

FILE



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December 23, 2009

VIA HAND DELIVERY

Public Utilities Commission of Ohio
Docketing Division, 10th Floor
180 East Broad Street
Columbus, Ohio 43215-3793

RE: Case Nos. 09-1947-EL-POR; 09-1948-EL-POR; 09-1949-EL-POR
09-1942-EL-EEC; 09-1943-EL-EEC; 09-1944-EL-EEC
09-580-EL-EEC; 09-581-EL-EEC; 09-582-EL-EEC

Dear Sir/Madam:

I am enclosing for filing with your agency, an original and twenty-one (21) copies of the Motion to Intervene of the Association of Independent Colleges and Universities of Ohio. Please place this on file in the above referenced matters. Copies have been served upon parties of record.

Please provide one (1) time-stamped copy of the enclosed document to the representative hand-delivering this information.

Very truly yours,

Andre T. Porter

Encl.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | | |
|--|---|-----------|----------------|
| In the Matter of the Application of Ohio |) | Case Nos. | 09-1947-EL-POR |
| Edison Company, The Cleveland Electric |) | | 09-1948-EL-POR |
| Illuminating Company, and the Toledo |) | | 09-1949-EL-POR |
| Edison Company for Approval of Their |) | | |
| Energy Efficiency and Peak Demand |) | | |
| Reduction Program Portfolio Plans for 2010 |) | | |
| through 2012 and Associated Cost Recovery |) | | |
| Mechanisms. |) | | |

| | | | |
|--|---|-----------|----------------|
| In the Matter of the Application of Ohio |) | Case Nos. | 09-1942-EL-EEC |
| Edison Company, The Cleveland Electric |) | | 09-1943-EL-EEC |
| Illuminating Company, and the Toledo |) | | 09-1944-EL-EEC |
| Edison Company for Approval of Their Initial |) | | |
| Benchmark Reports. |) | | |

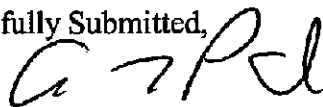
| | | | |
|--|---|-----------|----------------|
| In the Matter of the Energy Efficiency and |) | Case Nos. | 09-0580-EL-EEC |
| Peak Demand Reduction Program Portfolio of |) | | 09-0581-EL-EEC |
| Ohio Edison Company, The Cleveland |) | | 09-0582-EL-EEC |
| Electric Illuminating Company, and the |) | | |
| Toledo Edison Company. |) | | |

Motion to Intervene of the Association of Independent Colleges and Universities of Ohio

The Association of Independent Colleges And Universities of Ohio ("AICUO") on behalf of itself and its member institutions hereby moves the Public Utility Commission of Ohio ("Commission") to intervene as a full party of record in this proceeding. On December 15, 2009, Ohio Edison, Cleveland Electric Illuminating Company, and Toledo Edison Company submitted the above captioned applications to obtain approval of its Energy Efficiency and Peak Demand ("EE&PDR") Reduction Program Portfolio Plan ("Plan") to meet or exceed the statutory benchmarks for EE&PDR reductions. If approved, the applications, would establish EE&PDR plans through 2012.

As explained in the attached Memorandum In Support, the AICUO meets the legal standards for intervention and it requests that this Motion be granted.

Respectfully Submitted,



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Attorneys For The AICUO

**MEMORANDUM IN SUPPORT OF THE ASSOCIATION OF INDEPENDENT
COLLEGES AND UNIVERSITIES MOTION TO INTERVENE**

I. PROCEDURAL BACKGROUND

On December 15, 2009, Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company ("Companies") filed applications to obtain approval of its Energy Efficiency and Peak Demand ("EE&PDR") Reduction Program Portfolio Plan ("Plan") which would be effective through 2012. The plan is intended to describe how the Companies propose to meet or exceed the statutory EE&PDR benchmarks. If approved, the applications, would establish the Companies' EE&DR plans through 2012.

II. AICUO BACKGROUND

AICUO is a not-for-profit association composed of fifty-two (52) independent not-for-profit colleges and universities located across the state of Ohio. AICUO member institutions with campuses in the territory of First Energy, on behalf of which AICUO has been authorized to intervene, include Mercy College of Northwest Ohio, Ashland University, Baldwin Wallace College, MedCentral College of Nursing, Mount Union College, Hiram College, Lake Erie College, Case Western Reserve University, John Carroll University, Notre Dame College, Ohio College of Podiatric Medicine, Ursuline College, Defiance University, Lourdes College, and Notre Dame College. Combined, these colleges and universities are home to more than 36,000

tuition-paying students. Additionally, these colleges and universities employ thousands of individuals within the territory of First Energy.

III. BASIS FOR INTERVENTION

a. Standard of Review

AICUO meets the standards for intervention. Under R.C. section 4903.221, any party “who may be adversely affected by a proceeding” may intervene. Additionally, OAC Rule 4901-1-11 provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: . . . [t]he 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.

AICUO members are concerned with EE&DR because a number of its members in the Companies’ service territory have committed to carbon neutrality. Additionally, costs to be incurred by customers for the Companies’ EE&DR compliance could potentially harm AICUO members.

The EE&PDR related applications and their potential to create a corresponding increases in electric utility rates would create yet another rising expense that may result in higher tuition fees if the interests of Ohio’s private independent colleges and universities are not represented in this proceeding. Accordingly, the AICUO submits that the substantial interests of its members would be adversely impacted and their ability to protect those interests would be impeded and impaired without the participation of the AICUO in this proceeding.

In determining whether a party is entitled to intervene, the Commission shall consider:

(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 proceeding; (4) whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues; and (5) the extent to which the person's interest is represented by existing parties.

(See R.C. 4903.221(B) and OAC 4901-1-11(B)).

First, the nature and extent of the AICUO's interest is substantial. AICUO seeks to ensure that its members have an adequate voice in this proceeding which would have a profound impact on private college and university operating budgets.

Second, AICUO will advocate legal positions which seek to ensure that any competitive bidding process to be approved is conducted in a fair and open manner whereby optimal participation by eligible entities is achieved allowing for the best possible EE&DR program at the greatest efficiency and lowest possible cost.

Third, this Motion by AICUO will not unduly prolong or delay the proceedings, as it is being timely filed. AICUO will continue to comply with procedural schedules and requests made by parties to this proceeding.

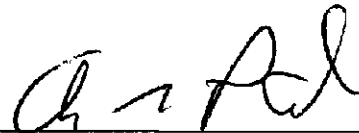
Fourth, AICUO will contribute to the full and equitable resolution of the case. AICUO has previously participated in Commission proceedings and anticipates that its legal positions will materially assist in reaching a resolution of the relevant issues.

Finally, there is no other party to this proceeding representing the interests of private colleges and universities or similar entities.

IV. CONCLUSION

For the reasons set forth above, the AICUO on behalf of itself and its member institutions respectfully requests that the Commission grant its Motion to Intervene in this proceeding.

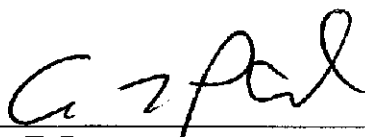
Respectfully Submitted,



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Attorneys For AICUO

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Motion to Intervene** was served via electronic means or via United States Mail, postage prepaid, this 23rd day of December, 2009, upon:



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