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May 16, 2011

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 11-2479-EL-ACP

Dear Sir/Madam:

Please find enclosed an original and twenty (20) copies of the MOTION FOR LEAVE TO INTERVENE, MEMORANDUM IN SUPPORT and COMMENTS OF THE OHIO ENERGY GROUP fax-filed today in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



David F. Boehm, Esq.
Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.
Cc: Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 16th day of May, 2011 to the following:



David F. Boehm, Esq.
Michael L. Kurtz, Esq.

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AKRON OH 44308

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**BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO**

In The Matter Of The Annual Alternative Energy Status :
Report Of The Ohio Edison Company, The Cleveland Electric :
Illuminating Company, And The Toledo Edison Company : Case No. 11-2479-EL-ACP
:
In The Matter Of The Application Of The Ohio Edison :
Company, The Cleveland Electric Illuminating Company, And :
The Toledo Edison Company for A Force Majeure :
Determination For Their In-State Solar Resources Benchmark :
Pursuant To R.C. §4928.65(C)(4)(a) :
:
:
:

**MOTION FOR LEAVE TO INTERVENE, MEMORANDUM IN SUPPORT
AND COMMENTS
OF THE OHIO ENERGY GROUP**

Pursuant to the Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-1-11, the Ohio Energy Group. (“OEG”) moves for leave to intervene in this proceeding. The Public Utility Commission of Ohio (“Commission”) should grant OEG leave to intervene because OEG has a real and substantial interest in the proceeding, and the Commission’s disposition of this proceeding may impair or impede OEG’s ability to protect that interest.

Respectfully submitted,



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May 16, 2011

COUNSEL FOR OHIO ENERGY GROUP

**MEMORANDUM IN SUPPORT OF
THE OHIO ENERGY GROUP'S
MOTION TO INTERVENE**

Pursuant to Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-01-11, the Public Utility Commission of Ohio ("Commission") should grant The OEG Co. ("OEG") leave to intervene in this proceeding.

OEG is a non-profit entity organized to represent the interests of large industrial customers in electric and gas regulatory proceedings before the Public Utility Commission of Ohio ("Commission"). OEG's members who are participating in this intervention are: Air Products and Chemicals, Inc., AK Steel Corporation, Aleris International, Inc., Alcoa Inc., ArcelorMittal USA, BP-Husky Refining, LLC, Brush Wellman, Inc., Charter Steel, Chrysler LLC, E.I. DuPont deNemours & Company, Ford Motor Company, General Motors LLC, Johns Manville, Linde, Inc., North Star BlueScope Steel, LLC, PPG Industries, Inc., Praxair Inc., Warren Steel Holdings, LLC and Worthington Industries. These companies purchase electric distribution services from First Energy. Therefore, the interests of OEG's members may be directly affected by the outcome of this proceeding. OEG intends to play a constructive role in this case and provide information which will assist the Commission.

No other party to this proceeding can adequately represent OEG's interest. Intervention would not unduly delay the proceeding nor unjustly prejudice any existing party.

Accordingly, OEG has a real and substantial interest and is entitled to intervene in this action under Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-1-11.

COMMENTS

On April 15, 2011 the Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI") and The Toledo Edison Company ("Toledo Edison") (collectively, the "Companies") filed their Annual Status Report for the period January 1, 2010 through December 31, 2010. This Report addressed the Companies' 2010 baselines and benchmarks utilizing the methodology set forth in R.C. § 4928.64, and O.A.C. 4901:1-40 and the Companies' compliance with the 2010 Renewable Energy Portfolio Standard Benchmarks ("2010 Benchmarks") set forth in R.C. § 4928,64(B)(2).

The Companies met their 2010 Non-Solar Benchmarks by obtaining Non-Solar Renewable Energy Credits ("RECs"). The Companies obtained Solar Renewable Energy Credits ("SRECs") necessary to meet the 2010 Out-of-State Solar Benchmark. The Companies fell short of meeting their 2010 Ohio Solar Benchmark by 1,577 Ohio SRECs. The Companies requested a force majeure determination from the Commission for the 2010 Ohio Solar Benchmark pursuant to R.C. § 4928.64(C)(4)(a).

Exhibit A of their Annual Status Report depicted each company's baseline; the number of RECs and SRECs (both Ohio and Out-of-State) each company needed to obtain to meet its 2010 Benchmark; and the number of RECs and SRECs (both Ohio and Out-of State) that each company actually obtained.

While the state mandated renewable energy benchmarks are aggressive, the General Assembly did not intend for utilities to meet the benchmarks without regard to cost. Instead, the General Assembly sought to limit the cost impact on customers by establishing a 3% cost cap under Section 4928.64(C)(3):

"An electric distribution utility or an electric services company need not comply with a benchmark under divisions (B)(1) or (2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonable expected cost of otherwise producing or acquiring the requisite electricity by three percent or more."

