

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Power Company to Initiate Phase 2 of Its) Case No. 13-1939-GE-RDR
gridSMART Project and to Establish the)
gridSMART Phase 2 Rider)
)

MOTION TO INTERVENE BY FIRSTENERGY SOLUTIONS CORP.

Pursuant to Ohio Revised Code § 4903.221 and O.A.C. 4901-1-11, FirstEnergy Solutions Corp. ("FES") moves to intervene in these proceedings. FES has a number of real and substantial interests in these proceedings and its interests, which may be prejudiced by the results of these proceedings, are not adequately represented by existing parties. Thus, as set forth more fully in the attached memorandum in support, FES respectfully requests that the Commission grant this timely request to intervene and have an opportunity to file Comments and Reply Comments.

Respectfully Submitted,

/s/ Scott J. Casto

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Ohio Power Company (“AEP”) filed an Application on September 13, 2013 to expand its existing gridSMART program. In the Application to Initiate Phase 2 (“Application”), AEP seeks to offer advanced metering infrastructure to almost one million customers.¹ As a certified retail electric service (“CRES”) provider, the ability of FES to offer products in AEP territory is impacted by AEP’s broad expansion in the Application.

R.C. § 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding” may intervene in the proceeding. The Commission’s own rules reinforce the right to intervene:

Upon timely motion, any person *shall be* permitted to intervene in a proceeding upon a showing that . . . [t]he person has a real and substantial interest in the proceeding, and the 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.

O.A.C. 4901-1-11(A) (emphasis added). “The regulation’s text is very similar to Civ. R. 24 – the rule governing intervention in civil cases in Ohio – which is generally liberally construed in favor of intervention.” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387 (2006) (internal quotations omitted). In considering a

¹ AEP Application, page 2.

motion to intervene, the Commission's rule directs that the Commission should consider: the nature and extent of the intervenor's interest; the legal position advanced by the intervenor and its probable relation to the merits of the case; whether intervention will unduly prolong or delay the proceedings; whether the intervenor will significantly contribute to full development and equitable resolution of the factual issues; and the extent to which the intervenor's interest is represented by existing parties. *See* O.A.C. 4901-1-11(B)(1)-(5); *see also* R.C. § 4903.221(B)(1)-(4). FES's motion to intervene satisfies each of these factors.

FES currently serves customers in AEP territory that will undoubtedly be effected by the plans proposed in the Application. In addition, the prospect of attracting future retail customers will be effected. FES seeks to intervene to ensure that the Application remains a true pilot program that does not tread in an arena better suited for competitive providers. FES's interests are aligned with AEP's Application in that the Application should provide support for a more robust customer choice market.² As a result, FES has a real and substantial interest in this proceeding.

FES plans to contribute to the full development of the issues in this case through active participation with AEP and other interested parties in order to ensure the current and future retail customers receive intended benefits. The presence of FES in this proceeding will not unduly prolong or delay the Application based on the current Commission scheduling order, as this Motion to Intervene is timely.

WHEREFORE, FES respectfully requests that the Commission grant this Motion to Intervene and allow FES to be made a party of record in this proceeding.

² AEP Application, Attachment A Page 2.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene of FirstEnergy Solutions Corp.* was served this 25th day of October, 2013, via e-mail upon the parties below.

/s/ Scott J. Casto

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Scott J Casto on behalf of FirstEnergy Solutions Corp.