay or any unjust

prejudice to another party. Inasmuch as other parties in this proceeding will not adequately represent Cleveland's interests, Cleveland is entitled to intervene in these proceedings, with the full powers and rights granted to an intervening party.

WHEREFORE, as set forth in the Memorandum in Support, which is attached hereto and incorporated herein, Cleveland respectfully requests this Commission grant this Motion to Intervene.

Respectfully submitted,

The City of Cleveland

*/s/ Kate E. Ryan*

---

Barbara A. Langhenry (0038838)  
Director of Law  
Harold A. Madorsky (0004686)  
Kate E. Ryan (0068248) (Counsel of Record)  
601 Lakeside Avenue, Room 106  
Cleveland, Ohio 44114-1077  
216-664-2800 (tel)  
216-664-2663 (fax)  
[blanghenry@city.cleveland.oh.us](mailto:blanghenry@city.cleveland.oh.us)  
[hmadorsky@city.cleveland.oh.us](mailto:hmadorsky@city.cleveland.oh.us)  
[kryan@city.cleveland.oh.us](mailto:kryan@city.cleveland.oh.us)

Attorneys for The City of Cleveland

Counsel will accept service by electronic mail.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In The Matter of the Application of</b>	)	
<b>Ohio Edison Company, The</b>	)	
<b>Cleveland Electric Company and the</b>	)	<b>Case No. 14-1297-EL-SSO</b>
<b>Toledo Edison Company for</b>	)	
<b>Authority to Provide for a Standard</b>	)	
<b>Service Offer Pursuant to R.C.</b>	)	
<b>4928.143 in the Form of an Electric</b>	)	
<b>Security Plan</b>	)	

**MEMORANDUM IN SUPPORT OF INTERVENTION**

**I. Introduction**

On August 4, 2014, FirstEnergy filed an application seeking approval of an SSO by proposing to implement an ESP, pursuant to R.C. §§4928.141, 4928.143. The Commission scheduled an October 1, 2014 deadline to file motions for intervention. (Journal Entry "JE" filed by Attorney Examiner on 08/13/2014)

Cleveland is a municipal corporation empowered by Article XVIII of the Ohio Constitution to provide for the health, safety, and welfare of its citizens. The Cleveland Electric Illuminating Company ("CEI"), an investor-owned utility and a FirstEnergy applicant in this matter, provides electric service to its customers including Cleveland and many of its citizens and businesses. Cleveland is an extremely large user of CEI services and this proceeding will have a significant impact on the cost and manner in which Cleveland obtains its retail electric services. This proceeding will also have a real, substantial, and adverse impact on residential customers, including many Cleveland residents and businesses relying on CEI for electric service. Cleveland is also a governmental aggregator for electricity services for many of the customers located in

FirstEnergy's service area. The outcome of this proceeding may have a significant impact on the competitive retail electric service for Cleveland's aggregated customers.

## **II. Statutory Criteria of Intervention**

Ohio law, pursuant to R.C. §4903.221 and Rule 4901-1-11, requires a timely motion to intervene in addition to similar and complementing criteria for intervention. Revised Code 4903.221 sets forth a standard for a person who may be adversely affected by the Commission's proceeding. Rule 4901-1-11 provides:

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.

Both R.C. §4903.221 and Rule 4901-1-11 provide a set of criteria for this Commission's consideration of a motion to intervene. See Criteria, listed below.

### **Criteria for Intervening in a Commission Proceeding**

<b>Revised Code Section 4903.221</b>	<b>Administrative Code Rule 4901-1-11</b>
(1) The nature and extent of the prospective intervenor's interest;	(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;	(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;	(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.	(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.

Cleveland surpasses the standard for intervention and the criteria for intervening in this matter as governed by R.C. §4903.221 and OAC Rule 4901-1-11.

### **III. Discussion**

Cleveland meets the standard for intervening in this proceeding because Cleveland, as a customer and as a governmental aggregator of services, may be adversely affected by the proceedings. Cleveland, on behalf of itself, its residents, the businesses located within Cleveland, and those customers subject to aggregation, is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect Cleveland's interest. No other party to the proceeding represents Cleveland's complex interest in the proceeding.

Cleveland also meets all criteria in support of intervening in this proceeding. The nature and extent of Cleveland's interest in this proceeding is evident by the fact that Cleveland is a large CEI customer and Cleveland represents a large CEI customer base in residential and commercial CEI customers and as a governmental aggregator. The complex and extensive nature of Cleveland's interest makes it impractical for any other party to adequately represent Cleveland's interests in this matter.

Cleveland's legal position and its relation to the merits of the proceeding will impact thousands of CEI customers and non CEI customers. Cleveland, its residents, and those businesses located within Cleveland comprise a large number of CEI customers who, based on the outcome of this proceeding, are likely to be impacted by (1) the price, reliability, and adequacy of their electric services; and (2) the competitive price in the electric service market. Cleveland residents, particularly its low-income

residents, have a critical interest in the cost structure presented in FirstEnergy's Application. Also, the outcome of this proceeding may impact Cleveland's ability to provide a competitive retail electric service for its aggregated electricity customers.

Cleveland's participation in the proceedings will not prolong or delay the proceedings nor cause any prejudice to any other party. Cleveland intends to fully participate in the proceeding in a manner that will assist with the development and equitable resolution of the factual issues.

For the reasons stated in this Memorandum in Support, Cleveland respectfully requests that it be permitted to intervene in this matter.

