

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power)	
Company for Authority to Establish a Standard)	
Service Offer Pursuant to Section 4928.143,)	Case No. 16-1852-EL-SSO
Revised Code, in the Form of an Electric)	
Security Plan.)	

In the Matter of the Application of Ohio Power)	
Company for Approval of Certain Accounting)	Case No. 16-1853-EL-AAM
Authority.)	

**MOTION TO INTERVENE OF
CONSTELLATION NEWENERGY, INC.**

Pursuant to Ohio Revised Code Section 4903.221 and Ohio Administrative Code Rule 4901-1-11, Constellation NewEnergy, Inc. moves to intervene in these proceedings. The reasons supporting the intervention request are contained in the accompanying Memorandum in Support.

WHEREFORE, Constellation NewEnergy, Inc. requests that the Commission grant this motion and that Constellation NewEnergy, Inc. be made a party of record.

Respectfully Submitted,

s/ Michael J. Settineri
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Attorneys for Constellation NewEnergy, Inc.

**MEMORANDUM IN SUPPORT OF
THE MOTION TO INTERVENE OF
CONSTELLATION NEWENERGY, INC.**

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 Public Utilities Commission of Ohio (“Commission”) to engage in the sale of CRES to retail customers in Ohio.

CNE has participated in the most recent Ohio Power Company (“AEP Ohio”) electric security plan (“ESP III”) proceedings in Case Nos. 13-2385-EL-SSO, et al. Additionally, CNE participated in AEP Ohio’s recent power purchase agreement rider proceedings (“PPA case”) in Case Nos. 14-1693-EL-RDR et al. These cases are the precursors to these matters at bar because AEP Ohio is asking to extend its ESP III as it had agreed to do in the PPA case.

The basic criteria for intervention in a Commission proceeding are established in Ohio Revised Code Section 4903.221 and the details have been provided in Ohio Administrative Code Rule 4901-1-11. Rule 4901-1-11 states in part:

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

* * *

(2) 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 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*, Ohio Revised Code Section 4903.221(B), upon which the above rule is authorized. A review of these factors in light of following facts supports granting CNE's intervention.

As part of its ESP III proposal in Case No. 13-2385-EL-SSO, et al., AEP Ohio proposed a PPA Rider through which AEP Ohio would pass through to customers the differential between PJM market prices and the cost of AEP Ohio's entitlement to output from the Ohio Valley Electric Corporation ("OVEC"). In the PPA case, AEP Ohio proposed to include additional affiliated power in the PPA Rider. Ultimately, the Commission approved in late 2016 the PPA rider based on only OVEC generation,¹ and the PPA rider went into effect with the first billing cycle of January 2017. In the matters at bar, AEP Ohio proposes, among other things, to use its OVEC entitlement to serve its standard service offer ("SSO") load, instead of obtaining all of the power for that load through the competitive bidding process.² AEP Ohio also proposes new riders including a Renewable Generation Rider which would allow for future recovery of renewable capacity resources and a pilot placeholder tariff for plug-in electric rates.

CNE has existing and potential business interests that will be affected by the outcome of these proceedings. CNE has significant retail operations in Ohio and will be impacted by the extension of the ESP III sought by AEP Ohio in this proceeding, and has an interest in the additional riders and tariffs proposed in the application including both the Renewable Generation Rider and the tariff for plug-in electric rates.

¹ Case Nos. 14-1693-EL-RDR et al., Second Entry on Rehearing at ¶57 (November 3, 2016).

² November 23, 2016 Amended Application at 4-5.

CNE's participation will contribute to a just and expeditious resolution of the issues, and not delay the outcome. CNE will provide a unique perspective as a competitor in the retail markets. CNE's interest cannot be represented by other existing parties, and CNE's interests meet the intervention criteria in Ohio Revised Code Section 4903.221 and Ohio Administrative Code Rule 4901-1-11. This motion to intervene meets the March 1, 2017 deadline established by the Attorney Examiner in these matters. The undersigned will accept service by electronic mail.

WHEREFORE, Constellation NewEnergy, Inc. respectfully requests that the Commission grant this motion for leave to intervene and that Constellation NewEnergy, Inc. be made a party of record.

Respectfully Submitted,

s/ Michael J. Settineri

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a copy of the foregoing document is also being served (via electronic mail) on the 1st day of March, 2017 upon the persons/entities listed below.

s/ Michael J. Settineri

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Summary: Motion to Intervene electronically filed by Mr. Michael J. Settineri on behalf of Constellation NewEnergy Inc.