

**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 Company for Authority to Establish)	Case No. 23-0301-EL-SSO
A Standard Service Offer Pursuant to)	
§4928.143, Ohio Rev.Code, in the Form of)	
an Electric Security Plan.)	

**MOTION TO INTERVENE OF THE
RETAIL ENERGY SUPPLY ASSOCIATION AND MEMORANDUM IN SUPPORT**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Retail Energy Supply Association ("RESA") moves to intervene in the above referenced proceedings. The reasons supporting this motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ Matthew R. Pritchard

Matthew R. Pritchard (Reg. No. 0088070)

(Counsel of Record)

Avery L. Walke (Reg. No. 102682)

MCNEES WALLACE & NURICK LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 719-2842

mpritchard@mcneeslaw.com

awalke@mcneeslaw.com

(willing to accept service via email)

July 19, 2023

**COUNSEL FOR THE RETAIL ENERGY SUPPLY
ASSOCIATION**

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**MEMORANDUM IN SUPPORT OF
RETAIL ENERGY SUPPLY ASSOCIATION**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, RESA has met the standard for intervention and respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant its motion to intervene.¹ In this case, The Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) has proposed an electric security plan (“ESP”) that includes numerous changes to rates and customer programs that would impact suppliers of competitive retail electric service in the FirstEnergy service territory. Other intervenors could also make proposals that affect the competitive retail market in Ohio, and which could negatively affect RESA and its members. Accordingly, RESA and its members have a real and substantial interest in this proceeding and will significantly contribute to the full development and equitable resolution of this case.

¹ The statements expressed in this filing represent the position of RESA as an organization but may not represent the view of any individual member of RESA. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service to retail, residential, commercial, and industrial customers. More information on RESA can be found at www.resausa.org.

I. THE PUBLIC UTILITIES COMMISSION OF OHIO HAS BEEN DIRECTED TO GRANT INTERVENTION LIBERALLY.

R.C. 4903.221 provides for intervention in hearings before the Commission of any person who may be adversely affected by the outcome of the proceeding.² In assessing a motion to intervene, the Commission is to consider the nature and extent of the moving party's interest, the legal position of the moving party and its relation to the merits of the case, whether the intervention of the moving party will unduly prolong or delay the proceedings, and whether the moving party will significantly contribute to the full development and equitable resolution of the factual issues.³ Further, the Supreme Court

² R.C. 4903.221 provides:

Any other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding, provided:

(A) That such other person files a motion to intervene with the commission no later than:

(1) Any specific deadline established by order of the commission for purposes of a particular proceeding; or, if no such deadline is established;

(2) Five days prior to the scheduled date of hearing. The public utilities commission may, in its discretion, grant motions to intervene which are filed after the deadlines set forth in divisions (A)(1) and (2) of this section for good cause shown.

(B) 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.

³ See R.C. 4903.221(B). Under its rules of procedure, the Commission has also directed that it will decide whether to allow intervention based on the nature and extent of the prospective intervenor's interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding, whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues, and the extent to which the person's interest is represented by existing parties. Rule 4901-1-11(B), Ohio Administrative Code.

of Ohio has directed the Commission to liberally grant intervention so that the positions of all persons with a real and substantial interest in the proceeding can be considered by the Commission.⁴

II. MEMBERS OF RESA ARE ACTIVELY ENGAGED IN THE COMPETITIVE GENERATION SERVICE MARKET.

RESA is a non-profit 501(c)(6) organization headquartered in Harrisburg, Pennsylvania. State-specific chapters exist in each jurisdiction that permits retail competition. RESA's member companies supply retail electricity and natural gas to residential, commercial, industrial, and governmental customers throughout Ohio. RESA members also provide energy efficiency-related services and products.

Since its inception, RESA has historically been active in many electric industry proceedings before the Commission in furtherance of its members' activities in Ohio. RESA has participated in numerous Commission proceedings to assure that electric utilities comply with requirements of Ohio law that proscribe their ability to leverage their monopoly status in competitive markets.

