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September 29, 2008

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PUCO

Via Hand Delivery

Ms. Renee Jenkins
Docketing Division
Public Utilities Commission of Ohio, 13th Floor
180 East Broad Street
Columbus, OH 43215-3793

Re: *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan; Case No. 08-935-EL-SSO*

Dear Ms. Jenkins:

Please find enclosed for filing in the above captioned matter the original and twenty (20) copies of the testimony of Robert M. Garvin, Vice-President of FPL Energy, LLC, on behalf of FPL Energy Marketing, Inc. and Gexa Energy Holdings, LLC's. Please date stamp and return the additional copies enclosed herewith.

Very truly yours,

BAILEY CAVALIERI LLC

Dane Stinson

Dane Stinson

Enclosures

cc: Alan R. Schriber, Chair (via hand delivery)
Ronda Hartman Fergus, Commissioner (via hand delivery)
Valerie A. Lemmie, Commissioner (via hand delivery)
Paul A. Centolella, Commissioner (via hand delivery)
Cheryl Roberto, Commissioner (via hand delivery)
Stephen D. Lesser, Chief of Staff (via hand delivery)
Christine M. T. Pirik, Examiner (via hand delivery)
Gregory Price, Examiner (via hand delivery)
Parties of Record (via electronic mail)

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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 Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan.	)))))))	Case No. 08-935-EL-SSO

DIRECT TESTIMONY

OF

ROBERT M. GARVIN
VICE PRESIDENT OF REGULATORY AFFAIRS
FPL ENERGY, LLC

On Behalf of

FPL ENERGY POWER MARKETING, INC. AND GEXA ENERGY HOLDINGS, LLC

September 29, 2008

FPLE EXHIBIT _____

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

DIRECT TESTIMONY OF
ROBERT M. GARVIN
ON BEHALF OF
FPL ENERGY POWER MARKETING, INC. AND
GEXA ENERGY HOLDINGS, INC.
PUCO CASE NO. 08-935-EL-SSO

Q1. Please state your name and business address.

A1. My name is Robert M. Garvin and my business address is 700 Universe Boulevard, Juno Beach, Florida 33408.

Q2. By whom are you employed and in what capacity?

A2. I am Vice-President of Regulatory Affairs for FPL Energy, LLC ("FPL Energy") a wholly owned subsidiary of FPL Group. I have held this position since January 2008. My responsibilities include directing all regulatory affairs activities at the federal and state level on behalf our senior management and respective business units of FPL Energy, including FPL Energy Power Marketing, Inc. ("PMI"). In this capacity, I lead our advocacy efforts before federal, state and local regulatory authorities on project-related issues, regulatory policies and other relevant issues.

Q3. Please describe your educational background.

A3. I graduated from the University of Wisconsin – Madison in 1988 with a Bachelors of Arts Degree. I received a law degree from the University of Wisconsin in 1992.

Q4. What is your professional background?

A4. I joined the FPL Energy Law Department in August 2007 as a Senior Attorney. In January 2008, I was promoted to the position of Vice-President, Regulatory Affairs at FPL Energy. Prior to joining FPL Energy, I served as a commissioner on the Public Service Commission of Wisconsin ("PSCW") from 2001-2007, with the exception of an eighteen month leave of absence when I was called to active duty by the U.S. Army to serve a one year deployment in north-central Iraq. As one of three commissioners, my responsibilities included the regulation of the rates of electric, gas distribution, heating, telecommunications, water and combined water and sewer utilities in Wisconsin.

Prior to my appointment as a commissioner, I served as the executive assistant to the chairperson of the PSCW from 1998 to March 2001 and ran its day-to-day operations. Prior to my employment at the PSCW, I served as legal counsel and policy director in the Office of the Speaker of the Wisconsin State Assembly. I have also been employed as manager of legal and government affairs for Wisconsin Public Power, Inc. and practiced law in the private sector.

Q5. Have you previously filed testimony in regulatory proceedings before this or any other Commission?

A5. I have not previously testified before the Public Utilities Commission of Ohio ("PUCO"). I testified previously before the Iowa Utilities Board, the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission.

Q6. On whose behalf are you testifying?

A6. I am testifying on behalf of the two affiliates of FPL Energy who have intervened in this proceeding, PMI and Gexa Energy Holdings, LLC ("GEXA") (FPL Energy, PMI, and GEXA will collectively be referred to as "FPLE"). FPL Energy is one of the nation's leading providers of clean energy with natural gas, wind, solar, hydroelectric and nuclear power plants in operation in 25 states across the country. It is the leading supplier of wind energy in the U.S. today with approximately 5,000 MW in wind generation in operation at year end 2007. Its stated goal is to add at least 1,100 MW of new wind generation during 2008 as part of our growth strategy to add approximately 10,000 MW of new wind generation over the period 2007-2012.

FPLE is a part of the FPL Group, Inc., a Fortune 500 company rated "A" by Standard & Poors and Fitch that operates approximately 40,000 MWs of generation assets in the United States. PMI is the marketing and trading arm of FPL Energy. It helps to manage a diverse merchant portfolio totaling approximately 15,000 MWs of electricity nationwide. PMI is also a top 10 wholesale energy trader and a significant provider of full requirements energy supply in PJM, NEPOOL, and ERCOT. PMI also provides bidding and scheduling services for non-FPL owned assets, as well as hedging and scheduling load obligations of third parties under energy management service agreements. It also has significant renewal energy marketing and trading capabilities.

