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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ohio )  
 Edison Company, The Cleveland Electric )  
 Illuminating Company and The Toledo ) Case No. 12-1230-EL-SSO  
 Edison Company for Authority to Provide )  
 for a Standard Service Offer Pursuant to )  
 R.C. § 4928.143 in the Form of an Electric )  
 Security Plan )

MOTION TO INTERVENE

BY

DUKE ENERGY RETAIL SALES, LLC

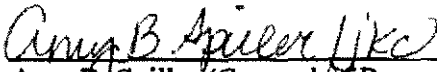
Now comes Duke Energy Retail Sales, LLC, (Duke Energy Retail) and moves to intervene, as a full party of record, in the above-captioned proceedings, pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The issues in this proceeding relate to the Commission's review of a proposed standard service offer by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (jointly, FirstEnergy). The resolution of issues in this proceeding will directly impact the ability of suppliers to compete in the retail market. Duke Energy Retail, as a certified retail electric supplier, therefore has a real and substantial interest in this proceeding that is not adequately represented by existing parties.

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Wherefore, for the reasons more fully set forth in the attached memorandum in support,  
Duke Energy Retail respectfully requests that the Commission grant this motion to intervene.

Respectfully submitted,

DUKE ENERGY RETAIL SALES, LLC

  
\_\_\_\_\_  
Amy B. Spiller (Counsel of Record)  
Deputy General Counsel  
Dorothy K. Corbett  
Associate General Counsel  
139 East Fourth Street  
1303-Main  
Cincinnati, Ohio 45202  
(513) 287-4359 (telephone)  
[Amy.Spiller@duke-energy.com](mailto:Amy.Spiller@duke-energy.com)

### Memorandum in Support

Revised Code § 4928.141 requires each electric utility, such as FirstEnergy, to provide a standard service offer (SSO) “of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service.” FirstEnergy currently provides that SSO in the form of an electric security plan (ESP), approved under R.C. 4928.143. The ESP currently in place for each of its electric distribution utilities will terminate on May 31, 2014.<sup>1</sup> On April 13, 2012, FirstEnergy filed its application for a new ESP, to become effective on June 1, 2014.

R.C. 4903.221(B) sets forth several criteria that the Commission is required to consider in ruling on applications to intervene. Those criteria are listed as follows:

- (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.

The Commission has, itself, added additional detail to the intervention requirements through the promulgation of O.A.C. 4901-1-11. That rule, in section (A), requires that the Commission allow intervention by a person who has a “real and substantial interest in the proceeding” and who “is so situated that the disposition of the proceeding may...impair or impede [its] ability to protect that interest, unless the person’s interest is adequately represented by existing parties.” The rule goes on to list several factors that the Commission is required to consider in determining whether a potential intervenor meets that standard:

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<sup>1</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan., Case No. 10-388-EL-SSO, et al., (Opinion and Order, August 25, 2010).*

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


Duke Energy Retail is a competitive retail electric services provider, certified to provide retail services in the territories of FirstEnergy. Indeed, Duke Energy Retail is providing both nonresidential and residential services in the certified territories of FirstEnergy's electric distribution companies at this time. It is critical to the ongoing business of Duke Energy Retail that it be able to compete successfully for business in these areas. Thus, intervention is important to its ability to protect its business interests.

As no deadline for intervention has yet been determined in this case, intervention by Duke Energy Retail will not unduly prolong or delay this proceeding. Duke Energy Retail would also respectfully suggest that its intervention will significantly contribute to the full development and equitable resolution of the factual issues, based on its experience in the marketplace and understanding of competitive needs in general. Its interests are not represented by existing parties.

Duke Energy Retail therefore respectfully requests that the Commission grant its motion to intervene and that it be made a full party of record.

