

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by	)	
FirstEnergy Solutions Corp. of a	)	
Petition for Reorganization under	)	Case No. 18-569-EL-UNC
Chapter 11 of the United States	)	
Bankruptcy Code	)	

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**MOTION TO INTERVENE OF OHIO POWER COMPANY**

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Pursuant to Ohio Revised Code §4903.221 and Rule 4901-1-11, Ohio Admin. Code, Ohio Power Company (“AEP Ohio”) hereby moves to intervene in these proceedings. As more fully explained in the accompanying memorandum in support, AEP Ohio has a real and substantial interest in these proceedings that is not adequately represented by existing parties and is so situated that the disposition of these proceedings may impair or impede its ability to protect that interest. Therefore, AEP Ohio respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant this timely request to intervene and that AEP Ohio be made a party of record to these proceedings.

Respectfully submitted,

/s/ Steven T. Nourse

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## MEMORANDUM IN SUPPORT

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Revised Code §4903.221 provides, in pertinent part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. Subsection (B) of R.C. §4903.221 requires the Commission to consider the following criteria in ruling on motions to intervene:

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 proceeding; and
4. Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.<sup>1</sup>

Additionally, the Commission’s rules also require consideration of “[t]he extent to which the person’s interest is represented by existing parties” in deciding whether to permit intervention.<sup>2</sup> Furthermore, the Supreme Court of Ohio has found 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.”<sup>3</sup> In considering

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<sup>1</sup> Ohio Rev. Code Ann. § 4903.221(B)(1)-(4)

<sup>2</sup> See Rule 4901-1-11(B)(1)-(5), Ohio Admin. Code.

<sup>3</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387, 2006-Ohio-5853, ¶ 20.

AEP Ohio's intervention in light of the above criteria and precedent, the Commission should find that AEP Ohio's intervention in these proceedings is appropriate.

The bankruptcy filing of FirstEnergy Solutions Corp. (FES) uniquely affects electric distribution utilities including AEP Ohio. AEP Ohio has contractual and regulatory obligations relating to FES's role as a CRES Provider in AEP Ohio's service territory, including an obligation to provide default service to FES's retail customers within the AEP Ohio service territory should FES be unable to continue to serve them. And it is a matter of public record that FES has won some SSO supply tranches as a result of AEP Ohio's SSO auctions. AEP Ohio appreciates the Commission's acknowledgement of these EDU interests through the questions raised in the April 4, 2018 Order in this docket. For example, AEP Ohio also appreciates question #5 of the Order, asking "whether FES has met its obligations to provide collateral or other financial guarantees or other assurances to the electric distribution utilities in whose certified territories FES continues to operate."

The disposition of these and other issues in these proceedings may directly affect AEP Ohio. As such, AEP Ohio has a real and substantial interest in these proceedings that is not adequately represented by existing parties and is so situated that the disposition of these proceedings may impair or impede its ability to protect that interest. This motion to intervene is timely filed and AEP Ohio's intervention will not unduly prolong or delay these proceedings. AEP Ohio will be able to significantly contribute to the full development and equitable resolution of the factual issues in these proceedings.

For the foregoing reasons, AEP Ohio respectfully requests that the Commission grant this motion to intervene and that AEP Ohio be made a party of record to these proceedings.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion to Intervene* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 18<sup>th</sup> day of April 2018, via electronic transmission.

/s/ Steven T. Nourse

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Summary: Motion - Motion to Intervene of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company