

FirstEnergy

RECEIVED-DOCKETING DIV

76 South Main Street
Akron, Ohio 44308

Arthur E. Korkosz
Senior Attorney

2004 MAR 10 AM 11:28

330-384-5849
Fax: 330-384-3875

PUCO

VIA FEDERAL EXPRESS

March 9, 2004

Ms. Renee Jenkins
Director, Administration Department
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43266-0573

**Re: In The Matter of the Joint Application of The Cincinnati Gas & Electric Company to Modify its Nonresidential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish an Alternative Competitive-Bid Service Rate Option Subsequent to the Market Development Period.
Case No. 03-93-EL-ATA**

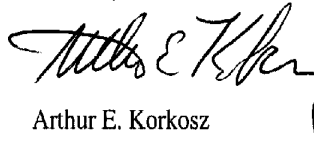
Dear Ms. Jenkins:

Enclosed are an original and eleven (11) copies of a *Motion To Intervene* regarding the above-referenced case.

Please file-stamp one extra copy and return to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter.

Sincerely,



Arthur E. Korkosz

enclosures

cc: Service List

AEK/b

[50878]

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician CH Date Processed 3/10/04

RECEIVED-DOCKETING DIV

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

2004 MAR 10 AM 11:28

PUCO

In the Matter of the Application of The Cincinnati)
Gas & Electric Company to Modify its Non-)
Residential Generation Rates to Provide for) Case No. 03-93-EL-ATA
Market-Based Standard Service Offer Pricing and)
to Establish an Alternative Competitively-Bid)
Service Rate Option Subsequent to the Market)
Development Period)

In the Matter of the Application of The Cincinnati)
Gas & Electric Company for Authority to Modify)
Current Accounting Procedures for Certain Costs) Case No. 03-2079-EL-AAM
Associated with the Midwest Independent)
Transmission System Operator)

In the Matter of the Application of The Cincinnati)
Gas & Electric Company for Authority to Modify)
Current Accounting Procedures for Capital)
Investment in its Electric Transmission and) Case No. 03-2080-EL-ATA
Distribution System and to Establish a Capital) Case No. 03-2081-EL-AAM
Investment Reliability Rider to be Effective after)
the Market Development Period)

***FirstEnergy Solutions Corp.
Motion to Intervene***

FirstEnergy Solutions Corp. ("FES") respectfully moves the Commission for leave to intervene in the above-captioned case pursuant to Section 4903.221, Ohio Rev. Code, and Rule 4901:1-11, Ohio Admin. Code. FES' interests in these proceedings and the reasons supporting this Motion to Intervene are set forth in the attached Memorandum in Support.

MEMORANDUM IN SUPPORT

I. Introduction

FirstEnergy Solutions Corp. ("FES") is an unregulated subsidiary of FirstEnergy Corp. FirstEnergy Solutions is a licensed electricity supplier in Ohio, Pennsylvania, New Jersey, Maryland, Michigan, Delaware, New York and Washington, D.C. FirstEnergy Solutions was licensed by the Public Utilities Commission of Ohio as a competitive retail electric service ("CRES") provider on November 2, 2000. FES is also registered to conduct business within the Cincinnati Gas & Electric service territory. FES serves a substantial amount of customer load on CG&E's system.

On January 10, 2003, CG&E filed an application initiating Case No. 03-93-EL-ATA to modify its non-residential generation rates to provide for a market-based standard service offer and to establish a pilot alternative competitively-bid service rate option subsequent to the market development period ("MDP"). Subsequently, on October 8, 2003, CG&E filed an application initiating Case No. 03-2079-EL-AAM to defer Schedule 10 FERC costs and costs assessed by the Midwest Independent System Operation ("MISO") pursuant to Schedules 16 and 17 of its Open Access Transmission Tariff. Also on October 8, 2003, CG&E filed an application initiating Case No. 03-2081-EL-AAM to defer capital investments made during the MDP in its transmission and distribution system and, in Case No. 03-2080-EL-ATA, to establish a rider to recover such capital investments made after the MDP.

By entry issued December 9, 2003, the Commission found that all such applications may be unjust and unreasonable, consolidated the cases and, pursuant to Section 4909.18, Ohio Rev. Code, scheduled them for hearing. In addition, the

Commission expressed its concern that the competitive retail market for electric generation has not developed as rapidly as was anticipated when it issued the Opinion and Order in CG&E's electric transition plan case (Case No, 99-1658-EL-ETP, Opinion and Order issued August 31, 2000), and advised CG&E to file a rate stabilization plan ("RSP") as a part of these consolidated cases. CG&E filed its RSP on January 26, 2004. By Entry issued February 18, 2004, the Attorney Examiner extended the deadline for intervention in these proceedings to March 9, 2004. FES seeks such intervention by this motion.