GEXA is a retail electric provider licensed to serve commercial and industrial customers in most of the major U.S. deregulated electricity markets. In Texas, GEXA serves residential customers in addition to commercial and industrial customers. Currently, GEXA serves 120,000 customers with a peak load of approximately 1,200 MW. PMI procures substantially all of the wholesale electricity supply needed by GEXA's retail operations, and performs the settlement and scheduling functions with each of the ISO's on behalf of GEXA.

Q7. What are FPLE's plans to provide competitive retail generation service in Ohio?

A7. FPLE is very interested in providing competitive retail generation service in Ohio. To this end, PMI recently entered into a letter of intent ("LOI") with the Northeast Ohio Public Energy Council ("NOPEC") on August 29, 2008, which details NOPEC's and FPLE's intent to enter into a power supply agreement under which PMI (or an affiliated entity) will become the certified retail electric supplier ("CRES") for NOPEC's electric customers in the FirstEnergy operating companies' service territories. The LOI is appended as Garvin Attachment A. Pursuant to the LOI, a subsidiary of GEXA, Gexa Energy Ohio LLC ("Gexa Ohio") applied with the Commission on September 15, 2008, for CRES certification. It is anticipated that PMI will secure the wholesale supply and perform the MISO settlement functions on behalf of Gexa Ohio, while Gexa Ohio will serve as the CRES to NOPEC customers.

Q8. What is the purpose of your testimony?

A8. The primary purpose of my testimony is to offer a number of suggested improvements to the proposed Electric Security Plan ("ESP") filed by Ohio Edison, the Cleveland Electric Illuminating Company and the Toledo Edison Company (collectively "FirstEnergy") that will enable new suppliers like FPLE to provide lower cost, reliable electricity supply to Ohio consumers that are part of a large-scale governmental aggregation.

We share the same desire as any other competitive retail service provider who has intervened in this proceeding—to be given a fair opportunity to compete with FirstEnergy's Standard Service Offer ("SSO"). FPLE has a strong interest in entering the Ohio market, as evidenced by our LOI, to provide electricity supply to the over 600,000 eligible electric consumers that reside in the nine counties and 126 communities that make up NOPEC. We also share the same and immediate concern of our prospective customer—NOPEC—in this proceeding—that the barriers to competition that are proposed in the FirstEnergy ESP, if adopted by the Commission in this proceeding, would render futile our efforts to compete for customers served by large-scale governmental aggregators.

Apart from FPLE's commercial interest in making sure there is a level playing field in Ohio, there are compelling policy and regulatory considerations that warrant the Commission's modification of the FirstEnergy ESP. While Senate Bill 221 ("SB 221") went to great lengths to mandate policies that would encourage and promote large-scale governmental aggregation, the FirstEnergy ESP, as proposed, would impose substantial barriers to that legislative goal by:

(1) providing a phase-in generation rate credit solely for SSO customers during the term of the ESP,

(2) imposing a non-bypassable minimum default service charge on shopping customers,

(3) proposing a non-transparent capacity cost adjustment rider,

(4) imposing a non-bypassable non-distribution uncollectible rider, and

(5) proposing a non-transparent fuel transportation surcharge.

My testimony will highlight the above-referenced aspects of the ESP and will offer proposed revisions to the ESP that FPLE believes better adhere to the public policy goals and legislative intent underlying SB 221 to promote lower cost electricity and further the development of large-scale governmental aggregation of electricity consumers in Ohio.

Q9. What revisions do you propose?

A9. It is imperative that the proposed ESP be revised consistent with the following recommendations; otherwise, it will be impossible for FPLE to compete with the SSO pricing and enter the Ohio market to become NOPEC's supplier. Each recommendation is designed to level the playing field so that FPLE and other qualified retail providers can have the opportunity to compete fairly against the proposed SSO and deliver cost savings to Ohio consumers.

1) Generation Phase-In Credit

The generation phase-in credit ("GPIC") and associated deferred generation cost recovery charge ("DGC") must be available to large-scale governmental aggregation customers in the same manner as applied to SSO customers.

2) Minimum Default Service Rider

The minimum default service rider ("MDS") must be eliminated.

3) Capacity Cost Adjustment Rider

FirstEnergy must be required—through wholesale supply arrangements — to procure requisite MISO designated network resource ("DNR") capacity in the market needed to satisfy planning reserve requirements for all customers in FirstEnergy's service territory for the term of the ESP and recover the associated expenses through a non-bypassable capacity cost recovery rider. I view this as a transitionary arrangement for the term of the ESP as I will describe later in my testimony. If the Commission chooses not to require FirstEnergy to enter into this arrangement, at a minimum the Commission should require FirstEnergy to provide an estimate of the MISO DNR capacity it plans to make available to meet planning reserve requirements and a reasonable forecast of the capacity cost adjustment rider. Such price transparency is essential so that customers will have a sufficient basis to compare a competitive supplier's pricing against FirstEnergy's combined pricing for energy and capacity.

