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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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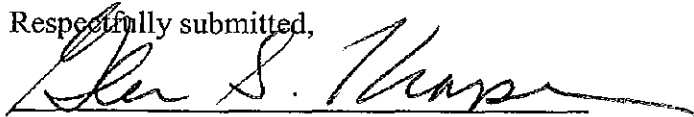
In the Matter of the Application of Ohio Edison)
Company, The Cleveland Electric Illuminating)
Company and The Toledo Edison Company For)
Approval of a Market Rate Offer to Conduct A)
Competitive Bidding Process for Standard Service)
Offer Electric Generation Supply, Accounting)
Modifications Associated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

Case No. 09-0906-EL-SSO

NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S
MOTION FOR LEAVE TO INTERVENE

Pursuant to Ohio Rev. Code § 4903.221 and Ohio Admin. Code § 4901-1-11, the Northeast Ohio Public Energy Council ("NOPEC") respectfully requests that the Public Utilities Commission of Ohio grant NOPEC's motion to intervene in this proceeding. The reasons supporting NOPEC's intervention are contained in the accompanying Memorandum in Support.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT OF THE
NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S
MOTION FOR LEAVE TO INTERVENE**

On October 20, 2009, the Ohio Edison Company ("OE"), The Cleveland Electric Illuminating Company ("CEI") and Toledo Edison Company ("TE"); (collectively "FirstEnergy") filed an Application for approval of a market rate offer to conduct a competitive bidding process for its standard service offer electric generating supply beginning in June 2011. FirstEnergy's proposal seeks to create the competitive landscape that may forever exist in northern Ohio. The Northeast Ohio Public Energy Council ("NOPEC") and its approximately 425,000 electric aggregation customers in FirstEnergy's service territories may be adversely affected by such a result. NOPEC needs the status of a party to the proceeding to fully evaluate the Application and make appropriate recommendations to the Commission.

Ohio Revised Code Section 4903.221(B) and OAC Rule 4901-1-11(A)(2) govern intervention in Commission proceedings. Substantially similar in substance, these provisions explain that the Commission may consider the following in determining whether to grant intervention:

- (1) The nature and extent of the person's interest;¹
- (2) The legal position of the person seeking intervention and its relation to the merits of the case;²
- (3) Whether intervention would unduly delay the proceeding or unjustly prejudice any existing party;³
- (4) The person's potential contribution to full development and equitable resolution of the issues involved in the proceeding;⁴ and
- (5) The extent to which the person's interest is represented by existing parties.⁵

NOPEC has a real and substantial interest in the above-captioned proceeding. CEI and OE currently provide utility service to all of NOPEC's aggregation program electric customers in 128 communities in the nine northeast Ohio counties of Ashtabula, Lake, Geauga, Cuyahoga, Summit, Lorain, Medina, Trumbull, and Portage. NOPEC's supplier, Gexa Energy Ohio LLC, currently provides competitive electric generation service to NOPEC's approximately 425,000 electric aggregation program customers. The outcome of this proceeding will not only have a real and substantial impact on NOPEC, but could forever shape the future of governmental aggregation in Ohio.

The legal issues intended to be raised by NOPEC directly relate to both the merits of the case and this proceeding's potential impact on NOPEC. Among the legal issues to be raised by NOPEC are the following:

1. NOPEC is a regional council of government established under Chapter 167 of the Ohio Revised Code, and certified by the Commission as an electric governmental aggregator in the CEI and OE service territories of FirstEnergy. Without an appropriate competitive framework for large scale governmental aggregation, NOPEC is concerned that its customers will not be able to obtain generation service in future years from a competitive supplier and may not have choices to FirstEnergy's proposed SSO service.

¹ ORC 4903.221(B)(1) and OAC 4901-1-11(B)(1).

² ORC 4903.221(B)(2) and OAC 4901-1-11(B)(2).

³ ORC 4903.221(B)(3) and OAC 4901-1-11(B)(3).

⁴ ORC 4903.221(B)(4) and OAC 4901-1-11(B)(4).

⁵ OAC 4901-1-11(B)(5).

NOPEC wants to ensure that FirstEnergy's application allows large scale governmental aggregation electric customers to continue receiving the benefits of aggregation, including those set forth by the General Assembly in SB 221.⁶

2. Certain non-bypassable charges proposed by FirstEnergy may negatively affect large-scale governmental aggregation, and may be in contravention of SB 221.⁷
3. The auction method proposed by FirstEnergy could curtail both retail electric competition and governmental aggregation by making it difficult for competitive retail electric suppliers (CRES) to determine the price to compare particularly in light of the application by FirstEnergy to switch from MISO to PJM currently pending at FERC.

Granting NOPEC's motion to intervene will not unduly delay these proceedings, or unjustly prejudice any existing party, because NOPEC is filing this motion at the very beginning of this proceeding so there is not an issue of delay. NOPEC will work cooperatively with others in the case in order to maximize case efficiency where practical, but without compromising NOPEC's unique position as a large-scale governmental aggregator.

NOPEC's intervention and involvement in this case will contribute to the development of a more complete understanding of the meaning and impacts of FirstEnergy's market rate offer on Ohio electricity consumers, specifically those who would take service from a large scale governmental aggregator. Additionally, NOPEC was granted intervention, and actively participated in, FirstEnergy's prior rate stabilization plan case (PUCO Case Nos. 03-2144-EL-ATA), and electric security plan case (PUCO Case No. 08-0935-EL-SSO) to the benefit of all involved.

Finally, NOPEC submits that no current party represents its interests, and disposition of this proceeding without its participation will impair or impede the City's ability to protect its interests. NOPEC is a political subdivision of the State of Ohio and the largest governmental

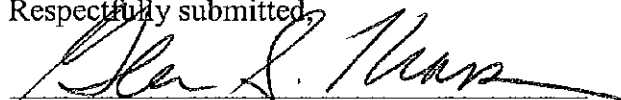
⁶ See O.R.C. 4928.20(K) (mandating that the Commission encourage and promote large-scale governmental aggregation).

⁷ See O.R.C. 4928.20(K)

retail energy aggregator in the State of Ohio, and uniquely positioned to represent large-scale governmental aggregators in this proceeding.

WHEREFORE, and for the reasons set forth above, NOPEC respectfully requests that its motion to intervene be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Glenn S. Krassen", written over a horizontal line.

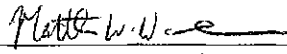
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties of record by regular U.S. mail, this ^{October} ~~27th~~ day of November, 2009.


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