II. Discussion

Rule 4901-1-11, Ohio Admin. Code, implements the provisions of Section 4903.221, Ohio Rev. Code, governing intervention in Commission proceedings. Pursuant to Rule 4901-1-11(A) (2), Ohio Admin. Code, the Commission may grant intervention if a 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." Under the rules, and consistent with the provisions of Section 4903.221, Ohio Rev. Code, the Commission may consider the following criteria in making its determination.

- (1) The nature of the person's interest;
- (2) The extent of which the person's interest is represented by existing parties;
- (3) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

Rule 4901-1-11(B), Ohio Admin. Code.

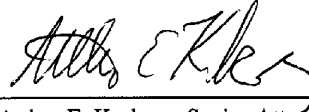
FES has a real and substantial interest in these proceedings as a competitive retail electric supplier conducting business within CG&E's electric distribution service territory. CG&E's application in Case No. 03-93-EL-ATA may adversely affect FES' interests for a number of reasons including, but not limited to, its proposals to eliminate shopping credits and to impose a provider of last resort (POLR) rider. CG&E's proposals may serve to erect barriers to FES' continued operations within CG&E's distribution service territory and may deprive consumers of the benefits of electric retail competition. Similarly, FES has a real and substantial interest in the remaining applications to ensure that the deferral and recovery of FERC and MISO fees, as well as investments in distribution and transmission assets, are not improperly imposed upon CRES providers or the customers they service.

FES will not unduly prolong or delay these proceedings, and indeed, has filed this motion to intervene by the established deadline of March 9, 2004. FES will contribute significantly to the full development and equitable resolution for the factual issues in these proceedings. It also will assist in testing the legality and reasonableness of the proposals contained in CG&E's applications, as appropriate and necessary to enable the Commission to adjudicate the issues. Moreover, FES' interests are not adequately represented by existing parties. To the extent that other CRES suppliers may intervene in these proceedings, they cannot adequately represent FES' interests considering that suppliers are unique and in competition with each other.

III. Conclusion

For all these reasons, the Commission should grant FES' intervention in these consolidated proceedings.

Respectfully submitted on behalf of
FIRSTENERGY SOLUTIONS CORP.

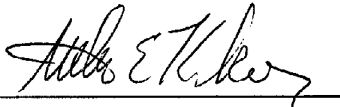
A handwritten signature in black ink, appearing to read "Arthur E. Korkosz", written over a horizontal line.

Arthur E. Korkosz, Senior Attorney
FirstEnergy Corp.
76 South Main Street
Akron, OH 44308
(330) 384-5849
(330) 384-3875 (fax)

Attorney for FirstEnergy Solutions Corp.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing FirstEnergy Solutions Corp. *Motion to Intervene* was served by regular U.S. Mail, postage prepaid, upon the attached Service List this 9th day of March 2004.



Arthur E. Korkosz
Senior Attorney

Paul A. Colbert, Senior Counsel
The Cincinnati Gas & Electric Company
139 Fourth Street, Room 25 ATII
Cincinnati, OH 45202

Donald I. Marshall
Eagle Energy LLC
4925 Cleves-Warsaw Pike
Cincinnati, OH 45238

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh St.
Suite 2110
Cincinnati, OH 45202

David F. Boehm
Boehm, Kurtz & Lowry
36 East Seventh St.
Suite 2110
Cincinnati, OH 45202

Kimberly W. Bojko
Assistant Consumers' Counsel
Ohio Consumers' Counsel
10 West Broad St.
Columbus, OH 43215

Craig G. Goodman
National Energy Marketers Association
3333 K Street, N.W.
Suite 110
Washington, DC 20007

William A. Adams
Dane Stinson
Bailey Cavalieri LLC
10 West Broad St., Suite 2100
Columbus, OH 43215

Howard M. Petricoff
Vorys, Sater, Seymour & Pease
52 East Gay Street
P.O.Box 1008
Columbus, OH 43216-1008

Judith B. Sanders
Bell, Royer & Sanders Co., L.P.A.
33 South Grant Ave.
Columbus, OH 43215-3927

W. Jonathan Airey
Vorys, Sater, Seymour & Pease
52 East Gay Street
P.O.Box 1008
Columbus, OH 43216-1008

Samuel C. Randazzo
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4228

Diane M. Cammerata
Regulatory Compliance
STRATEGIC ENERGY, LLC
Two Gateway Center, 9th Floor
Pittsburgh, PA 15222

Janine L. Migden
Hahn Loeser & Parks
1050 Fifth Third Center
21 East State St.
Columbus, OH 43215

Shawn P. Leyden
PSEG Energy Resources & Trade LLC
80 Park Plaza, 19th Floor
Newark, NJ 07102

Sally W. Bloomfield
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291