



against CEI. With regard to the motion to dismiss filed by CEI and FE, the Commission finds that FE is not a public utility and should be dismissed as a party to this proceeding. The Commission finds that, inasmuch as the Commission's rules for reasonable arrangements are not yet effective, we will not dismiss NASA's application. However, NASA will bear the burden of proof that any arrangements it proposes is reasonable and does not violate the provisions of Sections 4905.33 and 4905.35, Revised Code. Additionally, NASA will also have the burden of proof to show that any arrangement furthers the policy of the state of Ohio embodied in Section 4928.02, Revised Code.

- (4) On March 3, 2009, the Office of the Consumers' Counsel (OCC) filed a motion to intervene and request to shorten the discovery response time to seven days. OCC states that it has an interest in this matter because residential customers may be responsible for paying a portion of the cost of a unique arrangement between NASA and CEI. OCC has set forth reasonable grounds to intervene and that its motion to intervene should be granted. The Commission finds that OCC's request to shorten the discovery response time to seven days will also be granted. In order to consider this matter on an expeditious basis, response time for discovery and replies shall be made by hand delivery, email or telefax. An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery will be served in advance to advise him or her that the request will be forthcoming. To the extent a party has difficulty responding to a discovery request within the seven-day period, counsel for the parties can discuss the problem and work out a mutually satisfactory solution.
- (5) Any interested party wishing to intervene in this matter, shall file a motion to intervene and set forth any comments and objections to the application by March 30, 2009. The Commission also finds that this matter should proceed as an application for a reasonable arrangement, not as a complaint, and that a prehearing conference be scheduled to determine if an agreement can be reached among the parties to this matter and the Commission's staff (Staff) for the Commission's consideration. The conference shall be held on April 2, 2009, at 10:00 a.m., at the offices of the Commission, 180 East Broad

If the parties and Staff are not able to reach an agreement in this matter, the parties should be prepared to discuss a procedural schedule for this case.

It is, therefore,

ORDERED, That OCC's motion to intervene and request for a shortened discovery response time be granted. It is, further,

ORDERED, That the motion to dismiss filed by FE and CEI be granted, in part, as set forth in this entry. It is, further,

ORDERED, That any interested party wishing to intervene in this matter, shall file a motion to intervene and set forth any comments and objections to the application by March 30, 2009. It is, further,

ORDERED, That a prehearing conference for April 2, 2009, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11<sup>th</sup> floor, Hearing Room F, Columbus, Ohio 43215-3793, be scheduled.

ORDERED, That a copy of this entry be served upon the NASA, CEI, FE, OCC, and all interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

By: R. Russell Gooden  
R. Russell Gooden  
Attorney Examiner

JR9/ct

Entered in the Journal

MAR 12 2009

Renee J. Jenkins

Renee J. Jenkins  
Secretary