

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

FILE

In the Matter of the Application of Ohio
Edison Company, The Cleveland Electric
Illuminating Company and The Toledo
Edison Company for Authority to
Establish a Standard Service Offer
Pursuant to R.C. § 4928.143 in the Form
of an Electric Security Plan

Case No. 08-935-EL-SSO

In the Matter of the Application of Ohio
Edison Company, The Cleveland Electric
Illuminating Company and The Toledo
Edison Company for Approval of a
Market Rate Offer to Conduct a
Competitive Bidding Process for Standard
Service Offer Electric Generation Supply,
Accounting Modifications Associated
with Reconciliation Mechanism, and
Tariffs for Generation Service.

Case No. 08-936-EL-SSO

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MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.

By the above-styled applications, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "FE Companies" seek approval of an electric security plan and certain related measures pursuant to Amended Substitute Senate Bill No. 221 ("SB 221"), the recently enacted legislation amending the Ohio statutory electric restructuring plan created by Amended Substitute Senate Bill No. 3 in 1999. As more fully discussed in the accompanying memorandum, Dominion Retail, Inc. ("Dominion Retail") has a real and substantial interest in this proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect

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that interest. Further, Dominion Retail's interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceeding or unjustly prejudicing any existing party. Accordingly, Dominion Retail hereby moves to intervene in this proceeding pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code ("OAC").

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



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Case No. 08-936-EL-SSO

**MEMORANDUM IN SUPPORT
OF
MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.**

By these applications, the FE Companies seek to satisfy the requirements of SB 221 by requesting approval of a standard service offer ("SSO") in the form of an Electric Security Plan and authority to conduct a competitive bidding process to support a Market Rate Offer ("MRO"). Section 4903.221, Revised Code, provides that any "person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding." Dominion Retail is a Commission-certified CRES provider authorized to offer competitive retail electric service to customers within the territories served by the FE Companies. As such, Dominion Retail would

be required to compete against the FE Companies' SSO to attract and retain customers.

Dominion Retail is also a potential participant in the proposed competitive bidding process to support the FE Companies' MRO. Thus, Dominion Retail clearly may be adversely affected by this proceeding. Moreover, not only does Dominion Retail satisfy the underlying statutory test, but it also satisfies the standards governing intervention set forth in the Commission's rules.

Rule 4901-1-11(A), OAC, provides, in pertinent part, as follows:

(A) 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 ability to protect that interest, unless the person's interest is adequately represented by existing parties.

As a CRES supplier, Dominion Retail plainly has a real and substantial interest in a proceeding in which the Commission is being asked to determine how the price against which it must compete will be established. Moreover, as a potential bidder, Dominion Retail has a real and substantial interest in a proceeding in which the Commission is being asked to establish the rules for the competitive bidding process for procuring generation supply for the FE Companies' MRO. At this juncture, none of the pending motions to intervene in this proceeding have been granted. Thus, by definition, no existing parties adequately represent Dominion Retail's interest.

Although Dominion Retail does not believe this to be a close question, each of the specific considerations that the Commission may, by rule, take into account in applying the Rule 4901-1-11(A)(2), OAC, standard also fully support granting Dominion Retail's motion to intervene. Rule 4901-1-11(B), OAC, provides as follows:

In deciding whether to permit intervention under paragraph (A)(2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner case shall consider:

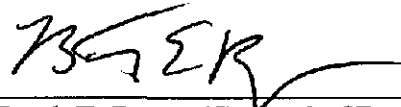
- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties;

First, as previously explained, Dominion Retail's interest in connection with these proposals is obviously direct and substantial. Second, although Dominion Retail must necessarily await further developments before determining the specific positions it will adopt with respect to the issues in these proceedings, Dominion Retail will certainly advocate that any process adopted as a result of the applications be fair, reasonable, non-discriminatory, and designed to promote competition. Third, in view of the fact that the proceeding has just commenced, granting Dominion Retail's motion to intervene will not unduly delay or prolong the proceeding. Fourth, Dominion Retail has been a frequent participant in cases involving the establishment of competitive electric and gas markets in Ohio and the numerous other states in which it does business. Thus, Dominion Retail will bring substantial experience to bear on the issues raised. Finally, not only are there no existing parties that represent Dominion Retail's interest, but it would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its proceedings" (*see, e.g., Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2) to apply the Rule 4901-1-11(B)(5) standard in a manner that would favor certain CRES providers or potential bidders over others.

Thus, granting Dominion Retail intervenor status is consistent with all the considerations set out in Rule 4901-1-11(B), OAC.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, this 21st day of August 2008.


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