Respectfully submitted,

*/s/ Kate E. Ryan*

---

Barbara A. Langhenry (0038838)  
Director of Law  
Harold A. Madorsky (0004686)  
Kate E. Ryan (0068248) (Counsel of record)  
City of Cleveland  
601 Lakeside Avenue, Room 106  
Cleveland, Ohio 44114-1077  
216-664-2800 (tel)  
216-664-2663 (fax)  
[blanghenry@city.cleveland.oh.us](mailto:blanghenry@city.cleveland.oh.us)  
[hmadorsky@city.cleveland.oh.us](mailto:hmadorsky@city.cleveland.oh.us)  
[kryan@city.cleveland.oh.us](mailto:kryan@city.cleveland.oh.us)

Attorneys for the City of Cleveland

Counsel will accept service by electronic mail.

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the Motion to Intervene and Memorandum in Support of Intervention of the City of Cleveland has been filed with the Public Utilities Commission of Ohio and has been served by electronic mail, upon the parties identified below, on this 18<sup>th</sup> day of September, 2014.

*/s/ Kate E. Ryan*

---

Kate E. Ryan (0068248)

<a href="mailto:burkj@firstenergycorp.com">burkj@firstenergycorp.com</a> <a href="mailto:cdunn@firstenergycorp.com">cdunn@firstenergycorp.com</a> <a href="mailto:barthroyer@aol.com">barthroyer@aol.com</a> <a href="mailto:athompson@taftlaw.com">athompson@taftlaw.com</a> <a href="mailto:myurick@taftlaw.com">myurick@taftlaw.com</a> <a href="mailto:zkravitz@taftlaw.com">zkravitz@taftlaw.com</a> <a href="mailto:William.wright@puc.state.oh.us">William.wright@puc.state.oh.us</a> <a href="mailto:Gregory.price@puc.state.oh.us">Gregory.price@puc.state.oh.us</a> <a href="mailto:Mandy.willey@puc.state.oh.us">Mandy.willey@puc.state.oh.us</a> <a href="mailto:tobrien@bricker.com">tobrien@bricker.com</a> <a href="mailto:ricks@ohanet.org">ricks@ohanet.org</a> <a href="mailto:jlang@calfee.com">jlang@calfee.com</a> <a href="mailto:talexander@calfee.com">talexander@calfee.com</a> <a href="mailto:dakutik@jonesday.com">dakutik@jonesday.com</a> <a href="mailto:dboehm@bkllawfirm.com">dboehm@bkllawfirm.com</a> <a href="mailto:mkurtz@bkllawfirm.com">mkurtz@bkllawfirm.com</a> <a href="mailto:jkylercohn@bkllawfirm.com">jkylercohn@bkllawfirm.com</a> <a href="mailto:cmooney@ohiopartners.org">cmooney@ohiopartners.org</a> <a href="mailto:wttpmlce@aol.com">wttpmlce@aol.com</a> <a href="mailto:Larry.sauer@occ.ohio.gov">Larry.sauer@occ.ohio.gov</a> <a href="mailto:Kevin.moore@occ.ohio.gov">Kevin.moore@occ.ohio.gov</a>	<a href="mailto:Joseph.clark@directenergy.com">Joseph.clark@directenergy.com</a> <a href="mailto:ghull@eckertseamans.com">ghull@eckertseamans.com</a> <a href="mailto:Christopher.miller@icemiller.com">Christopher.miller@icemiller.com</a> <a href="mailto:Gregory.dunn@icemiller.com">Gregory.dunn@icemiller.com</a> <a href="mailto:Jeremy.grayem@icemiller.com">Jeremy.grayem@icemiller.com</a> <a href="mailto:sam@mwncmh.com">sam@mwncmh.com</a> <a href="mailto:fdarr@mwncmh.com">fdarr@mwncmh.com</a> <a href="mailto:mpritchard@mwncmh.com">mpritchard@mwncmh.com</a> <a href="mailto:bojko@carpenterlipps.com">bojko@carpenterlipps.com</a> <a href="mailto:Allison@carpenterlipps.com">Allison@carpenterlipps.com</a> <a href="mailto:hussy@carpenterlipps.com">hussy@carpenterlipps.com</a> <a href="mailto:callwein@wamenergylaw.com">callwein@wamenergylaw.com</a> <a href="mailto:nmoser@wamenergylaw.com">nmoser@wamenergylaw.com</a> <a href="mailto:stnourse@aep.com">stnourse@aep.com</a> <a href="mailto:mjsatterwhite@aep.com">mjsatterwhite@aep.com</a> <a href="mailto:yalami@aep.com">yalami@aep.com</a> <a href="mailto:Schmidt@sppgrp.com">Schmidt@sppgrp.com</a> <a href="mailto:joliker@igsenergy.com">joliker@igsenergy.com</a> <a href="mailto:mswhite@igsenergy.com">mswhite@igsenergy.com</a> <a href="mailto:dwilliamson@spilmanlaw.com">dwilliamson@spilmanlaw.com</a> <a href="mailto:lhawrot@spilmanlaw.com">lhawrot@spilmanlaw.com</a> <a href="mailto:Stephen.chriss@walmart.com">Stephen.chriss@walmart.com</a> <a href="mailto:mkl@bbrslaw.com">mkl@bbrslaw.com</a> <a href="mailto:gas@bbrslaw.com">gas@bbrslaw.com</a> <a href="mailto:ojk@bbrslaw.com">ojk@bbrslaw.com</a>
--	--

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**9/18/2014 2:32:03 PM**

**in**

**Case No(s). 14-1297-EL-SSO**

Summary: Motion to Intervene and Memorandum in Support of Intervention electronically filed by Kate E. Ryan on behalf of The City of Cleveland