

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)	Case No. 07-796-EL-ATA
Edison Company, The Cleveland Electric)	Case No. 07-797-EL-AAM
Illuminating Company, and The Toledo)	
Edison Company, for approval of a)	
Competitive Bidding Process for Standard)	
Service Offer Electric Generation Supply,)	
Accounting Modifications Associated With)	
Reconciliation Mechanisms and Phase In,)	
and Tariffs for Generation Service		

**MOTION FOR LEAVE TO INTERVENE AND
PRELIMINARY COMMENTS OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Now come Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (jointly “Constellation”), who, pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, move for intervention in the above styled proceeding as a full party of record. The reasons supporting the intervention are contained in the accompanying Memorandum in Support.

By separate motion, requests for admission *Pro Hac Vice* for Cynthia A. Fonner and Divesh Gupta, both in house counsel for Constellation have been filed in the above styled proceeding. Constellation asks that if approved they be added to the service list as well as Terry Harvill and David Fein who are representative corporate officers. Contact information for the additional counsel and corporate representatives are provided in the attached Memorandum in Support.

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

Respectfully Submitted,

/s/

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**MEMORANDUM IN SUPPORT FOR THE INTERVENTION OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record.

Rule 4901-1-11 of the Ohio Administrative Code 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 Public Utilities Commission of Ohio (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 R.C. 4903.221(B) upon which the above rule is authorized). A review of these factors in light of following facts supports granting Constellation's intervention.

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 and serves over 15,000 megawatts of load and over 10,000 customers. CNE holds a certificate as a competitive retail electric supplier ("CRES") from the Commission to engage in the competitive sale of electric service to retail customers in Ohio. CNE currently provides service to retail electric customers in Ohio.

Constellation Energy Commodities Group, Inc. (“CCG”) provides wholesale power and risk management services to wholesale customers (distribution utilities, co-ops, municipalities, power marketers, utilities and other large load serving entities), throughout the United States and Canada, in both regulated and deregulated energy markets. CCG is active in the PJM Interconnection, L.L.C. and Midwest Independent System Operator (“MISO”) wholesale power markets and has sold power for wholesale delivery in Ohio. CNE and CCG are subsidiaries of Constellation Energy Group, Inc.

In the instant matter, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy”) filed an application (the “Application”). The Application proposes a competitive bidding process designed to procure energy for the provision of Standard Service Offer electric generation service to FirstEnergy’s retail electric customers who do not purchase electric generation service from a competitive retail supplier, beginning January 1, 2009. In addition, the Application seeks to also use the competitive bid to fulfill FirstEnergy’s obligation under Section 4929.14(B), Revised Code to provide a market price option to all retail customers.

Constellation has business interests in the State that will be affected by the outcome of the proceeding. As a potential bidder in the competitive procurement process, CCG has an interest in participating in the instant proceeding as the Commission assesses the bidding alternatives proposed by First Energy, establishes the terms and conditions that appropriately reflect bidders’ risks, and makes other decisions that will affect the viability of the competitive retail and wholesale markets in which Constellation operates. CNE also has an interest in participating in the instant proceeding as a supplier of electric power and energy to retail customers in the State, based on its status as a CRES.

This motion for intervention precedes all discovery or other procedural termination dates.

The motion is also being filed more than five days before the hearing deadline established in Rule 4901-1-29. Thus, the intervention is timely and should not unduly delay the instant proceedings. Finally, because of its unique expertise and participation in the competitive retail and wholesale markets in Ohio and across the country, Constellation will be able to assist in the development of a full and complete record to assist the Commission in its consideration of the Application.

WHEREFORE, Constellation respectfully requests that the Commission grant this joint motion for leave to intervene and that CNE and CCG each be made a full party of record. For purposes of receiving service in the proceeding, in addition to the undersigned, Constellation requests that the following persons be placed on the official service list:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 10th day of August, 2007 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.

/s/

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/10/2007 3:32:38 PM

in

Case No(s). 07-0796-EL-ATA, 07-0797-EL-AAM

Summary: Motion Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. Motion for Leave to Intervene and Preliminary Comments electronically filed by Stephen M Howard on behalf of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc.