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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) Case No. 10-388-EL-SSO
Edison Company for Authority to Establish)
a Standard Service Offer Pursuant to)
R.C. §4928.143 in the Form of an Electric)
Security Plan.)

**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT
OF THE CITY OF AKRON**

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PUCO

Cheri B. Cunningham
Director of Law
161 S. High Street
Suite 202
Akron, OH 44308
Telephone: (330) 375-2030
Telecopier: (330) 375-2041
Ccunningham@Akronohio.Gov

Joseph Clark
McNees Wallace & Nurick LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
jclark@mwncmh.com

April 5, 2010

Attorneys for The City of Akron

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MOTION TO INTERVENE OF THE CITY OF AKRON

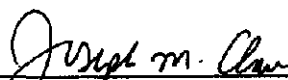
The City of Akron ("Akron") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matters with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code ("O.A.C."), to intervening parties.

On March 23, 2010, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company filed an Application and Stipulation and Recommendation in this proceeding for the purpose of, among other things, resolving issues related to the pricing of default generation supply available from these utilities during the period June 2011 through May 2014.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, Akron has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to

protect that interest. Akron believes that its participation will not unduly prolong or delay this proceeding and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in this proceeding. The interests of Akron will not be adequately represented by other parties to the proceeding and, as such, Akron is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the O.A.C., to intervening parties.

Respectfully submitted,



Joseph M. Clark
McNees Wallace & Nurick LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
jclark@mwncmh.com

Attorney for The City of Akron

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MEMORANDUM IN SUPPORT

On March 23, 2010, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company filed an Application and Stipulation and Recommendation in this proceeding for the purpose of, among other things, resolving issues related to the pricing of default generation supply available from these utilities during the period June 2011 through May 2014.

Under Rule 4901:1-11(A)(2), O.A.C., an interested party may intervene in a Commission proceeding if the interested party can demonstrate a real and substantial interest in the proceeding and the interested 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.¹ When determining whether a party may intervene under Rule 4901:1-11(A)(2), O.A.C., the Commission considers:²

- (1) The nature and extent of the prospective intervenor's interest.

¹ 4901:1-11(A)(2), O.A.C.

² See also Section 4903.221, Revised Code.

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

Under these criteria, intervention "ought to be liberally allowed so that the positions of all persons with a real and substantial interest" in a proceeding can be considered by the Commission.³

Akron respectfully submits that it has a real and substantial interest in this proceeding and meets the Commission's criteria for intervention in Commission proceedings. Akron is a significant customer of Ohio Edison Company and therefore the nature and extent of its interest lies partly in the potential relationship between this proceeding and the prices that Akron may pay for electric service. Akron is also vitally interested in supporting initiatives undertaken to maintain and expand employment in the region⁴ and reduce the energy intensity of the economy. And, these important subjects are also addressed in the above-mentioned Application or Stipulation and Recommendation.

The legal positions advanced by Akron will directly relate to the merits of the above-mentioned Application and whether the Commission should grant the Application. Akron's involvement will not unduly prolong or delay the proceeding.

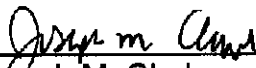
³ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶20.

⁴ Aspects of the Stipulation and Recommendation appear to be designed to insulate consumers from responsibility for regional transmission organization costs and to usefully facilitate the merger between FirstEnergy Corp. and Allegheny Energy Inc. Should this merger be successfully completed, Akron, Ohio will be the home of one of the largest utilities in the Nation.

Indeed, Akron supports efforts to identify and resolve issues by means of settlements that reasonably balance the interests of the diverse group of stakeholders like those that are presently signatories to the Stipulation and Recommendation. Akron will significantly contribute to the full development and equitable resolution of factual and other issues. Finally, no other person or entity can represent Akron's interest in this proceeding.

For the foregoing reasons, Akron respectfully requests the Commission grant its Motion to Intervene.

Respectfully submitted,

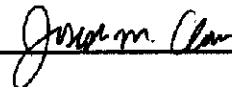


Joseph M. Clark
McNees Wallace & Nurick LLC
Fifth Third Center
21 East State Street, 17th Floor
Columbus, OH 43215-4228
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
jclark@mwncmh.com

Attorney for The City of Akron

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene and Memorandum in Support of the City of Akron* was served upon the following parties of record this 5th day of April 2010, via first class mail, postage prepaid.



Joseph M. Clark

James W. Burk, Counsel of Record
Arthur Korkosz, Senior Attorney
Mark A. Hayden, Attorney
Ebony L. Miller, Attorney
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

James F. Lang
Laura C. McBride
Calfee, Halter & Griswold LLP
1400KeyBank Center
800 Superior Avenue
Cleveland, OH 44114

David A. Kutik
Jones Day
901 Lakeside Avenue
Cleveland, OH 44114

**ON BEHALF OF THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, OHIO EDISON COMPANY
AND THE TOLEDO EDISON COMPANY**

David F. Boehm
Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

ON BEHALF OF OHIO ENERGY GROUP

Janine L. Migden-Ostrander
Consumers' Counsel
Jeffrey L. Small, Counsel of Record
Gregory J. Poulos
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

**ON BEHALF OF OFFICE OF THE OHIO CONSUMERS'
COUNSEL**

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
PO Box 1008
Columbus OH 43216-1008

Cynthia Fonner Brady
Senior Counsel
Constellation Energy Resources, LLC
550 W. Washington St., Suite 300
Chicago, IL 60661

**ON BEHALF OF CONSTELLATION NEWENERGY, INC.
AND CONSTELLATION ENERGY COMMODITIES
GROUP, INC.**

Glenn S. Krassen
Bricker & Eckler LLP
1375 East Ninth Street, Suite 1500
Cleveland, OH 44114

Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215

**ON BEHALF OF THE NORTHEAST OHIO PUBLIC
ENERGY COUNCIL**

Garrett A. Stone
Michael K. Lavanga
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, NW
8th Floor, West Tower
Washington, DC 20007

ON BEHALF OF NUCOR STEEL MARION, INC.