Respectfully submitted,

DUKE ENERGY RETAIL SERVICES, LLC

  
\_\_\_\_\_  
Amy B. Spiller (Counsel of Record)  
Deputy General Counsel  
Dorothy K. Corbett  
Associate General Counsel  
139 East Fourth Street  
1303-Main  
Cincinnati, Ohio 45202  
(513) 287-4359 (telephone)  
[Amy.Spiller@duke-energy.com](mailto:Amy.Spiller@duke-energy.com)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 20<sup>th</sup> day of April, 2012 by electronic mail, upon the persons listed below.

  
\_\_\_\_\_  
Amy B. Spiller

<p>James W. Burk Arthur E. Korkosz FirstEnergy Service Company 76 South Main Street Akron, OH 44308 <a href="mailto:burkj@firstenergycorp.com">burkj@firstenergycorp.com</a></p> <p>James F. Lang Laura C. McBride Calfee, Halter &amp; Griswold LLP 1405 East Sixth Street Cleveland, OH 44114 <a href="mailto:jlang@calfee.com">jlang@calfee.com</a> <a href="mailto:lmcbride@calfee.com">lmcbride@calfee.com</a></p> <p>David A. Kutik Jones Day 901 Lakeside Avenue Cleveland, OH 44114 <a href="mailto:dakutik@jonesday.com">dakutik@jonesday.com</a></p> <p>Counsel for Applicants, Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company</p>	<p>Thomas McNamee 180 East Broad St., 3<sup>rd</sup> Floor Columbus, OH 43215 <a href="mailto:Thomas.mcnamee@puc.state.oh.us">Thomas.mcnamee@puc.state.oh.us</a></p> <p>Attorney General for Public Utilities Commission of Ohio</p>
<p>Larry S. Sauer, Counsel of Record Terry L. Etter Melissa Yost Assistant Consumers' Counsel Office of the Ohio Consumers' Counsel 10 West Broad Street, Suite 1800 Columbus, OH 43215-3485 <a href="mailto:sauer@occ.state.oh.us">sauer@occ.state.oh.us</a> <a href="mailto:etter@occ.state.oh.us">etter@occ.state.oh.us</a> <a href="mailto:yost@occ.state.oh.us">yost@occ.state.oh.us</a></p> <p>Counsel for Ohio Consumers' Counsel</p>	<p>Matthew R. Cox Matthew Cox Law, Ltd. 4145 St. Theresa Blvd. Avon, OH 44011 <a href="mailto:matt@matthewcoxlaw.com">matt@matthewcoxlaw.com</a></p> <p>Counsel for the Council of Smaller Enterprises</p>

<p>Eric D. Weldele Tucker Ellis &amp; West LLP 1225 Huntington Center 41 South High Street Columbus, Ohio 43215-6197 <a href="mailto:eric.weldele@tuckerellis.com">eric.weldele@tuckerellis.com</a></p> <p>Counsel for Council of Smaller Enterprises</p>	<p>Jacqueline Lake Roberts, Local Counsel 101 Federal Street, Suite 1100 Boston, MA 02110 <a href="mailto:jroberts@enemoc.com">jroberts@enemoc.com</a></p> <p>Counsel for CPower, Inc., Viridity Energy, Inc., EnergyConnect, Inc., Comverge Inc., Enerwise Global Technologies, Inc., and Energy Curtailment Specialists, Inc.</p>
<p>Cheri B. Cunningham Director of Law 161 S. High Street Suite 202 Akron, OH 44308 <a href="mailto:Ccunningham@Akronohio.Gov">Ccunningham@Akronohio.Gov</a></p> <p>Joseph Clark McNees Wallace &amp; Nurick LLC 21 East State Street, 17<sup>th</sup> Floor Columbus, OH 43215 <a href="mailto:jlark@mwncmh.com">jlark@mwncmh.com</a></p> <p>Counsel for The City of Akron</p>	<p>Michael E. Heintz Environmental Law &amp; Policy Center 1207 Grandview Ave., Suite 201 Columbus, Ohio 43212 <a href="mailto:mheint2@elpc.org">mheint2@elpc.org</a></p> <p>Counsel for the Environmental Law &amp; Policy Center</p>
<p>C. Todd Jones General Counsel, AICUO Christopher L. Miller Counsel of Record Andre T. Porter Gregory H. Dunn <a href="mailto:cmiller@szd.com">cmiller@szd.com</a> <a href="mailto:aporter@szd.com">aporter@szd.com</a> <a href="mailto:gdunn@szd.com">gdunn@szd.com</a> Schottenstein Zox &amp; Dunn Co., LPA 250 West Street Columbus, Ohio 43215</p> <p>Counsel for The AICUO</p>	<p>Jacqueline Lake Roberts, Counsel of Record 101 Federal Street, Suite 1100 Boston, MA 02110 <a href="mailto:jroberts@enemoc.com">jroberts@enemoc.com</a></p> <p>Counsel for EnerNOC, Inc.</p>

<p><b>Nolan Moser</b>  Staff Attorney, Director of Energy and  Clean Air Programs  The Ohio Environmental Council  1207 Grandview Avenue, Suite 201  Columbus, Ohio 43212-3449  <a href="mailto:nolan@theOEC.org">nolan@theOEC.org</a></p> <p><b>Will Reisinger</b>  Staff Attorney for the Ohio Environmental  Council  1207 Grandview Avenue, Suite 201  Columbus, Ohio 43212-3449  <a href="mailto:will@theOEC.org">will@theOEC.org</a></p> <p><b>Trent Dougherty</b>  Director of Legal Affairs  1207 Grandview Avenue, Suite 201  Columbus, Ohio 43212-3449  <a href="mailto:Trent@theOEC.org">Trent@theOEC.org</a></p> <p>Counsel for the Ohio Environmental  Council</p>	<p><b>Theodore S. Robinson</b>  Citizen Power  2121 Murray Avenue  Pittsburgh, PA 15217  <a href="mailto:robinson@citizenpower.com">robinson@citizenpower.com</a></p> <p>Counsel for Citizen Power</p>
<p><b>Lance M. Keiffer</b>  Assistant Prosecuting Attorney  Lucas County Courthouse  700 Adams Street, Suite 250  Toledo, Ohio 43604  <a href="mailto:lkeiffer@co.lucas.oh.us">lkeiffer@co.lucas.oh.us</a></p> <p>Counsel for NOAC</p>	<p><b>Henry W. Eckhart</b>  50 West Broad Street #2117  Columbus Ohio 43215  <a href="mailto:henryeckhart@aol.com">henryeckhart@aol.com</a></p> <p>Counsel for The Natural Resources Defense  Co.</p>



