

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of the Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and the Toledo)
Edison Company for Authority to Provide)
for a Standard Service Offer Pursuant to)
R.C. 4928.143 in the form of an Electric)
Security Plan)**

Case No. 14-1297-EL-SSO

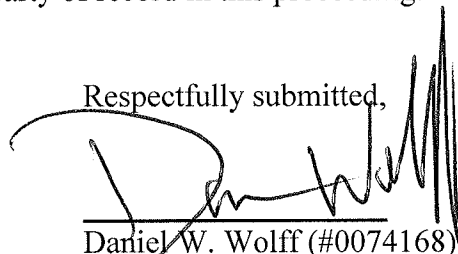
**MOTION TO INTERVENE OUT OF TIME
OF CPV SHORE, LLC**

Pursuant to Section 4903.221 of the Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, CPV Shore, LLC ("CPV Shore") hereby moves for leave to intervene out of time in the above-captioned proceeding. As further explained in the accompanying Memorandum in Support, CPV has a real and substantial interest in this matter that cannot adequately be represented by any other party.

WHEREFORE, CPV Shore respectfully requests that its Motion to Intervene Out of Time be granted and that it be made a full party of record in this proceeding.

Dated: January 23, 2015

Respectfully submitted,



Daniel W. Wolff (#0074168)
Richard Lehfeltdt* (PHV #2651-2015)
Crowell & Moring LLP
1001 Pennsylvania Ave., N.W.
Washington, DC 20004
Tel: (202) 624-2621
Fax: (202) 624-5116
dwolff@crowell.com
rlehfeltdt@crowell.com

**Pro hac vice motion pending*

Counsel for CPV Shore, LLC

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE OUT OF TIME
OF CPV SHORE, LLC**

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, CPV Shore, LLC (“CPV Shore”) moves to intervene in the instant proceeding. CPV Shore is a Delaware limited liability company that is currently constructing, and will own and operate, a 725 MW (nameplate) combined-cycle electric generating facility in Woodbridge, New Jersey. CPV Shore will sell its electricity at wholesale into the thirteen-state region whose transmission system is operated by PJM Interconnection, L.L.C. (“PJM”) in the PJM-East sector.

The instant Application, filed by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company (together, “FirstEnergy” or the “Companies”) seeks the Commission’s approval to establish a standard service offer (“SSO”), in the form of a fourth electric security plan to provide generation service from June 1, 2016 through May 31, 2019. The Application proposes, among other things, a so-called Economic Stability Program whereby the Companies would acquire the generation output of specified generation plants through long-term power purchase agreements, sell that purchased generation at wholesale into the PJM markets and, by operation of a proposed Retail Rate Stability Rider (“Rider RRS”), either rebate to retail ratepayers wholesale revenues that exceed the contract

price, or charge retail customers the difference should wholesale revenues be less than the contract price.

Rule 4901-1-11 of the Ohio Administrative Code provides for timely intervention 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.” CPV Shore has a real and substantial interest in the above-captioned proceedings that may be affected materially by the Commission’s determination in this proceeding, and thus should be permitted to intervene to help ensure a full and fair record. In particular, CPV Shore’s power plant was financed and is being constructed without the benefit of the types of contracts that the Companies are seeking herein. CPV Shore, like many other existing resources that compete in the PJM wholesale markets, is currently doing so without the benefit of the long-term contracts that are being proposed by the Companies. CPV Shore seeks to intervene in this docket to ensure that FirstEnergy’s proposal does not unfairly disadvantage FirstEnergy’s competitors, including CPV Shore. CPV Shore’s interests are therefore not currently represented in this docket, and CPV Shore’s motion should accordingly be granted.

The Attorney Examiner’s August 13, 2014 Entry in this proceeding set a deadline of October 1, 2014 for intervention. However, Rule 4901-1-11(F) of the Ohio Administrative Code provides that untimely motions to intervene may be granted under extraordinary circumstances. Pending cases that arose last year in the United States Court of Appeals for the First, Third and Fourth Circuits, two of which are the subject of petitions for certiorari, by affiliates of CPV Shore and others, before the United States Supreme Court, have raised similar legal issues with regard to wholesale sellers participating in the PJM markets that receive additional payments

through long-term, state-approved agreements. CPV Shore, as an existing resource that competes in the PJM wholesale markets, may be materially affected by the Commission's determination in this proceeding, and should therefore be permitted to intervene and represent its interests. Granting CPV Shore's motion to intervene would be consistent with the disposition of similar requests to file motions to intervene out of time in other SSO proceedings¹ and the Commission's policy of encouraging the broadest possible participation in its proceedings,² and it would not unduly delay or prolong the proceeding or unjustly prejudice any existing party. Moreover, CPV Shore accepts the record in this proceeding as it exists on the date of this filing.

