

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by Ohio Edison)
Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 16-481-EL-UNC
Edison Company of a Grid Modernization)
Business Plan.)

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 17-2436-EL-UNC
Edison Company Application for)
Approval of a Distribution Platform)
Modernization Plan.)

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 18-1604-EL-UNC
Edison Company to Implement Matters)
Relating to the Tax Cuts and Jobs)
Creation Act of 2017.)

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 18-1656-EL-ATA
Edison Company for Approval of a Tariff)
Change.)

**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

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September 7, 2023

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ASSOCIATION**

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**MEMORANDUM IN SUPPORT OF THE
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 Ohio Edison Company,

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-

The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy”) filed an application for approval of phase one of their distribution grid modernization plan (“Grid Mod I”). Recently, an audit of Grid Mod I was filed and the Commission solicited comments, reply comments, and established an intervention deadline. RESA has participated in the proceeding through filing comments and reply comments on the audit report and in accordance with the Commission’s invention for parties to also intervene, RESA hereby submits this motion to intervene. As covered in RESA’s initial and reply comments, Grid Mod I touches on a number of competitive market issues including the rollout of smart meters for residential customers and access to data for CRES providers to enable the market to offer unique, innovative, and customized energy products and services to residential customers. 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.

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

added electricity and natural gas service to retail, residential, commercial, and industrial customers. More information on RESA can be found at www.resausa.org.

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;

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 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

(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.

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

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.

RESA has a real and substantial interest in this proceeding that would not be protected if RESA was not granted intervention. An extensive audit was filed addressing phase I of First Energy's grid modernization efforts. As noted above and in RESA's comments in the proceeding, FirstEnergy's grid modernization efforts impact competitive market issues that affect RESA members. This includes access to data necessary for the market to offer unique and customized products and services to residential customers. Accordingly, based on the applicable requirements under Ohio law and the Commission's rules, RESA should be granted intervention. RESA's intervention will also not unduly delay this proceeding. RESA's request to intervene is timely, will not prolong the proceeding, and intervention should be granted. Moreover, RESA's intervention 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 service territory.

IV. CONCLUSION

Accordingly, for the reasons set forth in this Memorandum in Support, the Commission should grant the motion of RESA to intervene.

Respectfully submitted,

/s/ Matthew R. Pritchard

Matthew R. Pritchard (Reg. No. 0088070)

(Counsel of Record)

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September 7, 2023

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 7th day of September, 2023. The following parties were provided by electronic mail a copy of this document.

/s/ Matthew R. Pritchard

Matthew R. Pritchard

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ATA**

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