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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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. 09-906-EL-SSO

MEMORANDUM CONTRA MOTION TO INTERVENE
ON BEHALF OF THE NEIGHBORHOOD ENVIRONMENTAL COALITION,
THE EMPOWERMENT CENTER OF GREATER CLEVELAND,
UNITED CLEVELANDERS AGAINST POVERTY, CLEVELAND HOUSING
NETWORK, AND THE CONSUMERS FOR FAIR UTILITY RATES

I. INTRODUCTION

The motion to intervene filed by The Neighborhood Environmental Coalition, The Empowerment Center of Greater Cleveland, United Clevelanders Against Poverty, Cleveland Housing Network and The Consumers for Fair Utility Rates (the self-styled "Citizens Coalition") should be denied. First, the Citizens Coalition's motion was filed a week and a half after the deadline for such motions, and it has failed to show good cause for this delay. For that reason alone, the Citizens Coalition should not be permitted to intervene. Moreover, with the hearing scheduled to begin in less than one week, and with final preparations underway, addition of a new party at this late date would unduly prejudice the parties. Therefore, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("Companies") respectfully request that the Citizens Coalition's motion to intervene be denied.

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II. ARGUMENT

The Commission required that all motions to intervene be filed by November 27, 2009. *See* Entry dated Nov. 12, 2009. The Citizens Coalition filed its motion 12 days after that deadline, on December 9, 2009. Notably, the Citizens Coalition did not even acknowledge that its motion was late, much less explain why its untimely request should be granted. (*See* Citizens Coalition Mot. to Intervene, Dec. 9, 2009.) For that reason alone, the Citizens Coalition's motion should be denied.

Moreover, the Companies will be unfairly prejudiced if the Citizens Coalition's request is permitted at this late date. The Companies already have served discovery on other parties and have evaluated their pre-filed testimony. The Companies have scheduled and will conduct eleven depositions of other parties' witnesses this week. And with the hearing less than one week away, the Companies also have begun final preparations of their own cases, witnesses and exhibits. At this point, it is well past time for entities to request participation in this proceeding, and addition of a new party now would unfairly distract from these pre-hearing tasks. Because the Citizens Coalition's motion is untimely and would result in unfair prejudice to the Companies, it should be denied.

III. CONCLUSION

For the foregoing reasons, the Citizens Coalition's motion to intervene should be denied and the Citizens Coalition should not be allowed to participate at hearing.

Respectfully submitted,

David Kutik / 666 by authority
James W. Burk, Counsel of Record

Arthur E. Korkosz

Mark A. Hayden

Ebony L. Miller

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

Phone: (330) 761-7735

Fax: (330) 384-3875

burkj@firstenergycorp.com

korkosza@firstenergycorp.com

haydenm@firstenergycorp.com

elmiller@firstenergycorp.com

James F. Lang

Laura C. McBride

CALFEE, HALTER & GRISWOLD LLP

1400 KeyBank Center

800 Superior Ave.

Cleveland, OH 44114

Phone: (216) 586-7186

Fax: (216) 241-0186

jlang@calfee.com

lmcbride@calfee.com

David A. Kutik

JONES DAY

901 Lakeside Ave.

Cleveland, OH 44114

Phone: (216) 586-7186

Fax: (216) 579-0212


dakutik@jonesday.com

On behalf of Applicants,

Ohio Edison Company, The Cleveland Electric
Illuminating Company, and The Toledo Edison
Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Companies' Memorandum Contra Motion to Intervene by The Neighborhood Environmental Coalition, The Empowerment Center of Greater Cleveland, United Clevelanders Against Poverty, Cleveland Housing Network, and The Consumers for Fair Utility Rates was delivered to the following persons by e-mail this 10th day of December, 2009:


An Attorney For Applicants Ohio Edison
Company, The Cleveland Electric Illuminating
Company, and The Toledo Edison Company

Ohio Energy Group (OEG)
Michael L. Kurtz
David F. Boehm
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com

Constellation Energy Resources, LLC
Cynthia Fonner Brady
Senior Counsel
550 West Washington Blvd., Suite 300
Chicago, IL 60661
cynthia.brady@constellation.com

Ohio Consumers' Counsel
Jeffrey L. Small
Gregory J. Poulos
Richard C. Reese
10 W. Broad Street Suite 1800
Columbus, OH 43215-3485
small@ocstate.oh.us
poulos@occ.state.oh.us

Industrial Energy Users (IEU)
Samuel C. Randazzo
Lisa G. McAlister
Joseph M. Clark
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215
sam@mwncmh.com
lmcaster@mwncmh.com
jclark@mwncmh.com