4) **Non-Distribution Uncollectible Rider.**

FirstEnergy must purchase, at no discount, the accounts receivable of CRES suppliers serving large-scale governmental aggregations, and be permitted to recover the uncollectible debt and associated expenses of such aggregation customers through the non-distribution uncollectible rider ("NDU").

5) **Fuel Transportation Surcharge.**

FirstEnergy must develop a transparent charge to recover these fuel transportation surcharges, preferably based upon historical actual costs.

Q10. Please describe the pro-competitive policies afforded large-scale governmental aggregations under Ohio law?

A10. Ohio Revised Code, Section 4928.20(I) allows collection of the DGC from governmental aggregation customers to the extent that aggregation customers have received benefits as an aggregation group. Section 4928.20(J) makes standby charges bypassable at the election of the governmental aggregator. Finally, Section 4928.20(K) requires the PUCO to adopt rules to encourage and promote large-scale aggregation in Ohio, and also requires the PUCO to consider the effect on large-scale governmental aggregation of any non-bypassable generation charges established under the ESP.

I. GENERATION PHASE-IN CREDIT

Q11. Explain your understanding of the generation phase-in credit and the associated DGC rider in FirstEnergy's ESP proposal.

A11. FirstEnergy proposes to establish base generation prices for SSO customers for each year of the plan in its ESP. The average base generation price as proposed in 2009 is 7.5 cents/kWh, 8.0 cents/kWh in 2010 and, if the plan is not terminated, the price will be 8.5 cents/kWh in 2011. In addition, SSO customers would receive a generation phase-in credit of ten percent or more in each plan year. In 2009, this overall credit will be 0.75 cents/kWh, in 2010 it will be 0.85 cents/kWh and in 2011 it will be 0.95 cents/kWh. The amounts credited will be deferred and recovered with associated carrying charges through the DGC rider beginning in 2011 for a period not to exceed 10 years (or they may be securitized and recovered).

Customers who participate in large-scale governmental aggregations will **not** receive the same benefit from the proposed phase-in credit. Further, if participating large-scale governmental aggregation consumers return to the SSO after the ESP, those consumers would pay for a generation deferral that provided them no benefit.

Q12. What effect does this proposal have on the promotion and encouragement of large-scale governmental aggregation?

A12. Allowing FirstEnergy to defer the rising cost of generation through a phase-in credit for consumers—and not large-scale governmental aggregators—would prevent NOPEC and others from having the opportunity to select an alternative provider for the foreseeable future. For large-scale governmental aggregation programs to proceed and remain competitively viable, the CRES supplier serving the aggregation must be provided a fair opportunity to compete against the SSO price. In the absence of any similar deferral, a competitive supplier must develop retail pricing based on the full and actual cost of generation, and that pricing must be lower than the ESP generation price less the GPI credit. Since the credit represents approximately a 10% discount on the base generation price, any competitive provider—including FPLE-- would be unable to beat, or even match, such steeply discounted, phased-in SSO prices. This disparity in pricing, if the deferral provisions are adopted by the Commission, would prevent large-scale governmental aggregators such as NOPEC from obtaining competitively-priced alternative electric supplies for their constituents and force them to return their customers to FirstEnergy for their supply needs. Simply put, the GPI as proposed is anti-competitive.

Q13. How can this anti-competitive effect be prevented?

A13. If large-scale governmental aggregators provided their customers a phase-in credit equaling the value of the credit approved for SSO customers, the PUCO could approve a recovery mechanism for such credit similar to that approved under the ESP. In this respect, FPLE supports the proposal originally offered by NOPEC in its comments filed July 22, 2008 in *In the Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities pursuant to Sections 4928.14, 4928.17, and 4905.31,* *Revised Code, as Amended by Substitute Senate Bill 221, PUCO Case No. 08-777-EL-ORD.* The deferrals of large-scale aggregation programs would flow through to a combined deferral pool which would be operated and overseen by FirstEnergy and recovered through the same means established under FirstEnergy's ESP. Under this approach, FirstEnergy would be allowed to recover the deferred revenues through the DGC rider which would be non-bypassable for governmental aggregation customers.

Q14. What are the public policy considerations that support adoption of this proposed alternative?

A14. It is my understanding that the phase-in proposal is offered under the established regulatory principle of gradualism, in order to avoid rate shock. There is no reason why consumers who receive electric service through a governmental aggregation program should be denied this same benefit during this transitionary period.

Other states have recognized the wisdom of this policy and have implemented similar programs. Consider the recent decision of the Maryland Public Service Commission,[1] which approved a Rate Stabilization Plan that allows "customers to choose an option that provides a gradual transition to market rates."[2] The Maryland Commission made this opt-in plan available to <u>all</u> Customers in BGE's service

[1] *In the Matter of Baltimore Gas and Electric Company's Proposal to Implement a Rate Stabilization Plan Pursuant to Section 7-548 of the Public Utility Companies Article and the Commission's Inquiry Into Factors Impacting Wholesale Electricity Rates*, Case No. 9099, Public Service Commission of Maryland, Order No. 81423, Issued May 23, 2007.