The process for calculations related to the 3% cap is spelled out in the Commission's rules. In particular, Section 4901:1-40-07(C) provides:

"Calculations involving a three percent cost cap shall consist of comparing the total expected cost of generation to customers of an electric utility or electric services company, while satisfying an alternative energy portfolio standard requirement, to the total expected cost of generation to customers of the electric utility or electric services company without satisfying that alternative energy portfolio standard requirement."

Explaining the purpose of the cap in the rulemaking proceeding establishing the rules implementing the alternative and renewable energy provisions of S.B. 221, the Commission observed that the *"function of the cost cap is to protect consumers from significant increases in their electric bills."* Case No. 08-888-EL-ORD, Opinion and Order at 37 (2009).

The Alternative Energy Resource Rider (Rider AER) for the Companies effective for service rendered on and after April 1, 2011 varies by rate schedule but is approximately \$2.7/mwh (attached). As shown in the Companies Alternative Energy Resource Plan in Case No. 11-2491-EL-ACP, total Ohio retail sales for the Companies in 2011 is projected to be 52.2 million mwh. A \$2.7/mwh charge results in a rate increase to pay for the RECs and SRECs needed for compliance of approximately \$140.9 million.

The Companies have provided no analysis or quantification which demonstrates that a rate increase of approximately \$140.9 million is in compliance with the 3% cap. OEG is not suggesting that the 3% cap has been violated, but the Companies' filing is silent on the matter.

Therefore, OEG respectfully requests that the Companies be required to demonstrate that the statutory 3% cap has been complied with.

Respectfully submitted,



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COUNSEL FOR THE OHIO ENERGY GROUP

May 16, 2011

RIDER AER
Alternative Energy Resource Rider

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The Alternative Energy Resource Rider (AER) is not applied to customers during the period the customer takes electric generation service from a certified supplier. The following charges will apply, by rate schedule, effective for service rendered beginning April 1, 2011, for all kWhs per kWh:

RATE:

RS	0.2832¢
GS	0.2832¢
GP	0.2734¢
GSU	0.2657¢
GT	0.2654¢
STL	0.2832¢
TRF	0.2832¢
POL	0.2832¢

PROVISIONS:

The charges set forth in this Rider recover costs incurred by the Company associated with securing compliance with the alternative energy resource requirements in Section 4928.64, Revised Code. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all costs associated with securing compliance with the alternative energy resource requirements including, but not limited to, all Renewable Energy Credits costs, any reasonable costs of administering the request for proposal, and applicable carrying costs.

RIDER UPDATES:

The charges contained in this Rider shall be updated and reconciled on a quarterly basis. No later than December 1st, March 1st, June 1st and September 1st of each year, the Company will file with the PUCO a request for approval of the Rider charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st, April 1st, July 1st and October 1st of each year, beginning October 1, 2009.

RIDER AER
Alternative Energy Resource Rider

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The Alternative Energy Resource Rider (AER) is not applied to customers during the period the customer takes electric generation service from a certified supplier. The following charges will apply, by rate schedule, effective for service rendered beginning April 1, 2011, for all kWhs per kWh:

RATE:

RS	0.4795¢
GS	0.4795¢
GP	0.4628¢
GSU	0.4498¢
GT	0.4493¢
STL	0.4795¢
TRF	0.4795¢
POL	0.4795¢

PROVISIONS:

The charges set forth in this Rider recover costs incurred by the Company associated with securing compliance with the alternative energy resource requirements in Section 4928.64, Revised Code. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all costs associated with securing compliance with the alternative energy resource requirements including, but not limited to, all Renewable Energy Credits costs, any reasonable costs of administering the request for proposal, and applicable carrying costs.

RIDER UPDATES:

The charges contained in this Rider shall be updated and reconciled on a quarterly basis. No later than December 1st, March 1st, June 1st and September 1st of each year, the Company will file with the PUCO a request for approval of the Rider charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st, April 1st, July 1st and October 1st of each year, beginning October 1, 2009.

RIDER AER
Alternative Energy Resource Rider

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The Alternative Energy Resource Rider (AER) is not applied to customers during the period the customer takes electric generation service from a certified supplier. The following charges will apply, by rate schedule, effective for service rendered beginning April 1, 2011, for all kWhs per kWh:

RATE:

RS	0.3815¢
GS	0.3815¢
GP	0.3683¢
GSU	0.3579¢
GT	0.3576¢
STL	0.3815¢
TRF	0.3815¢
POL	0.3815¢

PROVISIONS:

The charges set forth in this Rider recover costs incurred by the Company associated with securing compliance with the alternative energy resource requirements in Section 4928.64, Revised Code. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all costs associated with securing compliance with the alternative energy resource requirements including, but not limited to, all Renewable Energy Credits costs, any reasonable costs of administering the request for proposal, and applicable carrying costs.

RIDER UPDATES:

The charges contained in this Rider shall be updated and reconciled on a quarterly basis. No later than December 1st, March 1st, June 1st and September 1st of each year, the Company shall file with the PUCO a request for approval of the rider charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st, April 1st, July 1st and October 1st of each year, beginning October 1, 2009.