

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of The Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company, for Authority to)
Establish a Standard Service Offer Pursuant to)
4928.143 in the Form of an Electric Security Plan)

Case No. 10-388-EL-SSO

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 March 23, 2010, based upon a stipulation agreed to by staff for the Commission, AICUO, Ohio Edison, Cleveland Electric Illuminating Company, Toledo Edison Company (collectively referred to as the "Companies"), and several other parties, the Companies submitted to the Commission a request for Authority to Establish a Standard Service Offer, in the Form of an Electric Security Plan ("ESP"). The ESP would establish rates beginning June 1, 2011.

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

I. PROCEDURAL BACKGROUND

On October 20, 2009, Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively referred to as the “Companies”) filed an Application for the approval of a proposed Market Rate Option (“MRO”) to establish standard service offer (“SSO”) rates beginning June 1, 2011. Subsequently, at a technical conference attended by several intervening and interested parties, staff for the Public Utility Commission of Ohio (“Commission”) recommended that the Companies consider establishing its SSO via an electric security plan (“ESP”) rather than a MRO.

On March 23, 2010, based upon discussions and agreements contained within a stipulation executed by several parties, including the Association of Independent Colleges and Universities of Ohio (“AICUO”), the Companies initiated this proceeding by filing a request for authority to establish SSO rates via an ESP. On March 24, 2010, the Commission issued an Entry requiring that parties file motions to intervene by April 5, 2010.

II. AICUO BACKGROUND

The AICUO is comprised of fifty-one (51) independent colleges and universities located across the state of Ohio. AICUO member institutions with campuses in the territory of First Energy include Mercy College of Northwest Ohio, Ashland University, 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, Baldwin Wallace College, Lourdes College, Mercy College of Northwest Ohio, and Notre Dame College. Combined, these colleges and universities are home to an approximately 25,000 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

The 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.

Although a stipulation has been executed and represents the terms and conditions for the proposed ESP, any variations or changes from the stipulation would have a potential adverse impact upon AICUO colleges and universities.

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. The 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 has and will continue to 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 lowest possible rate for generation service.

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

Fourth, the AICUO will contribute to the full and equitable resolution of the case. The AICUO is a party to the stipulation filed in this proceeding and has previously participated in SSO proceedings before the Commission.

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 its self 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 The 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 31st day of March, 2010, upon:



Christopher L. Miller