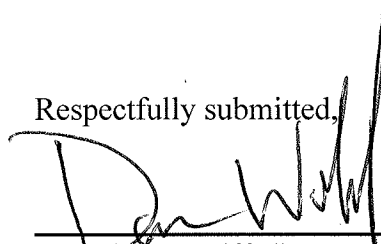
¹ See, e.g., *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO (Entry dated May 21, 2014); *In the Matter of the Application of The Dayton Power and Light Company For Approval of its Electric Security Plan*, Case No. 08-1094-EL-SSO (Entry dated Feb. 5, 2009).

² *In the Matter of the Application of The Cleveland Electric Illuminating Company for Authority to Amend and Increase Certain of its Filed Schedules Fixing Rates and Charges for Electric Service*, Case No. 85-675-EL-AIR (Entry dated Jan. 14, 1986, at P 6) ("The Commission's policy is to encourage the broadest possible participation in its proceedings"); see also *Ohio Consumers' Counsel v. Pub. Util. Comm.* (2006) 111 Ohio St. 3d 384, 388 ("intervention ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the PUCO.").

WHEREFORE, CPV Shore respectfully requests that its Motion to Intervene Out of Time be granted and that it be made a full party of record in this proceeding.

Dated: January 23, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dan Wolff', is written over a horizontal line.

Daniel W. Wolff (#0074168)

Richard Lehfeldt* (PHV #2651-2015)

Crowell & Moring LLP

1001 Pennsylvania Ave., N.W.

Washington, DC 20004

Tel: (202) 624-2621

Fax: (202) 624-5116

dwolff@crowell.com

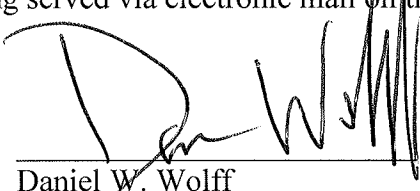
rlehfeldt@crowell.com

**Pro hac vice* motion pending

Counsel for CPV Shore, LLC

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served via electronic mail on this 23rd day of January, 2015 upon all the persons below:



Daniel W. Wolff

burkj@firstenergycorp.com
cdunn@firstenergycorp.com
jlang@calfee.com
talexander@calfee.com
dakutik@jonesday.com
cmooney@ohiopartners.org
drinebolt@ohiopartners.org
tdoughtery@theoec.org
joseph.clark@directenergy.com
ghull@eckertseamans.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
mkurtz@BKLLawfirm.com
kboehm@BKLLawfirm.com
jkylercohn@BKLLawfirm.com
larry.sauer@occ.ohio.gov
kevin.moore@occ.ohio.gov
joliker@igsenergy.com
mswhite@igsenergy.com
myurick@taftlaw.com
schmidt@sppgrp.com
ricks@ohanet.org
tobrien@bricker.com
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
callwein@wamenergylaw.com
jfinnigan@edf.org
wtpmlc@aol.com

mkl@bbrslaw.com
gas@bbrslaw.com
ojk@bbrslaw.com
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
meissnerjoseph@yahoo.com
trhayslaw@gmail.com
lesliekovacik@toledo.oh.gov
cynthia.brady@exeloncorp.com
david.fein@exeloncorp.com
lael.campbell@exeloncorp.com
christopher.miller@icemiller.com
gregory.dunn@icemiller.com
jeremy.grayem@icemiller.com
BarthRoyer@aol.com
athompson@taftlaw.com
Marilyn@wflawfirm.com
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us
selisar@mwncmh.com
ccunningham@akronohio.gov
bojko@carpenterlipps.com
allison@carpenterlipps.com
hussey@carpenterlipps.com
gkrassen@bricker.com
dstinson@bricker.com
dborchers@bricker.com
asonderman@keglerbrown.com
mfleisher@elpc.org

mitch.dutton@fpl.com
matt@matthewcoxlaw.com
todonnell@dickinsonwright.com
amy.spiller@duke-energy.com
jeanne.kingery@duke-energy.com
jeffrey.mayes@monitoringanalytics.com
toddm@wamenergylaw.com
sechler@carpenterlipps.com
gpoulos@enernoc.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
thomas.mcnamee@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
ryan.orourke@puc.state.oh.us
sfisk@earthjustice.org
msoules@earthjustice.org
tony.mendoza@sierraclub.org
laurac@chappelleconsulting.net
gthomas@gtpowergroup.com
stheodore@epsa.org
mdortch@kravitzllc.com
rparsons@kravitzllc.com
dparram@taftlaw.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/23/2015 3:49:47 PM

in

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

Summary: Motion to Intervene Out of Time of CPV Shore, LLC electronically filed by Mr. Bradley Hutter on behalf of CPV Shore, LLC