

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio	)	
Edison Company, the Cleveland Electric	)	
Illuminating Company, and the Toledo Edison	)	Case No. 16-743-EL-POR
Company for Approval of their Energy Efficiency	)	
and Peak Demand Reduction Program Portfolio	)	
Plans for 2017 through 2019	)	

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**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT  
OF NUCOR STEEL MARION, INC.**

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**I. MOTION FOR INTERVENTION**

Pursuant to Ohio Revised Code § 4903.221 and Ohio Administrative Code 4901-1-11, Nucor Steel Marion, Inc. (“Nucor”) respectfully moves the Public Utilities Commission of Ohio (the “Commission”) for leave to intervene in the above-captioned docket, for the reasons more fully set forth in the following Memorandum in Support.

**II. MEMORANDUM IN SUPPORT**

For purposes of considering requests for leave to intervene in a Commission proceeding, O.A.C. 4901-1-11(A) provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: . . . (2) The 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.

Further, R.C. § 4903.221(B) and O.A.C. 4901-1-11(B) provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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.

O.A.C. 4901-1-11(B) also provides that an additional factor in considering a request to intervene will be the extent to which the person's interest is represented by existing parties.

Nucor is a large industrial consumer of electricity delivered to it by the Ohio Edison Company ("Ohio Edison"). Nucor uses electricity throughout its operations, but in particular, Nucor uses substantial quantities of electricity to melt steel scrap, recycling it to make new steel. The cost of electricity is critical to Nucor's competitiveness in the national and international steel markets. Additionally, Nucor takes service under Ohio Edison's Economic Load Response rider ("Rider ELR").

On February 24, 2021, the Commission issued its Fifth Entry on Rehearing in the above captioned proceeding, granting the Office of the Ohio Consumers' Counsel's Application for Rehearing to allow parties to submit comments on whether Rider ELR is an energy efficiency program under R.C. § 4928.66. As a large industrial customer of Ohio Edison that takes service under Rider ELR, the outcome of this proceeding will have a significant effect on Nucor. Accordingly, Nucor has direct, real, and substantial interests in this proceeding. Moreover, Nucor is so situated that the disposition of this proceeding without Nucor's ability to fully participate in this proceeding will prejudice and impede Nucor's ability to protect its substantial business interests.

Other parties participating in this proceeding do not represent Nucor's specific interests, and Nucor's unique perspectives will contribute to the full, equitable, and expeditious resolution

of this proceeding. Nucor's intervention will not unduly delay the proceeding, or unjustly prejudice the interests of any existing party to this proceeding.

In the event that the Commission does not consider this intervention timely, both the Ohio Revised Code and the Commission's regulations provide for late intervention.<sup>1</sup> The combined effect of R.C. § 4903.221(A) and O.A.C. 4901-1-11(F) is that the Commission may grant late intervention for good cause under extraordinary circumstances. While Ohio law does not provide a definition of "extraordinary circumstances," the Commission has granted late intervention in many different situations.<sup>2</sup>

Nucor submits that extraordinary circumstances exist that warrant granting late intervention. Rider ELR is not a portfolio program adopted pursuant to R.C. § 4928.66 so Nucor did not anticipate that possible termination of Rider ELR pursuant to R.C. § 4928.66(G) would become an issue in this case. Nevertheless, since the Fifth Entry on Rehearing asks for comments on this issue, and since termination of Rider ELR would adversely impact Nucor, Nucor now has a direct and substantial interest in this case. Also, the Commission should not consider the possible termination of Rider ELR without allowing customers currently on the rider an opportunity to be heard. Finally, Nucor is willing to accept the record in this case as it stands.

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<sup>1</sup> See R.C. § 4903.221(A); Ohio Adm. Code 4901-1-11(F).

<sup>2</sup> For example, in Case No. 04-169-EL-UNC, the Commission granted the late intervention of the Ohio Hospital Association, finding that good cause and extraordinary circumstances existed to grant late intervention when the Ohio Hospital Association was unfamiliar with the issues in the proceeding and the potential impact on its members' operations. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan*, Case No. 04-169-EL-UNC, Entry at 2-3 (June 1, 2004). The Commission has also granted late motions to intervene upon reopening the record in a proceeding on its own motion to consider additional briefing on specific issues that the parties did not expect to be raised in that proceeding. *In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters*, Case Nos. 10-501-EL-FOR & 10-502-EL-FOR, Opinion and Order at 11-13 (January 9, 2013).

Accordingly, Nucor's request for late intervention should be granted.

### III. CONCLUSION

For the reasons set forth above, Nucor respectfully requests the Commission to grant Nucor's request to intervene in the above-captioned proceeding.

Respectfully submitted,

*/s/ Michael K. Lavanga*

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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 on the parties referenced on the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 5th day of March, 2021 to the following:

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Summary: Motion Motion to Intervene and Memorandum in Support of Nucor Steel Marion, Inc.  
electronically filed by Mr. Michael K. Lavanga on behalf of Nucor Steel Marion, Inc.