

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The	)	
Ohio Power Company for Authority to	)	Case No. 13-2385-EL-SSO
Establish a Standard Service Offer	)	
Pursuant to § 4928.143, Revised Code, in	)	
the Form of an Electric Security Plan	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 13-2386-EL-AAM
Accounting Authority	)	

---

**MOTION TO INTERVENE  
OF 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.

Respectfully submitted,

/s/ Mark A. Hayden

---

Mark A. Hayden (0081077)

Jacob A. McDermott (0087187)

Scott J. Casto (0085756)

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

(330) 761-7735; 384-5038; 761-7835

(330) 384-3875 (fax)

[haydenm@firstenergycorp.com](mailto:haydenm@firstenergycorp.com)

[jmcdermott@firstenergycorp.com](mailto:jmcdermott@firstenergycorp.com)

[scasto@firstenergycorp.com](mailto:scasto@firstenergycorp.com)

*Attorneys for FirstEnergy Solutions Corp.*

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The	)	
Ohio Power Company for Authority to	)	Case No. 13-2385-EL-SSO
Establish a Standard Service Offer	)	
Pursuant to § 4928.143, Revised Code, in	)	
the Form of an Electric Security Plan	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 13-2386-EL-AAM
Accounting Authority	)	

---

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE  
OF FIRSTENERGY SOLUTIONS CORP.**

---

**I. Introduction**

In the Application of The Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to § 4928.143, Revised Code, in the Form of an Electric Security Plan (the “Application”), the Ohio Power Company (“AEP Ohio”) seeks to establish a new standard service offer. AEP Ohio’s proposed ESP significantly changes the method in which Standard Service Offer (“SSO”) customers will be served, including new annual auctions to obtain the energy used to serve these customers. The manner in which these auctions are conducted could significantly affect potential bidders and Competitive Retail Electric Service (“CRES”) providers such as FirstEnergy Solutions Corp. (“FES”). FES has a real and substantial interest in this proceeding, and the Commission’s disposition of this proceeding may impair or impede FES’s ability to protect that interest. Thus, FES respectfully requests that the Commission grant its motion to intervene in this proceeding.

## **II. Legal Standard**

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 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.

## **III. Argument**

### **A. The Nature And Extent Of FES’s Interest**

FES is an owner and operator of electric generating facilities located in Ohio and elsewhere. FES offers a wide range of energy and energy-related products and services, including the generation and sale of electricity and energy planning and procurement, to

wholesale and retail customers across Ohio both directly and through governmental aggregation programs. FES currently provides competitive services to customers in AEP Ohio's service territories, and may bid in the anticipated CBP. The structure and pricing of AEP Ohio's proposed SSO will directly impact FES's ability to provide those competitive services. As such, FES has a substantial interest in the outcome of this proceeding and in ensuring that the CBP is established appropriately. That interest cannot be represented by any other party to this proceeding, as no other party to this proceeding represents FES's interest as a potential bidder in the anticipated CBP.

**B. The Legal Position Asserted By FES**

FES supports AEP Ohio's transition to market-based pricing and a more competitive market which can obtain significant benefits for customers. However, the specific details regarding how the ESP is implemented may have a significant impact on CRES providers operating in AEP Ohio's territory and bidding in the anticipated ESP auctions. As such, FES seeks to intervene to ensure that AEP Ohio's ESP is implemented in an orderly manner consistent with all relevant legal principles.

**C. FES's Intervention Will Not Unduly Prolong Or Delay The Proceedings**

The Application was filed on December 20, 2013, and the Commission has not yet established a procedural schedule or a hearing date. As a result, FES's Motion to Intervene is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.<sup>1</sup>

---

<sup>1</sup>See O.A.C. 4901:1-11(E) (providing that a motion to intervene "will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding").

**D. FES Will Contribute To The Full Development Of Factual Issues And FES's Interests Are Not Already Represented By Existing Parties.**

FES is uniquely situated to contribute to the full development of factual issues in this case as one of the largest CRES and wholesale providers in the state. FES has substantial experience promoting fair and open competitive markets through participation in Commission proceedings, which experience may benefit the Commission's review of AEP Ohio's Application.<sup>2</sup> FES's participation will significantly contribute to the full development and resolution of the issues raised by AEP Ohio's proposal because FES has significant experience in the wholesale marketplace.

FES's interests are not already represented by existing parties, as no other party currently involved in this proceeding currently represents the interests of FES in serving AEP Ohio's customers on a wholesale basis.

---

<sup>2</sup> See, e.g., *In the Matter of the Application of The Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to § 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO et al., Mot. To Intervene of FES, dated February 14, 2011; *In the Matter of the Application of Ohio Power Company to Establish a Competitive Bidding Process for Procurement of Energy to Support its Standard Service Offer*; Case No. 12-3254-EL-UNC, Mot. To Intervene of FES, dated January 14, 2013; *In re Application of Duke Energy Ohio for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply*, Case No. 10-2586-EL-SSO, Mot. to Intervene of FES, filed Nov. 19, 2010; *In re Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply*, Case No. 09-906-EL-SSO, Mot. to Intervene of FES, dated Nov. 25, 2009.

#### IV. Conclusion

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

Respectfully submitted,

/s/ Mark A. Hayden

Mark A. Hayden (0081077)

Jacob A. McDermott (0087187)

Scott J. Casto (0085756)

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

(330) 761-7735; 384-5038; 761-7835

(330) 384-3875 (fax)

[haydenm@firstenergycorp.com](mailto:haydenm@firstenergycorp.com)

[jmcdermott@firstenergycorp.com](mailto:jmcdermott@firstenergycorp.com)

[scasto@firstenergycorp.com](mailto:scasto@firstenergycorp.com)

*Attorneys for FirstEnergy Solutions Corp.*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene of FirstEnergy Solutions Corp.* was served this 8th day of January, 2013, via e-mail upon the parties below.

/s/ Mark A. Hayden  
One of the Attorneys for FirstEnergy Solutions Corp.

Steven T. Nourse  
Matthew J. Satterwhite  
American Electric Power Service Corp.  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
stnourse@aep.com  
mjsatterwhite@aep.com

Daniel R. Conway  
Porter Wright Morris & Arthur  
Huntington Center  
41 S. High Street  
Columbus, Ohio 43215  
dconway@porterwright.com

Samuel C. Randazzo  
Frank P. Darr  
Joseph E. Olikier  
Mathew R. Pritchard  
McNees Wallace & Nurick LLC  
21 East State Street, 17th Floor  
Columbus, OH 43215  
sam@mwncmh.com  
fdarr@mwncmh.com  
joliker@mwncmh.com  
mpritchard@mwncmh.com

David F. Boehm  
Michael L. Kurtz  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202  
dboehm@BKLawfirm.com  
mkurtz@BKLawfirm.com  
jkylercohn@BKLawfirm.com

William Wright  
Attorney General's Office  
Public Utilities Commission of Ohio  
180 E. Broad St., 6th Fl.  
Columbus, OH 43215  
William.wright@puc.state.oh.us

Kimberly W. Bojko  
Mallory Mohler  
Carpenter Lipps & Leland LLP  
280 Plaza, Suite 1300  
280 North High Street  
Columbus, Ohio 43215  
bojko@carpenterlipps.com  
mohler@carpenterlipps.com

Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, OH  
BarthRoyer@aol.com

Gary A. Jeffries  
Dominion Resources Services, Inc.  
501 Martindale Street, Suite 400  
Pittsburgh, PA 15212  
Gary.A.Jeffries@dom.com

Rocco O. D'Ascenzo  
Duke Energy Ohio  
139 East Fourth Street  
1303-Main  
Cincinnati, Ohio 45202  
Rocco.D'Ascenzo@duke-energy.com



Mark A. Whitt (Counsel of Record)  
Andrew J. Campbell  
Gregory L. Williams  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
whitt@whitt-sturtevant.com  
campbell@whitt-sturtevant.com  
williams@whitt-sturtevant.com

Vincent Parisi  
Lawrence Friedeman  
Matthew White  
INTERSTATE GAS SUPPLY, INC.  
6100 Emerald Parkway  
Dublin, Ohio 43016  
vparisi@igsenergy.com  
lfriedeman@igsenergy.com  
mswhite@igsenergy.com

Philip B. Sineneng  
THOMPSON HINE LLP  
41 South High Street, Suite 1700  
Columbus, Ohio 43215  
Philip.Sineneng@ThompsonHine.com

Richard L. Sites  
General Counsel & Senior Director of Health  
Policy  
OHIO HOSPITAL ASSOCIATION  
155 East Broad Street, 15th Floor  
ricks@ohanet.org

Thomas J. O'Brien  
Dylan F. Borchers  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
tobrien@bricker.com  
dborchers@bricker.com

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/8/2014 5:44:44 PM**

**in**

**Case No(s). 13-2385-EL-SSO**

Summary: Motion Motion to Intervene of FirstEnergy Solutions Corp electronically filed by Mr. Jacob A McDermott on behalf of FirstEnergy Solutions Corp.