

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of	)	
Constellation New Energy, Inc., and	)	Case No. 18-604-GE-WVR
Constellation New Energy-Gas Division, LLC	)	
for a Waiver of Ohio Adm. Code 4901:1-21-	)	
06(C) and 4901:1-29-06(B).	)	

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**MOTION TO INTERVENE  
AND MEMORANDUM IN SUPPORT  
AND COMMENTS  
BY  
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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Ohio Partners for Affordable Energy (“OPAE”) respectfully moves the Public Utilities Commission of Ohio (“Commission”) for leave to intervene in the above-captioned matter pursuant to Ohio Revised Code Section 4903.221 and Rule 4901-1-11 of the Commission’s Code of Rules and Regulations with full powers and rights granted by the Commission specifically, by statute, or by the provisions of the Commission’s Code of Rules and Regulations to intervening parties. The reasons for granting this motion to intervene are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,

/s/Colleen Mooney  
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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of	)	
Constellation New Energy Ohio, Inc., and	)	Case No. 18-604-GE-WVR
Constellation New Energy-Gas Division,	)	
LLC for Waivers of Ohio Adm. Code 4901:1-	)	
21-06(C) and 4901:1-29-06(B).	)	

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**MEMORANDUM IN SUPPORT  
OF MOTION TO INTERVENE**

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Ohio Partners for Affordable Energy (“OPAE”) should be permitted to intervene in this joint application of Constellation New Energy, Inc. and Constellation New Energy-Gas Division LLC (“Constellation”) requesting waivers of Ohio Administrative Code Rules 4901:1-21-06(C) and 4901:1-29-06(B), which require certain procedures for the enrollment of retail customers. Rule 4901:1-21-06(C) is the electric service rule that states that Competitive Retail Electric Service providers such as Constellation are prohibited from enrolling potential customers without their consent and proof of that consent as delineated in paragraph (D) of the rule. The electric rule was effective December 10, 2015. Rule 4901:1-29-06(B) is the gas service rule that states that a retail natural gas supplier such as Constellation New Energy-Gas Division LLC is prohibited from enrolling potential customers without consent and proof of that consent as delineated in paragraphs (C), (D), and (E) of the rule. The gas service rule was effective December 1, 2014.

In determining whether to permit intervention, the following criteria are to be considered: the nature of the person's interest; the extent to which that interest is represented by existing parties; the person's potential contribution to a just and expeditious resolution of the proceedings; and whether granting the intervention will unduly delay or unjustly prejudice any existing party. OPAE meets all four criteria for intervention in this matter.

OPAE is an Ohio non-profit corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans. Many of OPAE's members are community action agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, community action agencies are charged with advocating for low-income residents of their communities. OPAE also provides essential services in the form of bill payment assistance programs and weatherization and energy efficiency services to low-income customers. As such, OPAE has a real and substantial interest in this joint application in which Constellation may avoid the requirements to follow certain procedures in its enrollment of new customers.

Thus, OPAE has a direct, real and substantial interest in this matter. The disposition of this matter may impair or impede the ability of OPAE to protect its interests. No other party to the matter will adequately represent the interests of OPAE. OPAE is a rare organization that serves as an advocate and service provider to low-income and moderate-income residential customers. No other party represents this group of interests. OPAE's participation in this matter will

not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues raised by this case.

Therefore, OPAE is entitled to intervene in this joint application with the full powers and rights granted by statute and by the provisions of the Commission's Codes of Rules and Regulations to intervening parties.

Respectfully submitted,

/s/Colleen Mooney

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In the Matter of the Joint Application of )  
Constellation New Energy, Inc., and ) Case No. 18-604-GE-WVR  
Constellation New Energy-Gas Division, LLC )  
for a Waiver of Ohio Adm. Code 4901:1-21-  
06(C) and 4901:1-29-06(B).

Ohio Partners for Affordable Energy (“OPAЕ”) submits these comments on the joint application of Constellation New Energy, Inc., and Constellation New Energy-Gas Division, LLC (“Constellation”) for waivers of Ohio Adm. Code 4901:1-21-06(C) and 4901:1-29-06(B). Rule 4901:1-21-06(C) is the electric service rule that states that Competitive Retail Electric Service (“CRES”) providers such as Constellation New Energy, Inc. are prohibited from enrolling potential customers without their consent and proof of that consent as delineated in paragraph (D) of the rule. The electric rule was first adopted by the Commission in Case No. 12-1924-EL-ORD, Finding and Order, December 18, 2013 and was effective December 10, 2015. Rule 4901:1-29-06(B) is the gas service rule that states that a retail natural gas supplier such as Constellation New Energy-Gas Division LLC is prohibited from enrolling potential customers without consent and proof of that consent as delineated in paragraphs (C), (D), and (E) of the rule. The gas service rule was first adopted in Case No. 12-925-

GA-ORD, Finding and Order, December 18, 2013 and was effective December 1, 2014.

These electric and gas competitive service rules are relatively new and were adopted by the Commission after comments and reply comments were filed. There were also applications for rehearing. The rules were adopted with much consideration and deliberation. The rules provide consumer protection by requiring independent proof of consumers' consent to change service providers. Constellation seeks to enroll customers through on-line chat technology instead of through the process adopted with much deliberation by the Commission in the rules. The Commission's rules do not allow for the use of on-line chat technology, and such use would not comply with the rules.

Consumers need the protections offered by these rules. The offers of CRES providers and natural gas marketers can be higher-priced than a utility's standard service offer and a customer can be misled about service offers with deceptive practices and incomplete information. The Commission should maintain the consumer protections it has only recently established so that customers have the opportunity to research their energy options and validate that they are making informed choices. There is no reason to waive the rules, especially to allow the use of on-line chat rooms, which may only increase deceptive practices and provide incomplete, misleading information to consumers.

Therefore, OPAE recommends that the Commission deny this joint application for waivers.

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## **CERTIFICATE OF SERVICE**

A copy of this Motion to Intervene and Memorandum in Support and Comments will be served by the Commission's Docketing Division on the persons stated below who are electronically subscribed on this 1st day of August 2019.

/s/ Colleen L. Mooney  
Colleen L. Mooney  
Ohio Partners for Affordable Energy

## **SERVICE LIST**

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Summary: Motion to Intervene and Memorandum in Support and Comments electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy