

FILE**FAX**

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter Of The Ohio Edison Company,)
Cleveland Electric Illuminating Company, and) Case Nos. 10-499-EL-ACP
The Toledo Edison Company's Annual)
Alternative Energy Portfolio Status Report and)
2009 Annual Compliance Review)

MOTION OF CITIZEN POWER, INC., TO INTERVENE AND MEMORANDUM IN
SUPPORT

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Counsel for Citizen Power

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MOTION TO INTERVENE OF CITIZEN POWER, INC.

Citizen Power, Inc., ("Citizen Power") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to R.C. 4903.221 and Section 4901-1-11 of the Ohio Administrative Code, to intervene in the above-captioned case, with the full powers and rights granted by the Commission specifically, by statute and by the provisions of the Ohio Administrative Code to intervening parties.

Citizen Power is a not-for-profit research, education and advocacy organization (i.e. under Section 501 (c) (3) of the U. S. Internal Revenue Code), with offices in Ohio and Pennsylvania. A more detailed description of Citizen Power, the reasons for its intervention, and why such intervention should be granted by the Commission are set forth in the Memorandum in Support.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

Citizen Power respectfully submits that it should be permitted to intervene in this matter according to R.C. 4903.221 and the Commission's Rules and Regulations contained in Section 4901-1-11 of the Ohio Administrative Code. Moreover, Citizen Power should be permitted to intervene with the full powers and rights granted by the Commission specifically, by statute and by the provisions of the Ohio Administrative Code to intervening parties.

Citizen Power, Inc. is a not-for-profit research, education and advocacy organization (i.e. under Section 501 (c) (3) of the U. S. Internal Revenue Code), with offices in Ohio (at 2424 Dock Road, Madison, Ohio 44057), and Pennsylvania (at 2121 Murray Avenue, Pittsburgh, Pennsylvania 15217). Citizen Power has established an Energy Education Project with the primary mission of promoting energy policies that protect the environment and low-income customers. David Hughes is the Executive Director of Citizen Power, Kelli O'Neill and Ronald O'Connell are Directors of Citizen Power, and each is a customer of The Cleveland Electric Illuminating Company, an operating company of FirstEnergy.

Citizen Power has a long history of involvement in electric regulatory matters. In the period from 1986 through 1989, Citizen Power, then known as "Concerned Citizens," intervened in the Perry 1 and Beaver Valley 2 investigations concerning the prudence of the construction

costs for the two nuclear power plants, and the case concerning the base rates of Cleveland Electric Illuminating Company. Citizen Power also intervened before the FERC in the FirstEnergy merger case (Docket No. ER 97-413). Furthermore, Citizen Power was granted intervention and actively participated in the FirstEnergy Transition Case before this Commission (Case Nos. 99-1212-EL-ETP, 99-1213-EL-ETP, and 99-1214-EL-ETP), the FirstEnergy ESP Case (Case No. 08-935-EL-SSO), and the FirstEnergy MRO Cases (08-936-EL-SSO and (09-906-EL-SSO).

Citizen Power has a direct, real, and substantial interest in this proceeding. The above-captioned proceeding concerns a filing by The Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("the Companies") of an annual energy portfolio status report. This report documents the efforts of the Companies to meet their 2009 advanced and renewable energy benchmarks. The review of this report is a significant step in assuring that the Companies are satisfying these benchmarks and therefore may have an impact upon the development of renewable energy resources. As a non-profit organization dedicated to, among other things conserving the environment, promoting energy efficiency, and protecting low-income residential customers; the interests of Citizen Power may be "adversely affected" by these proceedings, satisfying the intervention standard in R.C. 4903.221.

Citizen Power also meets the standard for intervention under R.C. 4903.221(B), which provides that the Commission shall consider in ruling on an intervention application:

- (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; and


- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, as evidenced above, the nature and extent of Citizen Power's interest in these proceedings are substantial. The result of these proceedings may have a significant impact upon the development of renewable energy resources. Second, Citizen Power's legal position is that the Companies should explore additional avenues to meet their advanced and renewable energy benchmarks. Third, the intervention of Citizen Power will not unduly prolong or delay the proceeding. Fourth, Citizen Power will contribute to the just, equitable, and expeditious resolution of the issues that are raised in these proceedings.

Citizen Power also meets the standard for intervention under Section 4901-1-11(B)(1)-(4) of the Ohio Administration Code, which is almost identical to the criteria under R.C. 4903.221(B). Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While Citizen Power does not concede the lawfulness of this factor, Citizen Power submits that no current party represents its interests. In addition, it is the stated policy of the Commission to encourage the broadest possible participation in the proceedings before it.

For the reasons stated above, Citizen Power requests the Commission grant Citizen Power's motion to intervene.


Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene* and *Memorandum in Support* was served electronically or by regular U.S. Mail upon the parties of record identified below in these cases on this 17th day of May, 2010.


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