

## IN THE SUPREME COURT OF OHIO

In the Matter of the Review of The ) Case No. 13-2026  
 Alternative Energy Rider Contained in The )  
 Tariffs of Ohio Edison Company, The ) Appeal from the Public Utilities  
 Cleveland Electric Illuminating Company and ) Commission of Ohio  
 The Toledo Edison Company. )  
 ) Public Utilities Commission of Ohio Case  
 ) No. 11-5201-EL-RDR

**MOTION TO INTERVENE AS APPELLEE  
 BY  
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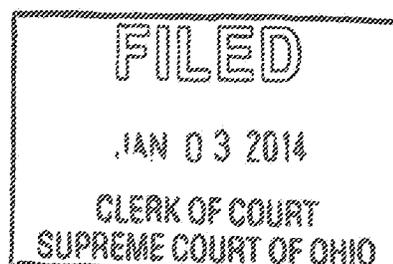
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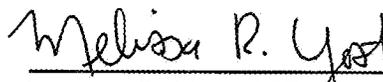
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The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively "FirstEnergy"), respectfully requests that this Court grant it leave to intervene as an appellee in the above-captioned case. The reasons for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

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OHIO CONSUMERS' COUNSEL



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**MEMORANDUM IN SUPPORT**

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On August 7, 2013, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) decided that customers do not have to pay \$43,362,796.50 (plus carrying costs) to FirstEnergy<sup>1</sup> for its imprudent purchase (in 2010) of 2011-vintage In-State All Renewable Energy Credits (RECs). *In the Matter of the Review of The Alternative Energy Rider Contained in The Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company*, Case No. 11-5201-EL-RDR (Opinion and Order at 25) (Aug. 7, 2013). This case is before the Court because of FirstEnergy’s appeal of that lawful and reasonable PUCO finding.

The case below (PUCO Case No. 11-5201-EL-RDR) involved a PUCO-ordered audit reviewing charges for the purchase of renewable energy credits (“RECs”) that FirstEnergy collected from customers through the Alternative Energy Resource Rider (“Rider AER”). The OCC was an intervening party<sup>2</sup> and an active participant in that case. OCC presented the written expert testimony of Mr. Wilson Gonzalez. OCC also participated in the hearing by cross-examining FirstEnergy’s witnesses and the auditor.

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<sup>1</sup> “FirstEnergy” and “Utilities” mean the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.

<sup>2</sup> OCC was granted intervention by the PUCO on January 7, 2010.

OCC has the statutory authority to represent the residential utility consumers of FirstEnergy under Chapter 4911 of the Ohio Revised Code. FirstEnergy's standard service offer ("SSO") residential customers are impacted directly in this proceeding as they pay for the Utilities' cost of purchasing RECs to meet the alternative energy requirements set forth in R.C. 4928.64.

The PUCO acted in the case below to protect customers' interests by disallowing \$43,362,796.50 (plus carrying costs) of RECs that were imprudently purchased by FirstEnergy. The PUCO thereby ordered a respective credit (plus carrying costs) to Rider AER on a going-forward basis for customers. Through this appeal, FirstEnergy seeks to undo that PUCO action that protected customers from unlawful and unreasonable charges.

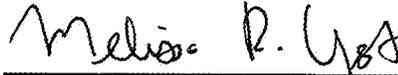
OCC has a statutory right to intervene in state courts, including the Supreme Court of Ohio, concerning review of decisions rendered by the PUCO. See R.C. 4911.02(B)(2)(c). OCC, a party in the PUCO proceeding below, has a real and substantial interest in this matter because Ohio consumers that OCC represents pay Rider AER as part of their electric bills. Should FirstEnergy prevail and the Commission's August 7, 2013 Opinion and Order be reversed in regard to the PUCO's finding that customers do not have to pay \$43,362,796.50 (plus carrying costs) to FirstEnergy, FirstEnergy's residential SSO customers will suffer harm.

Further, OCC's intervention will not unduly prolong or delay the proceedings. Instead, OCC will contribute to the full development of this appeal. Finally, the nature of OCC's interest is different from that of either the Appellant or Appellee in this proceeding.

For all these reasons, the OCC respectfully requests the Court to grant OCC's Motion to Intervene as Appellee, so that OCC may protect the interests of FirstEnergy's residential customers.

Respectfully submitted,

Bruce J. Weston (0016973)  
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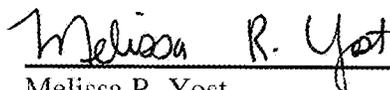
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***Counsel for Movant to Intervene as Appellee,  
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene as Appellee* was served on the persons listed below, via electronic service, this 3<sup>rd</sup> day of January 2014.



Melissa R. Yost  
Deputy Consumers' Counsel

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