

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by Ohio Edison Company,     )  
The Cleveland Electric Illuminating Company, and     )  
The Toledo Edison Company for an Extension of     )  
Their Distribution Modernization Rider.                     )     Case No. 19-361-EL-RDR

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**NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S  
MOTION TO INTERVENE**

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Pursuant to R.C. 4903.221, and O.A.C. 4901-1-11, the Northeast Ohio Public Energy Council ("NOPEC") respectfully requests that the Public Utilities Commission of Ohio grant its motion to intervene in this proceeding. The reasons supporting NOPEC's motion to intervene are contained in the accompanying Memorandum in Support.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

The Northeast Ohio Public Energy Council (“NOPEC”) is a regional council of governments established under R.C. Chapter 167, and is the largest governmental retail energy aggregator in Ohio. It is comprised of approximately 220 member communities in the fourteen (14) Ohio counties of Ashtabula, Athens, Lake, Geauga, Cuyahoga, Summit, Lorain, Medina, Trumbull, Portage, Huron, Columbiana, Mahoning, and Seneca. NOPEC provides electric aggregation service to approximately 500,000 retail electric customers, in FirstEnergy’s of the Cleveland Electric Illuminating Company and Ohio Edison Company service territories. NOPEC has been an active participant in Ohio’s competitive natural gas and electric markets since their inception, and has arranged supply contracts that have resulted in customer savings and benefits of more than \$300 million since 2001.

The Public Utilities Commission of Ohio (“Commission”) approved the Distribution Modernization Rider (“Rider DMR”) in FirstEnergy’s<sup>1</sup> fourth electric security plan proceeding (“ESP IV”). *In Re Ohio Edison Company, et al.*, PUCO Case No. 14-1297-EL-ESP, Fifth Entry on Rehearing (October 12, 2016), at 87, et seq. The Commission’s ESP IV order approved Rider DMR for a period of three years, with an option for FirstEnergy to file an application to extend

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<sup>1</sup> “FirstEnergy” refers to FirstEnergy Corp’s Ohio operating electric companies: Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company.

collection of Rider DMR revenues for a period of two additional years. *Id.* at 97. On February 1, 2019, FirstEnergy filed its application in this proceeding to extend Rider DMR.

R.C. 4903.221(B) and OAC Rule 4901-1-11(A)(2) govern intervention in Commission proceedings. Substantially similar in substance, these provisions provide that the Commission may consider the following in determining whether to grant intervention:

- (1) The nature and extent of the person's interest;<sup>1</sup>
- (2) The legal position of the person seeking intervention and its relation to the merits of the case;<sup>2</sup>
- (3) Whether intervention would unduly delay the proceeding or unjustly prejudice any existing party;<sup>3</sup>
- (4) The person's potential contribution to full development and equitable resolution of the issues involved in the proceeding;<sup>4</sup> and
- (5) The extent to which the person's interest is represented by existing parties.<sup>5</sup>

NOPEC has a real and substantial interest in this proceeding considering that FirstEnergy seeks to continue collecting Rider DMR revenue from its customers, including NOPEC members, for an additional two years. NOPEC has a substantial interest that its participating members are assessed only reasonable costs for electric distribution service. NOPEC fully participated in FirstEnergy's ESP IV proceeding and opposed approval of Rider DMR. Moreover, NOPEC appealed the Commission's approval of Rider DMR to the Ohio Supreme Court. See *In Re Application of Ohio Edison Company*, Case Nos. 2017-1444 and 2017-1664. Oral arguments were held on the appeal on January 9, 2019, and the Court's decision is pending.

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<sup>1</sup> R.C. 4903.221(B)(1) and OAC 4901-1-11(B)(1).

<sup>2</sup> R.C. 4903.221(B)(2) and OAC 4901-1-11(B)(2).

<sup>3</sup> R.C. 4903.221(B)(3) and OAC 4901-1-11(B)(3).

<sup>4</sup> R.C. 4903.221(B)(4) and OAC 4901-1-11(B)(4).

<sup>5</sup> OAC 4901-1-11(B)(5).

NOPEC's motion to intervene also will not unduly delay this proceeding, or unjustly prejudice any existing party. NOPEC will work cooperatively with others in the case in order to maximize case efficiency, where practical, to reach an equitable resolution of all issues.

Finally, NOPEC submits that no current party represents its unique interests in assuring that rates to its member customers are just and reasonable. Disposition of this proceeding without its participation will impair or impede NOPEC's ability to protect those interests.

WHEREFORE, NOPEC respectfully request that its motion to intervene be granted.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion to Intervene* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 8<sup>th</sup> day of March 2019.



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Summary: Motion to Intervene of Northeast Ohio Public Energy Council electronically filed by  
Teresa Orahod on behalf of Dane Stinson