

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	Case No. 11-126-EL-EEC
Illuminating Company and The Toledo)	Case No. 11-127-EL-EEC
Edison Company to Amend Their Energy)	Case No. 11-128-EL-EEC
Efficiency and Peak Demand Reduction)	
Benchmarks.)	

THE ENVIRONMENTAL LAW AND POLICY CENTER’S MOTION TO INTERVENE

Pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11, the Environmental Law and Policy Center (ELPC) respectfully moves to intervene in the above-captioned proceedings. As explained in the attached Memorandum in Support, ELPC has a real and substantial interest in these proceedings. Additionally, the interests of ELPC are not adequately represented by any other party to these matters, and its participation in these proceedings will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

Consequently, ELPC respectfully requests the Public Utilities Commission of Ohio grant its motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Tara C. Santarelli
Tara C. Santarelli (0084255)
Environmental Law & Policy Center
1207 Grandview Ave., Suite 201
Columbus, Ohio 43212
T: 614-732-0966; F: 614-487-7510
E-mail: tsantarelli@elpc.org
Attorney for the Environmental Law &
Policy Center

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**MEMORANDUM IN SUPPORT OF
THE ENVIRONMENTAL LAW AND POLICY CENTER’S
MOTION TO INTERVENE**

On January 11, 2011, Ohio Edison Company (Ohio Edison), The Cleveland Electric Illuminating Company (CEI) and The Toledo Edison Electric Company (Toledo Edison), collectively referred to as “First Energy”, filed an Application to Amend their Energy Efficiency and Peak Demand Reduction Benchmarks. The Environmental Law and Policy Center (ELPC) seeks to intervene in the case, and meets the criteria set forth in Ohio Revised Code (ORC) §4903.221 and Ohio Administrative Code (OAC) §4901-1-11.

ORC §4903.221 provides, “Any other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding,” provided the Public Utility Commission of Ohio (PUCO or “the Commission”) makes certain determinations. ELPC is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of these proceedings. ELPC is not adequately represented by the other parties in these cases.

Ohio Revised Code §4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, PUCO's procedural rules at OAC §4901-1-11 similarly provide that the PUCO 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(B), 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 in the case is to ensure the effective and thorough implementation of Am. Sub. SB No. 221 (SB 221), which establishes requirements for utilities to provide energy efficiency programs in Ohio, codified at ORC §4928.66. ELPC's interest in these proceedings is to ensure that those utilities subject to the requirements of SB 221 are held to reasonable expectations of fulfillment. As to the second factor, ELPC maintains the Commission should carefully consider Applications for waivers in relation to the necessary requirements for seeking a waiver and the future precedent that may be set. Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceedings. ELPC is committed to working within any schedule set by this 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 proceedings by bringing its unique perspective. ELPC has expertise and experience regarding energy efficiency regulation that will contribute to resolving the pending issues.

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

- (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 §4901-1-11(B). The first four factors mirror those in ORC §4903.221 and for the reasons 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 these proceedings will contribute to the goal of broad participation in PUCO proceedings.

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

Respectfully submitted,

/s/ Tara C. Santarelli
Tara C. Santarelli (0084255)
Environmental Law & Policy Center
1207 Grandview Ave., Suite 201
Columbus, Ohio 43212
T: 614-732-0966; F: 614-487-7510
E-mail: tsantarelli@elpc.org
Attorney for the Environmental Law &
Policy Center

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, via regular U.S. mail, postage prepaid, this 9th day of February, 2011.

Kathy J. Kolich
Carrie Dunn
FirstEnergy Corp.
76 South Main Street
Akron, OH 44308
330-384-4580
kjkolich@firstenergycorp.com
cdunn@firstenergycorp.com

Henry W. Eckhart
50 West Broad Street, #2117
Columbus, OH 43215
614-461-0984
henryeckhart@aol.com

Owen J. Kopon
Brickfiled, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson St., NW
8th Floor West
Washington, DC 20007
202-342-0800
ojk@bbrslaw.com

Will Reisinger
Ohio Environmental Council
1207 Grandview Avenue
Columbus, OH 43212
614-487-7506
will@theoec.org
nolan@theoec.org
trent@theoec.org
camille@theoec.org

Colleen L. Mooney
Ohio Partners for Affordable Energy
1431 Mulford Rd.
Columbus, OH 43212
cmooney2@columbus.rr.com

/s/ Tara C. Santarelli
Tara C. Santarelli
Staff Attorney
Environmental Law & Policy Center

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Tara Santarelli on behalf of Environmental Law & Policy Center