[2] Fact Sheet on "Optional Rate Stabilization Plan for BGE's Residential Electric Customers," Case No. 9099, Public Service Commission of Maryland, Order 81423, May 23, 2007, Page 2. See Garvin Attachment B.

territory including customers who had opted to receive electric generation service from a competitive retail supplier. The Maryland Commission's order provides for a deferral credit to be applied to the distribution service which would then be managed and administered by the utility, BGE.

II. MINIMUM DEFAULT SERVICE RIDER

Q15. Explain your understanding of the proposed Minimum Default Service (MDS) Rider.

A15. FirstEnergy's ESP describes its proposed minimum default service charge as "designed to compensate the Companies for the costs and risks associated with committing to obtain adequate generation resources to supply the entire retail load of customers in their service territories, a recognition of the risk and cost of customers switching to retail generation service provided by alternative generation suppliers at any time and in any amounts, consistent with the terms of any then existing ESP or applicable Commission Rules." [Application page 14, paragraph h.] FirstEnergy witness Warvell states that the purpose of the non-bypassable MDS is to address "the cost of hedging generation to serve the Companies' retail load and the associated risk of customers leaving and shopping with an alternative supplier." [Warvell, at 11.] In addition, the witness states that part of the risk stems from FirstEnergy's role as the default service provider and its obligation to procure additional supply for "unanticipated load" when shopping customers choose to return to the utility. [Warvell, at 11.] FirstEnergy asserts that a 1 cent/kWh charge is embedded in SSO customers' base rates to account for this risk. The ESP proposes to collect the same charge from shopping customers, including those belonging to large-scale governmental aggregations, through the non-bypassable MDS rider.

Q16. Do you have any concerns with the imposition of a non-bypassable rider on large-scale governmental aggregation customers?

A16. Yes. FirstEnergy has provided no information to quantify the claimed costs it seeks to recover in its rider. The FirstEnergy ESP application, associated work papers and discovery responses do not offer any explanation as to how the 1 cent/kWh charge rate was calculated. The PUCO should consider eliminating the proposed rider on this basis alone.

Moreover, to the extent the MDS rider is meant to protect against the need to acquire "unanticipated load" for returning customers, the proposed Power Supply Reservation ("PSR") rider is designed to protect against that risk. In my view, the PSR mitigates the risk of return by requiring aggregation customers to pay a bypassable standby charge, or if they choose to waive the standby charge, requiring the returning aggregation customer to pay a market rate for a minimum of 12 months.

With respect to FirstEnergy's reference to "the cost of hedging generation to serve the Companies' retail load and the associated risk of customers leaving and shopping with an alternative supplier," such a risk is faced in similar proportions by any supplier, including FPLE, and should be viewed as a normal business risk that any supplier would plan for. While FirstEnergy may be free to impose such a cost on its

SSO customers, there is no economic rationale for making such a charge unavoidable for shopping customers, including customers of large-scale governmental aggregations. Further, FirstEnergy has not provided any justification or explanation of how the funds collected will be utilized. If the Commission decides to allow such a non-bypassable charge, then – to ensure that there is a level playing field for competitive suppliers – a pro-rated portion of the revenues collected under the rider should be made available to competitive suppliers serving large-scale governmental aggregations to mitigate any costs incurred due to shopping risk.

Q17. What effect does this non-bypassable charge have on large-scale governmental aggregation customers and the suppliers that serve them?

A17. The proposed non-bypassable charge imposes another significant and unjustified cost on such customers and, in turn, places competitive suppliers serving the governmental aggregation at a significant competitive disadvantage, by having their rates marked up by the unnecessary charge. It is a significant barrier to competitive markets without any justification of cost or need.

Q18. What do you propose with respect to this issue?

A18. The MDS rider proposed to be applied to large-scale governmental aggregation customers is unjust, unreasonable and not justified by FirstEnergy's application or testimony and should be eliminated as a part of the final ESP.

Q19. Can you demonstrate the cumulative effect of the ESP's GPI credit and MDS rider on customers in large-scale governmental aggregation programs?

A19. As proposed in FirstEnergy's ESP, the base generation rate for 2009 is $75/MWhr (using $/MWhr figures for simplicity). Applying the proposed GPI credit for FirstEnergy customers would reduce the net base generation rate payable in 2009 to $67.50 / MWhr. Although FirstEnergy asserts that the proposed base generation rates are below market, I will assume – solely for the sake of explanation – that base generation rates for a competitive supplier are identical to that proposed by FirstEnergy, which means shopping customers still would be required to pay a price of $75/MWhr (without a similar phase-in credit).

If the proposed non-avoidable MDS rider of $10/MWhr were also imposed on shopping customers, such customers would be required to pay a price of $85/MWhr. Therefore, the net pricing disadvantage that competitive suppliers would be facing is $17.50/MWhr ($85-$67.50) or ~ 26%. This example is illustrated in Table 1 below. It is a mathematical certainty that competitive suppliers such as FPLE who are interested in serving customers in large-scale governmental aggregation programs will be unable to overcome this significant price disadvantage even after considering any procurement efficiencies that they may be able to deliver. Therefore, if the phase-in credit and MDS rider provisions of the ESP are accepted without modifications similar to those proposed by FPLE, customers in large-scale governmental aggregation programs would have **no choice** but to return to FirstEnergy for electricity supply.

