

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2015 Application for)	
the Energy Efficiency and Peak Demand)	Case No. 16-941-EL-EEC
Reduction Portfolio Status Report of the)	
Ohio Edison Company)	

In the Matter of the 2015 Application for)	
the Energy Efficiency and Peak Demand)	Case No. 16-942-EL-EEC
Reduction Portfolio Status Report of the)	
Cleveland Electric Illuminating Company)	

In the Matter of the 2015 Application for)	
the Energy Efficiency and Peak Demand)	Case No. 16-943-EL-EEC
Reduction Portfolio Status Report of the)	
Toledo Edison Company.)	

**MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, the Environmental Law & Policy Center (“ELPC”) respectfully moves to intervene in the above-captioned proceedings. As explained more thoroughly in the attached Memorandum in Support, ELPC has a real and substantial interest in this case, in which the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company seek approval from the Public Utilities Commission of Ohio for their Energy Efficiency and Peak Demand Reduction Program Portfolio Status Report for 2015. Additionally, the interests of ELPC are not adequately represented by any other party to this matter and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

ELPC respectfully requests this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

June 13, 2016

Respectfully submitted,

/s/ Madeline Fleisher
Madeline Fleisher
Environmental Law & Policy Center
21 West Broad St., Suite 500
Columbus, OH 43215
(614) 670-5586
mfleisher@elpc.org

*Counsel for the Environmental Law &
Policy Center*

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY
THE ENVIRONMENTAL LAW & POLICY CENTER**

Ohio Revised Code (“R.C.”) 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“PUCO” or “Commission”) makes certain determinations. The Environmental Law & Policy Center (“ELPC”) is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding, and its interests are not adequately represented by the other parties hereto.

R.C. 4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission’s procedural rules at Ohio Administrative

Code (“Ohio Adm. Code”) 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets all of the factors required by statute and rule.

Pursuant to R.C. 4903.221, the Commission must consider:

- (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;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

R.C. 4903.221(B).

With respect to the first factor, ELPC has a substantial interest in the application of the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, “FirstEnergy” or “Companies”) for approval of their Energy Efficiency and Peak Demand Reduction Program Portfolio Status Report for 2015 (“2015 Portfolio Status Report”). ELPC has an interest in ensuring the protection and promotion of cost-effective clean and efficient energy in the state. ELPC participated in the litigation regarding FirstEnergy’s planned programs for 2015, *see* Case Nos. 12-2190-EL-POR *et al.*, and is an active member of FirstEnergy’s stakeholder collaborative regarding its energy efficiency and peak demand reduction efforts, including its 2015 programs. Further, ELPC has members in Ohio and its work focuses on Ohio energy and environmental issues. FirstEnergy’s 2015 Portfolio Status Report affects these interests because it sets forth FirstEnergy’s claim for a “shared savings” incentive payment based on the results of its 2015 programs. That incentive payment is meant to encourage FirstEnergy to implement high-quality, cost-effective energy efficiency programs

above and beyond its statutory obligations. As to the second factor, because of the potential impacts on ELPC and its Ohio members, ELPC seeks to ensure that FirstEnergy's incentive payment mechanism operates in accordance with this purpose and with applicable legal requirements.

Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding. The Commission has not yet set a procedural schedule for the case, and ELPC is committed to working within any schedule that is imposed by this Commission to achieve the efficient and orderly disposition of the questions presented.

Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective to bear. ELPC has expertise and experience throughout the Midwest regarding clean energy policy that will contribute to resolving the pending issues. ELPC has participated in multiple proceedings in Ohio as well as other states regarding energy efficiency and peak demand reduction programs, including FirstEnergy's portfolio plan proceeding approving the Companies' 2015 programs and incentive payment mechanism, Case No. 12-2190-EL-POR.

Similarly, ELPC meets the requirements set forth in Ohio Adm. Code 4901-11-1(B):

- (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;
- (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;
[and]
- (5) The extent to which the person's interest is represented by existing parties.

The first four factors mirror those in R.C. 4903.221, and for the same reasons as stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on “green” economic development, including new manufacturing and job creation.

Finally, this Commission’s policy is to “encourage the broadest possible participation in its proceedings.” *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry at 2 (January 14, 1986). ELPC’s inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both R.C. 4903.221 and Ohio Adm. Code 4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

Respectfully submitted,

/s/ Madeline Fleisher
Madeline Fleisher
Environmental Law & Policy Center
21 West Broad St., Suite 500
Columbus, OH 43215
(614) 670-5586
mfleisher@elpc.org

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Intervene submitted on behalf of the Environmental Law & Policy Center was served by electronic mail, upon the following Parties of Record on June 13, 2016.

/s Madeline Fleisher
Madeline Fleisher

cdunn@firstenergycorp.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/13/2016 2:43:36 PM

in

Case No(s). 16-0941-EL-EEC, 16-0942-EL-EEC, 16-0943-EL-EEC

Summary: Motion Motion to Intervene by the Environmental Law & Policy Center
electronically filed by Madeline Fleisher on behalf of Environmental Law and Policy Center