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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,

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On behalf of Applicants,

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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:


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