Robert J. Triozzi, Director of Law
Steven L. Beeler
City of Cleveland
Cleveland City Hall
601 Lakeside Avenue, Room 106
Cleveland, OH 44114-1077

ON BEHALF OF THE CITY OF CLEVELAND

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
PO Box 2793
Findlay, OH 45839-1793

**ON BEHALF OF OHIO PARTNERS FOR AFFORDABLE
ENERGY**

Richard L. Sites
General Counsel & Senior Director of Health
Policy
Ohio Hospital Association
155 E. Broad Street, 15th Floor
Columbus, OH 43215-3620

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

ON BEHALF OF THE OHIO HOSPITAL ASSOCIATION

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

**ON BEHALF OF THE OHIO MANUFACTURERS'
ASSOCIATION**

John W. Bentine
Mark S. Yurick
Matthew S. White
Chester, Willcox & Saxbe LLP
65 E. State Street, Suite 1000
Columbus, OH 43215-4213

ON BEHALF OF THE KROGER CO.

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
PO Box 1008
Columbus, OH 43216-1008

ON BEHALF OF DIRECT ENERGY SERVICES, LLC

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
PO Box 1008
Columbus, OH 43216-1008

Teresa Ringenbach
Direct Energy Services, LLC
5400 Frantz Road, Suite 250
Dublin, OH 43016

ON BEHALF OF DIRECT ENERGY SERVICES, LLC

Nolan Moser, Staff Attorney & Director of Energy
& Clean Air Programs
Will Reisinger, Staff Attorney
Trent A. Dougherty, Director of Legal Affairs
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449

Todd M. Williams
Attorney & Counselor at Law
PO Box 6885
Toledo, OH 43612

**ON BEHALF OF THE OHIO ENVIRONMENTAL
COUNCIL**

Michael D. Dortch
Kravitz, Brown & Dortch, LLC
65 East State Street, Suite 200
Columbus, OH 43215

ON BEHALF OF DUKE ENERGY RETAIL SALES, LLC

Amy B. Spiller
Associate General Counsel
Duke Energy Ohio Business Services Inc.
221 E. Fourth Street, 25 AT II
Cincinnati, OH 45202

ON BEHALF OF DUKE ENERGY OHIO, INC.

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

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

ON BEHALF OF MORGAN STANLEY CAPITAL GROUP INC.

Lance M. Keiffer
Assistant Prosecuting Attorney--Lucas County
Lucas County Courthouse
700 Adams Street, Suite 250
Toledo, OH 43604

ON BEHALF OF NORTHWEST OHIO AGGREGATION COALITION

Glenn S. Krassen
Bricker & Eckler LLP
1375 East Ninth Street, Suite 1500
Cleveland, OH 44114

Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215

ON BEHALF OF OHIO SCHOOLS COUNCIL

Morgan E. Parke, Counsel of Record
Michael R. Beiting
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

ON BEHALF OF FIRSTENERGY SOLUTIONS CORP.

Craig I. Smith
2824 Coventry Road
Cleveland, OH 44120

ON BEHALF OF MATERIALS SCIENCE CORPORATION

Henry W. Eckhart, Counsel of Record
50 West Broad Street, #2117
Columbus, OH 43215

ON BEHALF OF NATURAL RESOURCES DEFENSE COUNCIL

Theodore S. Robinson
Citizen Power
2121 Murray Avenue
Pittsburgh, PA 15217

ON BEHALF OF CITIZEN POWER, INC.

C. Todd Jones, General Counsel
Christopher L. Miller
Andrew T. Porter
Gregory H. Dunn
Schottenstein Zox & Dunn Co., LPA
250 West Street
Columbus, OH 43215

ON BEHALF OF THE ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES OF OHIO

Dane Stinson
Bailey Cavalieri LLC
One Columbus
10 West Broad Street, Suite 2100
Columbus, OH 43215

ON BEHALF OF GEXA ENERGY-OHIO, LLC

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

ON BEHALF OF NEIGHBORHOOD ENVIRONMENTAL COALITION, THE EMPOWERMENT CENTER OF GREATER CLEVELAND, UNITED CLEVELANDERS AGAINST POVERTY, CLEVELAND HOUSING NETWORK AND CONSUMERS FOR FAIR UTILITY RATES ("CITIZEN'S COALITION")

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
PO Box 1008
Columbus OH 43216-1008

Glen Thomas
1060 First Avenue, Suite 400
King of Prussia, PA 19406

Laura Chappelle
4218 Jacob Meadows
Okemos, MI 48864

ON BEHALF OF PJM POWER PROVIDERS GROUP

Jacqueline Lake Roberts, Counsel of Record
101 Federal Street, Suite 1100
Boston, MA 02110

ON BEHALF OF ENERNOC, INC.

Michael E. Heintz
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, OH 43212

**ON BEHALF OF ENVIRONMENTAL LAW & POLICY
CENTER**

Samuel C. Randazzo, Counsel of Record
Lisa M. McAlister
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, OH 43215

ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

Thomas McNamee
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, OH 43215

**ON BEHALF OF THE PUBLIC UTILITIES COMMISSION
OF OHIO**

Kimberly Bojko
Gregory Price
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

ATTORNEY EXAMINERS