

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ohio Edison)	
Company, The Cleveland Electric Illuminating)	Case No. 07-0551-EL-AIR
Company, and The Toledo Edison Company for)	Case No. 07-0552-EL-ATA
Authority to Increase Rates for Distribution)	Case No. 07-0553-EL-AAM
Service, Modify Certain Accounting Practices)	Case No. 07-0554-EL-UNC
and for Tariff Approvals.)	

INITIAL POST-HEARING BRIEF OF
THE CITY OF CLEVELAND IN PART SUPPORT AND IN PART OPPOSITION TO
FIRSTENERGY'S PROPOSED STIPULATION

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and for Tariff Approvals.)	Case No. 07-0551-EL-AIR
)	Case No. 07-0552-EL-ATA
)	Case No. 07-0553-EL-AAM
)	Case No. 07-0554-EL-UNC
)	

**INITIAL POST-HEARING BRIEF OF
THE CITY OF CLEVELAND IN PARTIAL SUPPORT AND IN PARTIAL
OPPOSITION TO THE PROPOSED STIPULATION**

The City of Cleveland ("Cleveland") hereby respectfully submits this Initial Post Hearing Brief to the Ohio Public Utilities Commission ("Commission") supporting in part and opposing in part the proposed Stipulation in the above captioned proceeding, which has been entered into between the Ohio Edison Company ("Ohio Edison"), the Cleveland Electric Illuminating Company ("CEI"), the Toledo Edison Company ("Toledo Edison")(collectively referred to hereinafter as "FirstEnergy"), and the Industrial Energy Users of Ohio ("IEU"), the Ohio Energy Group ("OEG") the Office of the Ohio Consumers' Counsel ("OCC"), and the Kroger Company ("Kroger") (collectively the "Stipulating Parties").

I. BACKGROUND

On May 8, 2007, FirstEnergy filed an application with the Commission to increase distribution rates for electric service and for tariff approval of the new rates. As part of the application, FirstEnergy sought to substantially reduce the number of rate schedules the company utilizes to determine distribution rates. On August 8, 2007 the City of Cleveland moved to intervene in this proceeding to protect the interests of Cleveland and its residents, many of whom

are served by CEI. On December 21, 2007, the Commission granted Cleveland's motion to intervene. On January 3, 2008, Cleveland filed formal objections to the Commission's Staff Report of Investigation ("Staff Report") and a summary of major issues in the case. On January 10, 2008, Cleveland filed the testimony of its expert, Mr. Kevin Higgins, in support of its objections. In his testimony, Higgins addressed the revenue distributions for CEI proposed in the FirstEnergy application, and by the Public Utilities Commission Staff ("Staff") in its Staff Report. As part of his testimony Higgins offered revenue distribution recommendations to the Commission. Higgins' testimony was admitted into evidence without cross examination. Tr. Vol. IV pp. 49, 50.

Beginning January 29, 2008, an evidentiary hearing was held on the FirstEnergy application, and witnesses were called on behalf of FirstEnergy and other parties to verify their pre-filed testimony and be offered for cross-examination. During the conduct of the hearing, the parties continued to discuss possible resolutions to the matter that would address and resolve the various issues and concerns raised by the various parties.

On February 13, 2008, the Stipulating Parties, entered into a stipulation ("Stipulation") agreeing to a partial settlement on some of the issues raised by the FirstEnergy application. As noted, the Stipulation was not entered into by all of the parties participating in this proceeding, and the Stipulation did not address all of the issues raised in the application.

II. POSITION

While Cleveland agrees with a substantial portion of the proposals set forth in the Stipulation, including the revenue distribution proposal, Cleveland is unwilling to endorse or agree to the Stipulation because the Stipulation fails to include an acceptable accommodation for schools in the CEI territory, including Cleveland Public Schools.

The revenue distribution proposal set forth in the Stipulation is acceptable to Cleveland, and appears to be fair, equitable and reasonable. This proposal addresses Cleveland's concerns that the revenue distribution proposed by FirstEnergy could result in inequitable cross-subsidies among the various customer classes. The revenue distribution proposed for CEI in Schedule A of the Stipulation is sufficiently similar to the revenue distribution schedule recommended in Mr. Higgins testimony to adequately address Cleveland's concerns on this issue.

Cleveland does not agree with the Stipulation's failure to include a special rate schedule or other appropriate accommodations for schools in the CEI territory, including Cleveland Public Schools. As noted above, as part of the application, FirstEnergy seeks to substantially reduce the number of various schedules used to determine distribution rates for its customers. Currently, FirstEnergy's rate schedules include special rate schedules for schools, which generally offer lower rates in recognition of the special load characteristics, status and function of schools in our communities. In the application, FirstEnergy seeks to eliminate the special school rate schedule, and instead calculate distribution rates for schools under the "general secondary" rate schedule, along with several other types of consumers. Cleveland asserts that schools, due to their singular mission and unique status in our communities, and the positive impact on quality of life that results from providing our children and young with a high quality education, as well as their special load characteristics, deserve special consideration when determining the rates to be charged for electric distribution. Further, even if the School's non-summer peaking load characteristics would not justify, on a cost of service basis special rates, this concept is specifically contemplated by Ohio law, as set forth in Section 4905.34 of the Ohio Revised Code. That Section permits reduced rates or free service to be supplied to political

subdivisions of the State of Ohio. Cleveland supports the position taken by the Ohio Schools Council in this regard.

For the above reasons, Cleveland respectfully requests that the Commission recognize the revenue distribution agreement in the Stipulation, but also some accommodation for schools in the CEI territory, including Cleveland Public Schools, in any final distribution rate determination.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Initial Post-Hearig Brief of the City of Cleveland In Part Support and In Part Opposition to FirstEnergy's Proposed Stipulation*, was served upon the attached parties of record or as a courtesy, via ordinary U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on March 28, 2008.


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