

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation	:	
Of Ohio's Retail electric Service Market.	:	Case No. 12-3151-EL-COI
	:	
In the Matter of the Market Development	:	
Working Group.	:	Case No. 14-2074-EL-EDI
	:	
In re Commission's Review of its Rules for	:	
Competitive Retail Electric Service.	:	Case No.17-1842-EL-ORD

CALPINE ENERGY SOLUTIONS, LLC'S MOTION TO INTERVENE

Calpine Energy Solutions, LLC respectfully moves the Public Utilities Commission of Ohio to grant it leave to intervene in the above-styled cases pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11. The reasons supporting this Motion are set out in the attached Memorandum in Support.

Respectfully submitted,

/s/ Michael D. Dortch

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MEMORANDUM IN SUPPORT

I. FACTS

On December 12, 2012, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) issued an Entry in Case No. 12-3151-EL-COI (“COI Case”) that initiated an investigation into the health, strength, and vitality of Ohio’s competitive retail electric service (“CRES”) market. The Commission’s Staff filed a market development work plan (“COI Work Plan”), on January 16, 2014, in the COI Case. On March 26, 2014, the Commission approved the COI Work Plan, with modifications, by issuing an Order in the COI Case (“COI Order”). Additionally, the COI Order also created the Market Development working Group (“MDWG”). MDWG was created to develop an operational plan for the following programs: (1) seamless move; (2) contract portability; (3) instant connect; and (4) warm transfer.

On July 16, 2015, the Commission’s Staff filed its report (“EDI Staff Report”) in Case No. 14-2074-EL-EDI (“EDI Case”). The members of MDWG filed comments on the EDI Staff Report on January 6, 2016. On September 19, 2017, the PUCO issued an Entry that scheduled a workshop to discuss the Commission’s review of its regulations in Case No. 17-1842-EL-ORD (“ORD Case”).

On February 7, 2018, the PUCO issued an Order in both the COI Case and the EDI Case (“2018 Order”). In the 2018 Order, the Commission found that: (1) it should not adopt an instant connect program at this time; (2) it should not adopt a contract portability program; (3) it should not adopt a warm transfer program; and (4) it should adopt a seamless move mechanism as a Statewide standard. In addition, the 2018 Order states that the Commission will welcome further comment regarding cost allocation for implementation of a seamless move mechanism and that such comments should be filed within thirty (30) days of the 2018 Order.

I. LAW AND ARGUMENT

For purposes of considering requests for leave to intervene in a Commission proceeding, the Ohio Administrative Code (“O.A.C.”) provides that:

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.

O.A.C. §4901-1-11(A).

Further, Ohio Rev. Code (“R.C.”) §4903.221(B) and O.A.C. § 901-1-11(B) provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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.

R.C. § 4903.221(B). Further, the Ohio Supreme Court has stated that “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.” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 388 (2006).

In these cases, Calpine Energy Solutions, LLC (“Calpine Solutions”) has a real and substantial interest in the proceeding and may experience negative economic impacts if it is not permitted to comment. Calpine Solutions is licensed to sell CRES services to all classes of customers in Ohio. As a CRES provider, Calpine Solutions is committed to participate in and promote competitive energy markets. In these cases, the Commission has approved several items that could impact the competitive energy market. Specifically, these cases involve the cost

allocations associated of a seamless move mechanism as a Statewide standard. The disposition of these proceedings could therefore impair Calpine Solutions' ability to protect its interest in maintaining and growing the competitive electric service markets in Ohio. Furthermore, Calpine Solutions wishes to be involved in the workshop to discuss the Commission's review of its regulations in the ORD Case.

Second, Calpine Solutions' perspective is not represented by the current parties to this matter. While it is true that there are a limited number of CRES providers represented that are part of the MDWG, those CRES providers and Calpine Solutions have different business plans, and marketing strategies and therefore do not share the same perspective. Furthermore, should other CRES providers seek intervention, their business and marketing strategies are also likely to diverge widely from that of Calpine Solutions, and from those of each other.

Third, Calpine Solutions' intervention will not unduly prolong or delay the proceedings. Calpine Solutions is not seeking intervention to contest any of the rulings that have been made by this Commission. Instead, Calpine Solutions is seeking intervention to provide comments on the cost allocations associated with the seamless move mechanism. Calpine Solutions plans to cooperate within the six (6) month time period allowed to MDWG in order to file an operational plan for implementation of a seamless move mechanism and the thirty (30) day time period to provide comments.

Finally, Calpine Solutions will significantly contribute to the development, and ultimate resolution, of the facts and issues in this case by providing the perspective of a CRES provider with Calpine Solution's unique business model.

For the reasons set forth above, Calpine Solutions respectfully requests the Commission grant its Motion to Intervene and should allow Calpine Solutions to join the MDWG for the

express purposes of assisting to create an operational plan for implementation of a seamless move mechanism.

Respectfully submitted,

/s/ Michael D. Dortch

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CERTIFICATE OF SERVICE

In accordance with Rule §4901-1-05 of the Ohio Administrative Code, the PUCO's e-filing system will electronically service notice of this filing upon all parties.

/s/ Michael D. Dortch
Michael D. Dortch

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Case No(s). 12-3151-EL-COI, 14-2074-EL-EDI, 17-1842-EL-ORD

Summary: Motion Calpine Energy Solutions, LLC's Motion to Intervene. electronically filed by Mr. Justin M Dortch on behalf of Calpine Energy Solutions LLC