Direct Energy Services, LLC
M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour & Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216
mhpetricoff@vorys.com
smhoward@vorys.com

Nucor Steel, Marion, Inc.
Garrett A. Stone
Michael K. Lavanga
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street N.W.
8th Floor, West Tower
Washington, D.C. 20007
mkl@bbrslaw.com
gas@bbrslaw.com

Constellation Energy Group, Inc.
David I. Fein
Vice President, Energy Policy - Midwest
550 West Washington Blvd., Suite 300
Chicago, IL 60661
david.fein@constellation.com

Northeast Ohio Public Energy Council
(NOPEC) & Ohio Schools Council
Glenn S. Krassen
Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
gkrassen@bricker.com
mwarnock@bricker.com

Ohio Hospital Association
Richard Sites
155 East Broad Street, 15th Floor
Columbus, OH 43215-3620
ricks@ohanet.org

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
tobrein@bricker.com

The City of Cleveland
Robert J. Triozzi, Director of Law
Steven L. Beeler
City of Cleveland Dept. of Law
601 Lakeside Avenue Room 106
Cleveland, OH 44114
RTriozzi@city.cleveland.oh.us
SBeeler@city.cleveland.oh.us

Ohio Partners for Affordable Energy (OPAE)
David C. Rinebolt, Trial Attorney
Colleen L. Mooney
231 West Lima St. P.O. Box 1793
Findlay, OH 45839-1793
drinebolt@aol.com
cmooney2@columbus.rr.com

Kroger Co.
John W. Bentine
Mark S. Yurick
Matthew S. White
Chester Wilcox & Saxbe LLP
65 East State Street, Suite 1000
Columbus, OH 43215
jbentine@cwsllaw.com
myurick@cwsllaw.com
mwhite@cwsllaw.com

Direct Energy Services, LLC
Teresa Ringenbach
5400 Frantz Road, Suite 250
Dublin, OH 43016
teresa.ringenbach@directenergy.com

Public Utilities Commission of Ohio
Ray Strom
Tammy Turkenton
180 East Broad Street
Columbus, OH 43215
Ray.Strom@puc.state.oh.us
Tammy.Turkenton@puc.state.oh.us

Duke Energy Retail Sales, LLC
Michael D. Dortch
Kravitz, Brown & Dortch, LLC
65 East State Street, Suite 200
Columbus, OH 43215
mdortch@kravitzllc.com

Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East
Suite 3800
Los Angeles, CA 90067-3218
dmancino@mwe.com

Steven Huhman
Vice President
Morgan Stanley
2000 Westchester Avenue
Purchase, NY 10577
Steven.Huhman@morganstanley.com

Material Sciences Corporation
Craig I. Smith
2824 Coventry Road
Cleveland, Ohio 44120
wis29@yahoo.com

The Ohio Environmental Council
Nolan Moser
Staff Attorney, Director of Energy and Clean
Air Programs
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449
nmoser@theOEC.org

Lance M. Keiffer
Assistant Prosecuting Attorney
711 Adams Street, 2nd Floor
Toledo, Ohio 43604
lkeiffer@co.lucas.oh.us

Gregory K. Lawrence
McDermott Will & Emery LLP
28 State Street
Boston, MA 02109
glawrence@mwe.com

Morgan E. Parke
Michael R. Beiting
FirstEnergy Solutions Corp.
76 South Main Street
Akron, Ohio 44308
mparke@firstenergycorp.com
beitingm@firstenergycorp.com

Association of Independent Colleges and
Universities of Ohio
Christopher L. Miller
Andre T. Porter
Gregory H. Dunn
Schottenstein Zox & Dunn Co., LPA
250 West Street
Columbus, Ohio 43215
cmiller@szd.com
aporter@szd.com
gdunn@szd.com

Theodore S. Robinson
Citizen Power
2121 Murray Avenue
Pittsburgh, Pennsylvania 15217
robinson@citizenpower.com

Natural Resources Defense Council
Henry W. Eckhart
50 West Broad Street, # 2117
Columbus, Ohio 43215
henryeckhart@aol.com

Gexa Energy – Ohio, LLC
Dane Stinson
Bailey Cavalieri LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215
Dane.Stinson@BaileyCavalieri.com

Joseph P. Meissner
Matthew D. Vincel
The Legal Aid Society of Cleveland
1223 West 6th Street
Cleveland, OH 44113
jpmeissn@lasclev.org
mvincel@lasclev.org