Table 1

	FirstEnergy SSO customers $ / MWhr	CRES customers $ / MWhr
2009 base generation rate	$75.00	$75.00
Proposed ESP GPI Credit	$7.50	
Net 2009 base generation rate	$67.50	$75.00
MDS Rider		$10.00
Net base generation rate	$67.50	$85.00
Price disadvantage to CRES customers		**$17.50 (~26 %)**

III. CAPACITY COST ADJUSTMENT RIDER

Q20. Explain your understanding of the ESP's proposed capacity cost adjustment ("CCA") rider.

A20. FirstEnergy has proposed that generation capacity currently owned or controlled by FirstEnergy Solutions ("FES") located in MISO will be made available to meet MISO planning reserve requirements. In the event this capacity is insufficient to meet FirstEnergy's MISO planning reserve requirements, FES will procure the needed capacity for the period from May 1 through September 30 in years 2009, 2010 and 2011. The costs associated with procuring this needed capacity will be recovered by FirstEnergy pursuant to a separate charge through the CCA. FirstEnergy has not provided an estimate of its expected MISO summer generation capacity that will be made available to serve Ohio customers, nor has it provided an estimate of how much capacity it expects to be short in the summer months for the three year term of the ESP.

Q21. Do you have any concerns with this proposal?

A21. The principal concern I have with this proposal is that it fails to provide any transparency in how FirstEnergy will determine its capacity charges. With these failures to disclose information, FirstEnergy has failed to make its SSO pricing transparent. Transparency in pricing is essential for competitive suppliers to ascertain the "price to beat." Without this information, competitive suppliers such as FPLE will be unable to ascertain whether they can enter FirstEnergy's markets, which will deny such suppliers the opportunity to compete and customers the opportunity to have choices in electric suppliers.

Q22. What do you propose?

A22. In order to ensure that there is a level economic playing field for competitive electric suppliers in general and particularly electricity suppliers to large-scale governmental aggregation programs, FPLE proposes that FirstEnergy Solutions procure capacity in the market needed to meet planning reserve requirements for **all** customers in FirstEnergy's service territory for the **entire term** of the ESP and recover the associated costs through a **non-bypassable** capacity cost recovery rider. Such a capacity cost recovery rider would be non-discriminatory and transparent and is needed to preserve the competitive supply choices for large-scale governmental aggregation groups in Ohio.

Again, I view this as a transitionary arrangement for the term of the ESP. Unlike MISO energy markets or capacity markets in adjacent NEISO, PJM, and NYISO pools, the MISO DNR capacity market is immature, principally bilateral in nature, and subject to price volatility. In the current state of affairs, FirstEnergy's procurement of system-wide capacity would result in purchasing efficiency, a level playing field for competitive suppliers, and lower prices for Ohio customers.

If the Commission chooses not to require FirstEnergy to enter into a capacity procurement arrangement as described above, at a minimum the Commission should require FirstEnergy to provide an estimate of MISO DNR capacity that it plans to make available to meet planning reserve requirements and a reasonable forecast of the CCA rider. Such price transparency is essential so that customers will have sufficient information to compare a competitive supplier's pricing against FirstEnergy's combined pricing for energy and capacity.

IV. NON-DISTRIBUTION UNCOLLECTIBLE RIDER

Q23. Explain the ESP's proposal to recover uncollectible non-distribution costs.

A23. The ESP proposes to recover the uncollectible non-distribution costs of SSO customers through the creation of the non-bypassable NDU rider, which tracks bad debt and is adjusted annually.

Q24. What effect does this non-bypassable charge have on large-scale governmental aggregation customers and the suppliers that serve them?

A24. The non-bypassable NDU socializes uncollectible costs across all customers in FirstEnergy's service territory, including customers in large-scale governmental aggregations served by competitive suppliers, and guarantees that the utility will recover its uncollectible expenses attributable to SSO customers. Customers served by competitive suppliers would be required to pay a portion of the utility's non-distribution bad debt, while competitive suppliers would be required to shoulder this expense themselves, and mark up their rates accordingly. The proposed rider effectively requires customers served by competitive suppliers, including governmental aggregation customers, to pay twice for bad debt expense. Further, it places the suppliers serving large-scale governmental aggregators at a competitive disadvantage and, thus, jeopardizes the continued viability of the governmental aggregation.

Q25. How has the PUCO treated recovery of uncollectibles in the past?

A25. Traditionally, uncollectible expenses were included in base rates and were recovered from all ratepayers. More recently, the PUCO has approved non-bypassable bad debt trackers (as proposed in the ESP) for natural gas utilities, and has approved the collection of competitive suppliers' uncollectibles through the utilities' uncollectible riders where the utility has agreed to purchase the suppliers' accounts receivables. See, e.g., *In the Matter of the Application of East Ohio Gas Company dba Dominion*

East Ohio, et al., PUCO Case No. 03-1127-GA-UNC (Order, December 17, 2003).

Q26. Should the natural gas model be adopted in this ESP proceeding?

