

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Establishment of a Unique)	Case No. 21-1205-EL-AEC
Arrangement for Toshi CMC, LLC)	

**MOTION FOR LIMITED INTERVENTION
OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY**

Pursuant to O.R.C. § 4903.221 and O.A.C. 4901-1-11, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) move to intervene for the limited purposes of responding to Toshi CMC’s (“Toshi”) Unopposed Motion for Clarification (“Motion”). As explained in the attached memorandum in support, the Companies’ interests may be impacted by the disposition of Toshi’s Motion. Accordingly, the Companies respectfully request that the Commission grant this request for limited intervention.

Although the Companies have not been granted party status, the Companies appreciate Toshi’s need for a resolution of its Motion without unnecessary delay. Therefore, instead of awaiting an Entry granting this Motion to Intervene, the Companies intend to proceed with filing their response to Toshi’s Motion by Friday, September 30, 2022.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF THE MOTION FOR LIMITED INTERVENTION
OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY**

I. Introduction

Toshi’s Motion seeks an order from the Commission directing the Companies¹ to implement new manual processes to facilitate Toshi’s participation in the Rider NMB pilot program while Toshi remains on the Standard Service Offer (“SSO”). Toshi’s request will directly impact the Companies’ interests and processes. Therefore, the Companies respectfully request that the Commission grant their motion for intervention in this proceeding, for the limited purpose of responding to Toshi’s Motion.

II. Legal Standard

O.R.C. § 4903.221 permits any “person who may be adversely affected by a public utilities commission proceeding” to intervene. The Commission’s rules permit limited intervention, which permits a person to participate with respect to one or more specific issues:

Unless otherwise provided by law, the commission, the legal director, the deputy legal director, or the attorney examiner may . . . [g]rant limited intervention, which permits a person to participate with respect to one or more specific issues, if the person has no real and substantial interest with

¹ While Toshi’s original location receives service from Ohio Edison Company, Toshi received authority, as part of its reasonable arrangement, to locate additional sites in any of the Companies’ territories. Additionally, the Commission’s action on Toshi’s Motion will likely impact each of the Companies.

respect to the remaining issues or the person's interest with respect to the remaining issues is adequately represented by existing parties.²

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 person's interest is represented by existing parties. *See* O.A.C. § 4901-1-11(B)(1)-(5). The Companies' motion for limited intervention satisfies each of these factors.

III. Argument

A. The Nature and Extent of The Companies' Interest

The Companies may be adversely affected by the disposition of Toshi's Motion. Toshi requests the Commission issue an order which would require the Companies to implement new manual processes to facilitate billing Toshi, either directly or through an assignment of costs to a CRES provider, for transmission service:

Through this unopposed motion, Toshi seeks confirmation from the Commission that [the Companies] can and should manually bill Toshi directly or through an assignment of costs to a CRES provider for transmission service consistent with the NMB transmission pilot billing outcome while Toshi remains on the [SSO].³

Absent a Commission Order, these manual processes would require exceptions from the Companies' Sarbanes-Oxley ("SOx") controls. Therefore, the outcome of Toshi's Motion will directly impact the Companies.

B. The Legal Position Asserted by the Companies

² O.A.C. 4901-1-11(D)(1).

³ Toshi Motion, at 2.

The Companies' intend to file a memorandum contra that, while not opposing Toshi's requested relief, explains the implications of granting Toshi's Motion. The Companies' response may include requests for additional clarification and/or directives to ensure that the new manual processes are compliant with the Companies' SOx controls, or to facilitate implementation of manual processes. In addition, the Companies' response will address statements in the Motion regarding Toshi's willingness to pay the Companies' incremental costs of accommodating Toshi's requests.

C. The Companies' Intervention Will Not Unduly Prolong or Delay The Proceedings

The Attorney Examiners have not established an intervention deadline. The Companies are seeking intervention at their earliest opportunity. Upon learning of Toshi's Motion, the Companies investigated the requested manual solution to identify implications and determined that the Companies may be impacted by the Commission's decision on the Motion. Further, allowing the Companies to respond before deciding Toshi's Motion will likely avoid requests for clarification and delays in implementation of the Commission's directives. As a result, this Motion for Limited Intervention is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.⁴

D. The Ohio Companies Will Contribute To The Full Development Of Factual Issues

While Toshi requested its Special Arrangement with Ohio Edison Company, the Commission's approval extends to additional Toshi sites in any of the Companies' territories and could also impact other customers in the Companies' service territories. Further, the Commission's action on Toshi's Motion will likely impact each of the Companies. The

⁴ 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").

Companies are uniquely suited to discuss the effects of Toshi's requested relief on their processes. Accordingly, the Companies' participation will contribute to the full development and resolution of the issues raised by Toshi's Motion.

E. The Companies' Interest Is Not Represented by Existing Parties

No existing party is an electric distribution utility serving Toshi. Only the Companies will be charged with implementing the Commission's directives arising from Toshi's Motion. Thus, the Companies are uniquely situated to contribute to the full development of factual issues in this case.

IV. Conclusion

For the foregoing reasons, the Companies respectfully request that the Commission grant this Motion and allow the Companies to be made a party of record to this proceeding, for the limited purpose of responding to Toshi's Motion. Although the Companies have not been granted party status, they appreciate Toshi's need for a resolution of its Motion without unnecessary delay. Therefore, instead of awaiting an Entry granting this Motion to Intervene, the Companies intend to proceed with filing their response to Toshi's Motion by Friday, September 30, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 22th day of September, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. In addition, I hereby certify that a service copy of the foregoing *Motion for Limited Intervention* was sent by, or on behalf of, the undersigned counsel for Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, September 22, 2022.

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Summary: Motion for Limited Intervention electronically filed by Mr. Zachary Woltz on behalf of Ohio Edison and The Cleveland Electric Illuminating Company and The Toledo Edison Company