III. RESA SHOULD BE GRANTED INTERVENTION.

As noted above, FirstEnergy is seeking to establish an Electric Security Plan under R.C. 4928.141 and 4928.143. If authorized, FirstEnergy's application could adversely affect the interests of RESA and its members. The application puts into place items that affect the competitive retail electric service market, including, but not limited to, proposed standard service offer auction modifications. FirstEnergy's proposals, and proposals made by intervenors in the case, could impact the rates for generation service offered by

⁴ *Consumers' Counsel v. Public Utils. Comm'n of Ohio*, 111 Ohio St. 3d 384, 388 (2006).

RESA members, could negatively impact the competitive retail market, and in some instances, could permit the monopoly utility to offer services that should instead be offered by competitive suppliers. Accordingly, based on the applicable requirements under Ohio law and the Commission's rules, RESA should be granted intervention. RESA's motion to intervene is timely, and granting its intervention will not prolong or delay the proceeding. The expertise of RESA and its members will contribute to the full development and equitable resolution of the factual issues presented by FirstEnergy's application.

Although RESA's interests may overlap with some parties in the proceeding, the totality of RESA's interests are unique and not adequately represented by other parties because the outcome in this matter has broader ramifications for the competitive retail electric service market in the FirstEnergy's service territory.

IV. CONCLUSION

For the reasons set forth in this Memorandum in Support, RESA respectfully requests the Commission grant the motion of RESA to intervene.

Respectfully submitted,

/s/ Matthew R. Pritchard

Matthew R. Pritchard (Reg. No. 0088070)
(Counsel of Record)

Avery L. Walke (Reg. No. 102682)

MCNEES WALLACE & NURICK LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 719-2842

Telecopier: (614) 469-4653

mpritchard@mcneeslaw.com

awalke@mcneeslaw.com

(Willing to accept service via email)

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**ON BEHALF OF THE RETAIL ENERGY SUPPLY
ASSOCIATION**

CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 19th day of July, 2023. The following parties were provided by electronic mail a copy of this document.

/s/ Matthew R. Pritchard

Matthew R. Pritchard

Service List

thomas.lindgren@ohioago.gov
amy.botschnerobrien@ohioago.gov
rhiannon.howard@ohioago.gov
mkurtz@BKLawfirm.com
jkylern@BKLawfirm.com
rdove@keglerbrown.com
nbobb@keglerbrown.com
Stacie.Cathcart@igs.com
evan.betterton@igs.com
michael.nugent@igs.com
cgrundmann@spilmanlaw.com
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com
todd.schafer@outlook.com
mjsettineri@vorys.com
glpetrucci@vorys.com
aasanyal@vorys.com
dparram@brickergraydon.com
rmains@brickergraydon.com
dstinson@brickergraydon.com
bknipe@firstenergycorp.com
cwatchorn@firstenergycorp.com
tallexander@beneschlaw.com
mkeaney@beneschlaw.com
khehmeyer@beneschlaw.com
dproano@bakerlaw.com
ahaque@bakerlaw.com
eprouy@bakerlaw.com
pwillison@bakerlaw.com
gkrassen@nopec.org
josephmeissner@yahoo.com

trhayslaw@gmail.com
leslie.kovacik@toledo.oh.gov
mkl@smxblaw.com
jrb@smxblaw.com
dborchers@brickergraydon.com
kherrnstein@brickergraydon.com
little@litoio.com
hogan@litoio.com
ktreadwav@oneenergyllc.com
jdunn@oneenergyllc.com
john.finnigan@occ.ohio.gov
connor.semples@occ.ohio.gov
brian.gibbs@nationwideenergypartners.com
dromig@nationwideenergypartners.com
bojko@carpenterlipps.com
wygonski@carpenterlipps.com

Attorney Examiners:

megan.addison@puco.ohio.gov
greg.price@puco.ohio.gov
jacqueline.st.john@puco.ohio.gov

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Summary: Motion to Intervene of Retail Energy Supply Association and
Memorandum in Support electronically filed by Mr. Matthew R. Pritchard on behalf
of Retail Energy Supply Association.