A26. Yes, it should. I propose that the PUCO require an electric utility that offers consolidated billing to purchase at no discount the receivables of a large-scale governmental aggregator, or the CRES supplying it, upon such aggregator's or CRES provider's request. The electric utility would recover any uncollectibles from these receivables through the proposed non-bypassable NDU.

Q27. What are the advantages of adopting this natural gas model?

A27. The advantages are many: (1) it creates uniformity among the practices in the natural gas and electric choice programs, creating an ease of administration for the PUCO, utilities, and competitive suppliers alike; (2) it recognizes the historical policy that all customers in the utility's service territory bear the expense of uncollectibles, and (3) it encourages and promotes large-scale governmental aggregation by removing the unfair burdens on such aggregators, their suppliers, and customers, as I discussed previously.

V. FUEL TRANSPORTATION SURCHARGE

Q28. Explain your understanding of the fuel transportation surcharge component in the ESP's proposed FTE rider.

A28. FirstEnergy has proposed to recover fuel transportation surcharge costs in excess of certain baseline amounts through the proposed FTE. The baseline amounts are $30 million, $20 million and $10 million in 2009, 2010 and 2011 respectively. FirstEnergy has not provided an explanation of how the baseline amounts were estimated, the specific costs that are included in these amounts and the specific cost increases that could be recovered through the rider. In responses to relevant discovery requests, FirstEnergy has indicated that surcharges for the FTE rider include costs that are additional transportation costs related to delivery of fuel to the FES generating plants from rail, truck, or barge. By way of example, if the cost of diesel fuel or crude oil is above a certain level provided for in the contracts, the Companies are assessed a surcharge for the delivery of fuel to the plants. However, FirstEnergy has failed to provide any information on what these costs have historically been.

Q29. What effect does this have on large-scale governmental aggregations?

A29. The lack of transparency in the electric utility's pricing prevents a competitive supplier from being able to determine the utility's "price to beat" and therefore disadvantages shopping customers who do not have sufficient information to properly compare a competitive supplier's all-in pricing against the SSO (where the all-in pricing reflected in the customer's bill could be inflated by various non-transparent charges not disclosed at inception of service). This lack of transparency would chill market entry by competitive suppliers and fails to encourage or promote the development of governmental aggregation. It is critical to NOPEC's ability to procure electricity supply that FirstEnergy's ESP pricing components be as transparent as possible.

Q30. What do you propose?

A30. In order to ensure that there is a level economic playing field for competitive electric suppliers in general and particularly electricity suppliers to large-scale governmental aggregation programs, FirstEnergy must develop a transparent charge to recover these fuel transportation surcharges. FPLE recommends that the charge be based upon actual historical costs. This would ensure that large-scale governmental aggregation programs would be able to have adequate information to evaluate and compare FirstEnergy's all-in pricing against those of competitive suppliers.

Q31. Does FirstEnergy's ESP, as proposed, benefit large-scale governmental aggregations?

A31. No. Under the ESP, competitive suppliers cannot effectively compete against the SSO and will not enter FirstEnergy's markets to serve large-scale governmental aggregations. Without a competitive supply of electricity, large-scale governmental aggregations will be unable to serve their constituents, who will be denied the benefits of choice of electric service.

Q32. Does this conclude your testimony?

A32. Yes.

LETTER OF INTENT

This Letter of Intent is entered into as of August 29, 2008, between the Northeast Ohio Public Energy Council ("**NOPEC**"), a regional council of governments under Chapter 167 of the Ohio Revised Code, having its offices at 31320 Solon Road, Suite 20, Solon, Ohio 44139 and FPL Energy Power Marketing, Inc., a Florida corporation, and/or its affiliates, including its retail affiliates ("**PMI**"), having its offices at 700 Universe Boulevard, Juno Beach, FL. NOPEC and PMI are jointly referred to as the "**Parties**" and individually as a "**Party**".

NOPEC is a regional council of governments established under Chapter 167 of the Ohio Revised Code and a political subdivision of the State of Ohio comprised of approximately 126 member cities, municipalities and townships located in nine counties in northeastern Ohio. NOPEC is a PUCO-certified electricity and natural gas governmental aggregator with service to approximately 450,000 electric customers located in the service territories of The Cleveland Electric Illuminating Company ("CEI") and Ohio Edison Company ("OE") (collectively, the "Incumbent Utilities") in the Midwest ISO footprint.

PMI is part of the FPL Group, Inc. a Fortune 500 company rated "A" by S&P and Fitch, that operates approximately 40,000 MWs of generation assets in regulated and unregulated operating companies. As the marketing and trading arm of FPL Group's unregulated subsidiary FPL Energy, LLC ("FPLE") PMI helps to manage a diverse merchant portfolio totaling approximately 15,500 MWs nationwide. PMI is also a top 10 wholesale energy trader and a significant provider of full requirements energy supply in PJM, NEPOOL, and ERCOT. PMI also provides bidding and scheduling services for non-FPL owned assets, as well as hedging and scheduling of load obligations of third parties under energy management service agreements. PMI also has significant renewable energy marketing and trading capabilities.

