

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of) Case No. 23-0898-EL-UNC
Ohio Edison Company, The Cleveland)
Electric Illuminating Company, and)
Toledo Edison Company for Approval)
of a Change in Bill Format)

MOTION OF OHIO ENERGY LEADERSHIP COUNCIL TO INTERVENE

Ohio Energy Leadership Council (“OELC”) respectfully moves the Public Utilities Commission of Ohio, pursuant to R.C. § 4903.221 and Ohio Adm. Code § 4901-1-11, to intervene in this proceeding involving the Ohio Edison Company’s, The Cleveland Electric Illuminating Company’s, and the Toledo Edison Company’s (collectively, the “Companies” or “FirstEnergy”) application for approval of a change in bill format.

The grounds for OELC’s motion to intervene are set forth more fully in the accompanying memorandum in support, which is incorporated herein by reference. Accordingly, OELC respectfully requests that its motion to intervene in this proceeding be granted.

Date: September 28, 2023

Respectfully submitted,

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LEADERSHIP COUNCIL**

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**MEMORANDUM IN SUPPORT OF MOTION OF OHIO ENERGY LEADERSHIP
COUNCIL TO INTERVENE**

I. INTRODUCTION

OELC seeks to intervene to defend its real and substantial interest in the issues raised in this proceeding concerning FirstEnergy’s application for approval of a change in bill format.

OELC is a group of energy-intensive manufacturing, industrial, institutional, information technology and business customers that are proven leaders in energy markets in Ohio and across the country. Collectively, OELC’s members annually consume many billions of kilowatt hours of electricity, and are major contributors to Ohio’s economy and employment sector. OELC’s membership includes energy leaders in manufacturing, education, information technology, and the retail industry representing a diverse cross section of energy interests in Ohio and around the nation. OELC seeks to promote customer-driven policies that will ensure adequate, reliable, and efficient delivery and supply of energy for all commercial and industrial customers at competitive, reasonable and transparent rates.

According to FirstEnergy’s application filed in this matter on September 27, 2023, the FirstEnergy Companies “propose a complete redesign of the bill for all residential and nonresidential customers to modernize and align the bill with customer input and expectations around bill format and content.” FirstEnergy goes on to explain in its application that its “bill is

the first point of contact between the customer and Companies” and that this “initial interaction is integral to the customer’s experience.” (Application at p. 1). The application then describes some of the changes to the bill formats and billing information on those bills for both residential and non-residential customers, and includes some examples of the proposed reformatted and revised template FirstEnergy bills.

A significant number of OELC members are FirstEnergy customers, collectively consuming well over a billion kWh in FirstEnergy territory alone on an annual basis. Accordingly, OELC has a real and substantial interest in, and will be directly impacted by, the issues raised in the application seeking a complete redesign of FirstEnergy’s bills. The format, messaging and information on FirstEnergy’s bills are, as stated by FirstEnergy, an initial interaction with the customer that is “integral to the customer’s experience.” (Application at p. 1.) FirstEnergy’s bills are the manner through which FirstEnergy communicates critical information regarding usage, rates, utility programs, legal rights and obligations, and methods to contact FirstEnergy and address utility billing and service issues. As such, FirstEnergy’s bills are a key component of how OELC members are informed of FirstEnergy’s rates and charges, and how OELC members interact with FirstEnergy. OELC will be seeking discovery from FirstEnergy, and may be advocating for additional ways to improve FirstEnergy’s bills and the information communicated to FirstEnergy customers.

Accordingly, OELC should be permitted to intervene to protect those interests, which cannot be adequately represented or protected by any other party. OELC’s intervention will not unduly prolong or delay this proceeding, nor will it unjustly prejudice any existing party. OELC’s intervention will meaningfully contribute to the development of the record and is in the public interest. For these reasons, OELC’s motion should be granted.

II. LEGAL STANDARD

The Commission's rules provide that a person "shall" be permitted to intervene in a proceeding upon a showing that:

- 1) A statute of this state or the United States confers a right to intervene.
- 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.

Ohio Adm. Code § 4901-1-11(A). The factors for evaluating whether to permit intervention under that rule are:

- 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 the full development and equitable resolution of the factual issues.
- 5) The extent to which the person's interest is represented by existing parties.

Ohio Adm. Code § 4901-1-11(B).

The Supreme Court of Ohio has held that intervention should "generally be liberally construed in favor of intervention." *Ohio Consumers' Counsel v. Pub. Util. Comm'n.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 NE.2d 940, ¶ 16 (quoting *State ex rel. Polo v. Cuyahoga Cnty. Bd. of Elections*, 74 Ohio St.3d 143, 144, 656 NE.2d 1277 (1995)). This liberal construction applies "whether or not a hearing is held," and a party should be granted intervention when it meets the factors articulated in the rules, absent "evidence in the record calling those claims into doubt" or establishing that intervention would cause undue delay. *Id.* at ¶ 20.

III. ARGUMENT

All of the relevant factors support OELC's motion to intervene here, and therefore, OELC should be entitled to intervene.

First, a substantial portion of OELC members are FirstEnergy customers who will be directly impacted by the resolution of this proceeding. Thus, OELC has a real and substantial interest in this proceeding.

Second, OELC's legal position will be to advocate for a redesigned and revamped non-residential bill that is clear, accurate, transparent, and provides all of the information that commercial and industrial customers in Ohio require to have a thorough understanding of FirstEnergy's rates, charges, applicable programs and other items relevant to utility billing.

Third, OELC's participation will not unduly prolong or delay this proceeding. FirstEnergy filed its application yesterday, and this motion was timely filed before a procedural schedule was established.

Fourth, OELC's participation is in the public interest, as OELC has extensive experience and industry knowledge that can assist in the development of a full and complete record in this proceeding. OELC's members are sophisticated energy customers served by Ohio's electric utilities, including FirstEnergy. OELC's members will provide the Commission the benefit of their perspective on the bill format and information that provides for the most reasonable, transparent, and clear communication of charges, rates, and applicable utility programs. If OELC is not allowed to participate, the Commission and its Staff will not benefit from OELC's perspective on issues that will materially impact OELC's members.

Fifth and finally, OELC's direct interest in the outcome of this proceeding cannot be represented by other parties because OELC has members who are FirstEnergy customers who will be impacted by the Commission's decision in this proceeding.

Accordingly, OELC should be permitted to intervene to assert the interests of its members who will be directly impacted by this proceeding.

IV. CONCLUSION

OELC satisfies the “liberal” standard for intervention set forth in R.C. § 4903.221 and Ohio Adm. Code § 4901-1-11. *See Ohio Consumers’ Counsel v. Pub. Util. Comm’n.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940, ¶¶ 16, 20. Accordingly, OELC respectfully requests that the Commission grant its motion.

Date: September 28, 2023

Respectfully submitted,

/s/ David F. Proaño

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CERTIFICATE OF SERVICE

I certify on this 28th day of September, 2023, that the foregoing document was filed using the Commission's Docketing Information System and was served by electronic mail on the following:

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Summary: Motion Motion to Intervene and Memorandum in Support electronically filed by Mr. David F. Proano on behalf of Ohio Energy Leadership Council (OELC), f/k/a Industrial Energy Users-Ohio.