



ELPC respectfully requests this Commission grant its motion to intervene in the above captioned matters for these reasons and those set forth in more detail in the attached

Memorandum in Support.

Respectfully submitted,

/s Michael E. Heintz

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Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding and is not adequately represented by the other parties hereto.

The matters filed by the Ohio Edison Company, Electric Illuminating Company, and Toledo Edison Company (collectively, FirstEnergy) concern the implementation of statutorily required energy efficiency and peak demand reduction programs. FirstEnergy seeks to obtain approval of its various energy efficiency and peak demand reduction programs in order to comply with Am. Sub. Senate Bill 221 (S.B. 221), housed in part at Ohio Revised Code §4928.66. ELPC has a strong interest in assuring the effective and timely implementation of S.B. 221.

Ohio Revised Code §4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission's procedural rules at Ohio Administrative Code (OAC) §4901-11-1 similarly provides it shall consider five factors when weighing a motion to intervene. ELPC's motion meets each of the factors required by statute or rule.

Pursuant to ORC §4903.221, the Commission must 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 proceedings; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

O.R.C. §4903.221(B). As to the first factor, ELPC's interest is to ensure the design and implementation of FirstEnergy's energy efficiency and peak demand reduction programs comply with O.R.C. §4928.66. As to the second factor, the Commission should carefully consider the programs and calculations FirstEnergy proposes. FirstEnergy puts forth these programs and

calculations as complying with statutory requirements. Because FirstEnergy's efficiency and peak demand reduction portfolio will be in effect for the next three years, the Commission should closely analyze the proposals to ensure effective and correct implementation. Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding. ELPC is committed to working within the schedule set by the Commission to achieve the efficient and orderly disposition of the questions presented. Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective to bear. ELPC has expertise and experience throughout the Midwest regarding energy efficiency programs and implementation that will contribute to resolving the pending issues.

Similarly, ELPC meets the requirements set forth in OAC §4901-11-1:

- (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;
- [and]
- (5) The extent to which the person's interest is represented by existing parties.

Ohio Admin. Code §4901-11-1(B). The first four factors mirror those in ORC §4903.221 and for the same reasons as stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on "green" economic development, including new manufacturing and job creation.

Finally, this Commission's policy is to "encourage the broadest possible participation in its proceedings (*see e.g., Cleveland Elec. Illum. Co., Case No. 85-675-EL-AIR, Entry dated*

January 14, 1986, at 2). ELPC's inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both ORC §4903.221 and OAC §4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

Respectfully submitted,

/s Michael E. Heintz

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## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion to Intervene has been served upon the following parties, electronic mail or regular U.S. Mail, postage prepaid, this 29<sup>th</sup> day of December, 2009.

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Michael E Heintz on behalf of Environmental Law and Policy Center