<p>Lisa G. McAlister  J. Thomas Siwo  <b>BRICKER &amp; ECKLER LLP</b>  100 South Third Street  Columbus, OH 43215-4291  <a href="mailto:lmcalister@bricker.com">lmcalister@bricker.com</a>  <a href="mailto:tsiwo@bricker.com">tsiwo@bricker.com</a></p> <p>Counsel for OMA Energy Group</p>	<p>David F. Boehm, Esq.  Michael L. Kurtz, Esq.  <b>BOEHM, KURTZ &amp; LOWRY</b>  36 East Seventh Street, Suite 1510  Cincinnati, Ohio 45202  <a href="mailto:dboehm@BKLLawfirm.com">dboehm@BKLLawfirm.com</a>  <a href="mailto:mkurtz@BKLLawfirm.com">mkurtz@BKLLawfirm.com</a></p> <p>Counsel for the Ohio Energy Group</p>
<p>Judi L. Sobecki  Randall V. Griffin  The Dayton Power and Light Company  1065 Woodman Drive  Dayton, OH 45432  <a href="mailto:Judi.sobecki@DPLINC.com">Judi.sobecki@DPLINC.com</a>  <a href="mailto:Randall.griffin@DPLINC.com">Randall.griffin@DPLINC.com</a></p> <p>Counsel for The Dayton Power and Light Company</p>	<p>Christopher J. Allwein  Williams Allwein &amp; Moser, L.L.C.  1373 Grandview Ave., Suite 212  Columbus, Ohio 43212  <a href="mailto:callwein@wamenergylaw.co">callwein@wamenergylaw.co</a></p> <p>Counsel for Natural Resources Defense Council</p>
<p>Leslie A. Kovacik  City of Toledo  420 Madison Ave., Suite 100  Toledo, Ohio 43604-1219  <a href="mailto:leslie.kovacik@toledo.oh.gov">leslie.kovacik@toledo.oh.gov</a></p> <p>Counsel for Northwest Ohio Aggregation Coalition</p>	<p>Colleen L. Mooney  Ohio Partners for Affordable Energy  231 West Lima Street  Findlay, OH 45839-1793  <a href="mailto:cmooney2@columbus.rr.com">cmooney2@columbus.rr.com</a></p> <p>Counsel for Ohio Partners for Affordable Energy</p>
<p>Vincent Parisi  Matthew White  Interstate Gas Supply, Inc.  6100 Emerald Parkway  Dublin, Ohio 43016  <a href="mailto:vparisi@igsenergy.com">vparisi@igsenergy.com</a>  <a href="mailto:mwhite@igsenergy.com">mwhite@igsenergy.com</a></p> <p>Counsel for Interstate Gas Supply, Inc.</p>	<p>M. Howard Petricoff  Vorys, Sater, Seymour and Pease LLP  52 East Gay Street  P. O. Box 1008  Columbus, Ohio 43216-1008  <a href="mailto:mhpetricoff@vorys.com">mhpetricoff@vorys.com</a></p> <p>Counsel for Exelon Generation Company, LLC and Constellation NewEnergy, Inc.</p>

<p>Glenn S. Krassen  <b>BRICKER &amp; ECKLER LLP</b>  1001 Lakeside Avenue East, Suite 1350  Cleveland, Ohio 44114  <a href="mailto:gkrassen@bricker.com">gkrassen@bricker.com</a></p> <p>Matthew W. Warnock  <b>BRICKER &amp; ECKLER LLP</b>  100 South Third Street  Columbus, Ohio 43215  <a href="mailto:MWarnock@bricker.com">MWarnock@bricker.com</a></p> <p>Counsel for Northeast Ohio Public Energy Council</p>	<p>Joseph M. Clark  6641 North High Street, Suite 200  Worthington, Ohio 43085  <a href="mailto:jmclark@vectren.com">jmclark@vectren.com</a></p> <p>Christopher L. Miller  Gregory H. Dunn  Asim Z. Haque  Ice Miller  250 West Street  Columbus, Ohio 43215  <a href="mailto:cmiller@szd.com">cmiller@szd.com</a>  <a href="mailto:gdunn@szd.com">gdunn@szd.com</a>  <a href="mailto:ahaque@szd.com">ahaque@szd.com</a></p> <p>Counsel for Direct Energy Services, LLC and Direct Energy Business, LLC</p>
<p>Thomas R. Hays  John Borell  Lucas County Prosecutors Office  700 Adams Street Suite 251  Toledo, Ohio 43604  <a href="mailto:trhayslaw@gmail.com">trhayslaw@gmail.com</a>  <a href="mailto:jaborell@co.lucas.oh.us">jaborell@co.lucas.oh.us</a></p> <p>Counsel for Northwest Ohio Aggregation Coalition</p>	<p>Robert Kelter  Environmental Law &amp; Policy Center  35 East Wacker Drive, Suite 1600  Chicago, IL 60601  <a href="mailto:rkelter@elpc.org">rkelter@elpc.org</a></p> <p>Counsel for Environmental Law and Policy Center</p>