FPLE is a competitive energy supplier utilizing clean fuels such as natural gas, wind, solar, hydro and nuclear to generate electricity. FPLE is the US leader in wind and solar generation, with over 5,000 MW of wind and 300 MW of solar generation in operation. FPLE has announced plans to add another 7,000 to 9,000 MW of additional wind generation and 200 to 400 MW of solar generation by 2012. FPLE has an interest in developing, contructing, owning, and operating renewable energy resources in Ohio and is presently evaluating the economic feasibility of wind generation at several locations in the State of Ohio.

This Letter of Intent is based on our current understanding of the matters set forth herein. It is not a complete statement of all terms and conditions of the Potential Transaction (as such term is defined below), but provides a basis for further discussions and negotiations between the Parties. The Parties understand that additional discussions and negotiations with respect to the Potential Transaction will be required, and that neither Party will be bound to proceed with the Potential Transaction unless and until mutually acceptable, definitive Full Requirements Supply Agreements and related documents (the "**Definitive Agreements**") are negotiated, approved and executed and certain other conditions precedent as described in this Letter of Intent or the Definitive Agreements (including without limitation senior management and board of director approvals of both parties and certain regulatory outcomes) are satisfied.

PART I

A. Transaction Development

Customers in NOPEC member communities are presently receiving electricity supply from the Incumbent Utilities, CEI and OE, under their Standard Service Offer (**"SSO"**). NOPEC and PMI are interested in entering into a power supply arrangement that provides firm reliable electricity supply and cost savings for NOPEC's customers and will meet and exceed the renewable energy goals stated in the recently enacted SSB 221 legislation in Ohio by at least 50%. To these ends, PMI will intervene with NOPEC in the proceedings before the Public Utilities Commission of Ohio (**"PUCO"**) regarding FirstEnergy Corporation's Application for authority to establish an Electric Security Plan(**"ESP"**) and Application for authority to establish an SSO price under a Market Rate Offer(**"MRO"**) (collectively, the **"Applications"**), before the PUCO in Case No. 08-935-EL-SSO and Case No. 08-936-EL-SSO respectively(the **"Proceedings"**).

PMI and NOPEC agree that the Standard Service Offer rate plan contained in the ESP should be designed to promote and encourage large scale governmental aggregation programs, permit competitive wholesale generation supply of electricity, and not discriminate by adopting rate structures and cost recovery mechanisms for the Incumbent Utilities that are not equally extended to an alternative supplier. PMI will work with NOPEC in evaluating the Applications and method of compliance with the recently enacted SSB 221 Legislation. The results of the Proceedings will form the basis for determining whether PMI and NOPEC can reach agreement on an electricity supply agreement that will provide savings to NOPEC's customers.

In the meantime, subject to the appropriate protection of certain proprietary competitive information, NOPEC and PMI will meet regularly and exchange ideas in the areas of legal and regulatory consultations, pricing and structuring support, market pricing estimates, assessment of NOPEC's customer base, and all other practical matters arising from market and regulatory events that impact the ability to achieve a Potential Transaction as described below. Any public information release will be carefully controlled and mutually agreed upon prior to its release, so as to safeguard the confidentiality needed for a successful regulatory, market supply, and commodity hedging strategy critical to executing a Potential Transaction.

B. Potential Transaction

NOPEC is presently looking to enter into a full requirements firm power supply agreement pursuant to the Definitive Agreements for the term starting March 1, 2009 and ending no later than December 31, 2011. NOPEC and PMI are considering entering into an agreement whereby PMI would be the Full Requirements provider of electricity to all of NOPEC's electric customers (the **"Potential Transaction"**).

To facilitate further such discussions and negotiations, the Parties desire to set forth the basic proposed terms of the Potential Transaction and their understandings with respect thereto.

The Parties agree that NOPEC's aggregation program is conditioned upon contracting with sources of electricity supply of equivalent reliability to the Incumbent Utilities at a lower cost.

NOPEC and PMI propose to enter into a power supply agreement (which agreement will be included in the "Definitive Agreements" hereunder) under which PMI would be the Certified Retail Electric Supplier ("CRES") for NOPEC's electric customers for the period beginning March 1, 2009 and ending no later than December 31, 2011 subject to the Option to Terminate Early (as defined below) and the following **Conditions Precedent:**

a) PMI provides indicative pricing for electricity supply in each year (including EDI and customer care expenses) that is meaningfully below the sum of FirstEnergy's base generation rate and an estimate of the Capacity Cost Adjustment Rider in the ESP as set forth in a final non-appealable PUCO order from the Proceedings. PMI and NOPEC understand and agree that, notwithstanding price levels that have been and will be discussed, the ultimate percentage savings that PMI can offer to NOPEC's customers is of the highest importance. The parties also understand and agree that as part of their continuing good-faith negotiations, a price discount materially in excess of 5% is strongly preferred by NOPEC. In order to maximize the likelihood that such an outcome can be achieved, the Parties intend to coordinate their respective endeavors and prioritize those actions that have the highest likelihood of providing increased percentage levels of savings, including but not limited to (i) seeking to obtain an electricity supply arrangement that takes maximum advantage of favorable market conditions and price levels that may exist from time-to-time, (ii) soliciting energy and capacity supplies from third parties that NOPEC has reason to believe are interested in providing such supply and/or with whom NOPEC has favorable business relationships, (iii) soliciting energy and capacity supplies from third parties that PMI has reason to believe are interested in providing such supply and/or with whom PMI has favorable business relationships, and (iv) creating appropriate and optimum customer pricing structures that minimize risk and thereby maximize value available for the production of higher customer savings levels.

