

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Update to the Demand Side Management)	
and Energy Efficiency Rider Contained in)	Case No. 18-1646-EL-RDR
the Tariffs of Ohio Edison, The Cleveland)	
Electric Illuminating Company and 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 proceeding. As explained more thoroughly in the attached Memorandum in Support, ELPC has a real and substantial interest in this proceeding, in which Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively “FirstEnergy”) seek to update the tariff for recovering the costs of its energy efficiency programs from customers. 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.

January 2, 2019

Respectfully submitted,

/s/ Madeline Fleisher
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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 Commission makes certain determinations. In this proceeding, the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, “FirstEnergy”) seek to update the tariff for recovering the costs of energy efficiency programs from customers, Rider DSE. The Environmental Law & Policy Center (“ELPC”) seeks to intervene in this proceeding.

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, and has participated consistently in proceedings before the PUCO relating to energy efficiency, including FirstEnergy’s most recent portfolio plan docket, Case No. 16-743-EL-POR. 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 FirstEnergy's cost recovery for its energy efficiency programs. ELPC has an interest in ensuring the protection and promotion of cost-effective energy efficiency in the state, including by ensuring utility cost recovery for efficiency programs reflects actual energy savings by customers. Further, ELPC has members in Ohio and its work focuses on Ohio energy and environmental issues. ELPC has participated actively in cases involving energy efficiency, including FirstEnergy's portfolio plan filings. As to the second factor, because of the potential impacts on ELPC and its Ohio members, ELPC seeks to provide input regarding the appropriate basis for FirstEnergy's cost recovery for its energy efficiency programs to ensure customers are paying for real results.

Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding, since the Commission has not set a procedural schedule for this docket.

Finally, ELPC will significantly contribute to resolution of FirstEnergy's appropriate cost recovery by bringing its unique perspective to bear. ELPC has expertise and experience throughout the Midwest regarding energy efficiency programs that will contribute to resolving the pending issues, and has participated in multiple proceedings in other states regarding energy efficiency.

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.

As explained above, analysis of the test demonstrates that ELPC meets the criteria set forth in both R.C. 4903.221 and Ohio Adm. Code 4901-11-1, and we respectfully ask this Commission to grant this motion to intervene in the above-captioned proceedings.

January 2, 2019

Respectfully submitted,

/s/ Madeline Fleisher
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*Counsel for the Environmental Law &
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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 all Parties of Record on January 2, 2019.

/s Madeline Fleisher
Madeline Fleisher

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