

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio	)	
Edison Company, the Cleveland Electric	)	
Illuminating Company, and the Toledo	)	
Edison Company for Authority to	)	Case No. 23-301-EL-SSO
Establish a Standard Service Offer	)	
Pursuant to R.C. 4928.143 in the Form of	)	
an Electric Security Plan	)	

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**JOINT MOTION TO INTERVENE OF  
CONSTELLATION ENERGY GENERATION, LLC  
AND  
CONSTELLATION NEWENERGY, INC.**

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Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (collectively “Constellation”) jointly move to intervene in this proceeding as full parties of record under R.C. 4903.221 and Ohio Adm.Code 4901-1-11. The reasons supporting the intervention are contained in the accompanying Memorandum in Support. Constellation respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant this motion to intervene and that Constellation be made a full party of record.

Constellation also requests that Cynthia Brady (cynthia.brady@constellation.com), Jesse Rodriguez (jesse.rodriguez@constellation.com) and Mark Hayden (mark.hayden@constellation.com) be added to the service list for this case. They are willing to accept service via email.

Respectfully Submitted,

/s/ Gretchen L. Petrucci  
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**MEMORANDUM IN SUPPORT OF  
THE JOINT MOTION TO INTERVENE**

Constellation satisfies all of the factors for intervention and the Commission should make Constellation a full party to this proceeding. R.C. 4903.221 and Ohio Adm.Code 4901-1-11 establish the standard for intervention in Commission proceedings as a full party of record. R.C. 4903.221 states that the Commission shall consider the following factors: (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; and (4) whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues. Ohio Adm.Code 4901-1-11 states in part:

(A) 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.

A review of these intervention factors in light of the following facts supports granting intervention to Constellation.

**A. Constellation is an active participant in the market in the Companies' service territories.**

Constellation is a knowledgeable and experienced retail and wholesale energy supplier. Constellation and its affiliates have been active in the Ohio retail and wholesale electric and natural gas markets for years, providing retail supply services to residential, commercial, industrial and

governmental customers. Constellation<sup>1</sup> actively participates in the competitive market in the service territories of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”). Constellation has participated in numerous wholesale auctions in Ohio, including auctions conducted by FirstEnergy under the existing ESP pursuant to which the standard service offer (“SSO”) load is served. Constellation is a competitive retail supplier in the Companies’ service territories as well. Furthermore, Constellation has participated in each of the Companies’ previous four ESP proceedings.<sup>2</sup>

**B. Constellation has real and substantial interests in this proceeding.**

Constellation has a real, direct and substantial interest in several issues in this proceeding. For example, the Companies are proposing changes to the competitive bid process to increase supplier participation and reduce risk. Application at 1-2, 6. Constellation has experience with certain of the proposed SSO changes and has an interest in responding to the proposals. The Companies propose changes to their supplier coordination tariffs (for example, the credit requirements imposed on suppliers). The Companies are also proposing rate design and cost recovery proposals (for example, cost recovery related to transmission and advanced metering infrastructure). *Id.* at 8, 10. These proposals directly affect Constellation’s business interests and own offerings in the Companies’ geographic service area as competitive retail and SSO suppliers and consequently, it has a substantial interest in this proceeding.

In addition, Constellation seeks to ensure that proposed changes and the outcome of this proceeding do not harm its interests or the competitive market in the Companies’ territory, and

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<sup>1</sup> Constellation Energy Generation, LLC is a default service supplier and Constellation NewEnergy, Inc. is competitive retail electric service supplier.

<sup>2</sup> Constellation has participated in the following ESP proceedings of the Companies: Case Nos. 14-1297-EL-SSO (ESP IV), 12-1230-EL-SSO (ESP III), 10-388-EL-SSO (ESP II), and 08-935-EL-SSO (ESP I).

comply with Ohio law. On page 14 of the Application, the Companies state that state policies promote vigorous retail electric competition and that its ESP V Application further those policies. Additionally, the Companies' proposed ESP V period will be for eight years (June 1, 2024 through May 31, 2032), which is a significant period of time. Application at 2. It is important for Constellation to be granted intervention to ensure that the Companies' competitive market proposals actually promote retail competition in this state during this eight-year period (if approved).

**C. Constellation's intervention will not unduly delay the proceedings.**

Constellation's motion is timely filed and its participation will not unduly prolong or delay the proceeding. This motion is filed before any intervention deadline has been set and, as such, Constellation's participation will not unduly delay the matter.

**D. Constellation will significantly contribute to the record and resolution of this proceeding.**

Constellation's interest is not and cannot be adequately represented by any of the existing parties. As an active competitive retail supplier and an SSO supplier in the Companies' service areas, Constellation will provide a unique and knowledgeable perspective in this proceeding. Additionally, as noted above, Constellation has participated in the Companies' previous ESP proceedings to represent its interests and of the competitive market in general. Constellation will again contribute significantly to the full and thorough development of the record, and the equitable resolution of the facts, policies and legal issues in this proceeding.

For all the reasons set forth above, Constellation satisfies the requirements for intervention in these proceedings. Constellation requests that the Commission grant this motion to intervene under R.C. 4903.221 and Ohio Adm.Code 4901-1-11 and make Constellation a full party of record.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

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## **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio'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 the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 15<sup>th</sup> day of May 2023 upon all persons/entities listed below:

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**This foregoing document was electronically filed with the Public Utilities  
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**Case No(s). 23-0301-EL-SSO**

Summary: Motion - Joint Motion to Intervene electronically filed by Mrs. Gretchen L. Petrucci on behalf of Constellation Energy Generation, LLC and Constellation NewEnergy, Inc..