

FILE

5

RECEIVED-BOCKE LING DIV
2009 SEP 25 PM 3:34

PUCO

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Proposal of FirstEnergy)
Service Company to Modify its RTO)
Participation)

Case No. 09-778-EL-UNC

**NUCOR STEEL MARION, INC.'S
MOTION FOR INTERVENTION AND MEMORANDUM IN SUPPORT**

Michael K. Lavanga*
Counsel of Record
E-Mail: mkl@bbrslaw.com
Garrett A. Stone*
E-Mail: gas@bbrslaw.com
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
8th Floor, West Tower
Washington, D.C. 20007
(202) 342-0800 (Main Number)
(202) 342-0807 (Facsimile)
*Pending admission *pro hac vice*

Attorneys for Nucor Steel Marion, Inc.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician SM Date Processed SEP 25 2009

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Proposal of FirstEnergy)	
Service Company to Modify its RTO)	Case No. 09-778-EL-UNC
Participation)	

**NUCOR STEEL MARION, INC.'S
MOTION FOR INTERVENTION AND MEMORANDUM IN SUPPORT**

I. MOTION FOR INTERVENTION

Pursuant to Ohio Revised Code ("RC") § 4903.221 and Ohio Administrative Code ("OAC") 4901-1-11, Nucor Steel Marion, Inc. ("Nucor") respectfully moves the Commission for leave to intervene in the above-captioned docket, for the reasons more fully set forth in the below Memorandum in Support.

II. MEMORANDUM IN SUPPORT

From the standpoint of both the substantive merits and timeliness of its request, Nucor respectfully submits that it is entitled to intervene in these proceedings. For purposes of considering requests for leave to Intervene in a Commission proceeding, OAC 4901-1-11(A) provides that:

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.

Further, RC § 4903.221(B) and OAC 4901-1-11(B) provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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.

OAC 4901-1-11(B) also provides that an additional factor in considering a request to intervene will be the extent to which the person's interest is represented by existing parties.

Nucor is a large industrial consumer of electricity delivered to it by the Ohio Edison Company ("Ohio Edison"). Nucor uses electricity throughout its operations, but in particular, uses substantial quantities of electricity to melt steel scrap, recycling it to make new steel. Nucor pays Ohio Edison millions of dollars per year for electricity. The cost of electricity is critical to Nucor's competitiveness in the national and international steel markets.

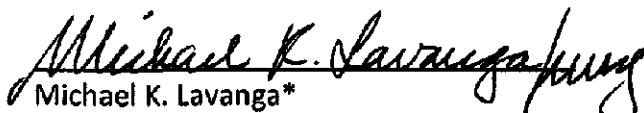
The above-captioned proceeding addresses FirstEnergy's proposal to move several affiliates, including its Ohio operating companies – Ohio Edison, the Cleveland Electric Illuminating Company, and the Toledo Edison Company – and FirstEnergy's transmission affiliate, American Transmission Systems, Incorporated, from Midwest ISO to PJM (the "RTO Realignment"). FirstEnergy's proposed RTO Realignment could have a significant impact on the price Nucor pays for electricity and the terms and conditions under which Nucor takes electric service. Accordingly, Nucor has direct, real, and substantial interests in this proceeding. Moreover, Nucor is so situated that the disposition of this proceeding without Nucor's ability to fully participate in this proceeding will prejudice and impede Nucor's ability to protect its substantial business interests.

Further, others participating in this proceeding do not represent Nucor's interests. Inasmuch as others participating in these proceedings cannot adequately protect Nucor's interests, it would be inappropriate to determine this proceeding without Nucor's participation. Nucor submits that its unique perspectives will contribute to the full, equitable, and expeditious resolution of these proceedings. Lastly, Nucor's timely intervention will not unduly delay the proceedings, or unjustly prejudice the interests of any existing party to this proceeding.

III. **CONCLUSION**

For the reasons set forth above, Nucor respectfully requests the Commission to grant Nucor's request to intervene in the above-captioned docket.

Respectfully submitted,



Michael K. Lavanga*

Counsel of Record

E-Mail: mkl@bbrslaw.com

Garrett A. Stone*

E-Mail: gas@bbrslaw.com

Brickfield, Burchette, Ritts & Stone, P.C.

1025 Thomas Jefferson Street, N.W.

8th Floor, West Tower

Washington, D.C. 20007

(202) 342-0800 (Main Number)

(202) 342-0807 (Facsimile)

* Pending admission *pro hac vice*

Attorneys for Nucor Steel Marion, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing pleading was served upon the following by U.S. mail, postage prepaid, on this 25th day of September, 2009:

Ebony Miller
James Burk
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308

Joseph M. Clark
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, Ohio 43215

David Rinebolt
Law Director
231 West Lima Street
Findlay, Ohio 45839

Jacqueline Roberts
EnerNOC, Inc.
13212 Havens Corner Road, S.W.
Columbus, Ohio 43206

David Boehm
Michael Kurtz
Boehm, Kurtz & Lowry
36 E. Seventh Street, Suite 1510
Cincinnati, Ohio 45202

Carolyn S. Flahive
Thompson Hine LLP
41 South High Street, Suite 1700
Columbus, Ohio 43215


Michael K. Lavanga