b) As a result of a final non-appealable PUCO order from the Proceedings, the PUCO allows large scale governmental aggregation groups such as NOPEC to be able to receive the full amount of the Generation Phase-In Credit Rider for 2009, 2010 and 2011 as proposed by FirstEnergy Corporation in the ESP and allows the Minimum Default Service Rider contained in the ESP to be bypassed in full by large scale governmental aggregation group customers.

c) PMI is able to identify and contract directly with third party suppliers to obtain enough energy supply and MISO DNR capacity to serve NOPEC's load under terms and conditions acceptable to PMI.

d) PMI requests and obtains approvals from relevant governmental and judicial authorities to be certified as a CRES in Ohio.

e) PMI contracts for EDI and customer care call center services with a provider that has at least 5 years experience in providing these services and that is acceptable to NOPEC.

f) Negotiation of the Definitive Agreements containing standard and customary representations, warranties, covenants and conditions for transactions of this nature, including without limitation mutually agreeable credit/collateral support, remedies for non-performance, events of default, and payment requirements and provisions, including means by which NOPEC electricity customers can opt out of the aggregation program.

Option to Terminate Early

Within 180 days of the PUCO's ruling on the continuation of the ESP for 2011, expected to occur on or before December 31, 2009, NOPEC and PMI shall negotiate in good faith to determine the contract price for the period beginning January 1, 2011 and ending December 31, 2011. If the Parties are unable to settle on mutually agreeable terms within such 180 day period, the Parties agree that the Definitive Agreements shall permit either Party to terminate the Potential Transaction without penalty as of December 31, 2010 (**"Option to Terminate Early"**).

PART II

ARTICLE 1. GOOD FAITH NEGOTIATIONS; EXCLUSIVITY, PMI'S RIGHT OF REFUSAL

Section 1.1 Good Faith Negotiations. Subject to the conditions set forth in this Letter of Intent, NOPEC and PMI agree to negotiate in good faith through February 28, 2009, unless this Letter of Intent is earlier terminated pursuant to Article 2 below (the **"Negotiation Period"**), to attempt to execute and deliver the Definitive Agreements with respect to the Potential Transaction.

Section 1.2 Exclusivity.

(a) Except as provided in Section 1.2(b) below, the Parties will work exclusively with each other during the Negotiation Period to agree on a detailed power supply arrangement. NOPEC agrees that during the Negotiation Period: (i) it shall not, directly or indirectly (including through the request or solicitation of a member), request, solicit or otherwise encourage inquiries, proposals or offers from anyone but PMI with respect to the Potential Transaction; and, (ii) it shall not participate in any discussions or negotiations with, or furnish any non-public information to, any person or entity other than PMI regarding the Potential Transaction unless required to do so by judicial, regulatory or administrative process or other provision of law. PMI agrees that, during the Negotiation Period, it shall not, directly or indirectly request, solicit, respond to or otherwise encourage or respond to inquiries, proposals or offers from other governmental aggregation groups in Ohio, regarding power supply arrangements without requesting and receiving the prior consent of NOPEC.

(b) The Parties agree that (i) the exclusivity provisions set forth in this Section 1.2 shall not apply to inquiries, proposals or offers from FirstEnergy Corporation or any of its affiliates, including the Incumbent Utilities, to NOPEC.

Section 1.3 PMI's Right of Refusal. If, subsequent to the execution and effective date of this Letter of Intent and during the Negotiation Period, NOPEC receives a competing offer from FirstEnergy Corporation or any of its affiliates, including the Incumbent Utilities, to provide full requirements electric service or another form of discount at pricing terms that are lower than indicative pricing provided by PMI, then NOPEC shall promptly inform PMI of such offer in writing. In notifying PMI, NOPEC shall have no obligation to provide to PMI any information or analysis regarding such competing offer other than such information as may have been provided in writing by the offeror. PMI shall have 14 days after receipt of NOPEC's written notice, at its sole option ("PMI's Right of Refusal"), to review the terms of such an offer and provide revised pricing and terms, if it so chooses that will match or be more favorable to NOPEC than such competing offers. NOPEC will not enter in to a power supply arrangement with anyone but PMI until 14 days after NOPEC has notified PMI of such competing offer in writing.

ARTICLE 2. TERMINATION

Section 2.1 This Letter of Intent shall terminate on the earlier of: (i) execution of the Definitive Agreements, (ii) the expiration of the Negotiation Period, or (iii) written notice by either Party (in its reasonable determination) that the Conditions Precedent have not been or cannot be timely satisfied.

Section 2.2 Except as expressly set forth in Section 3.3 below, upon termination of this Letter of Intent, the Parties shall have no further obligations, duties or liabilities hereunder.

ARTICLE 3. EFFECT OF THIS LETTER OF INTENT

Section 3.1 This Letter of Intent, even if executed by PMI and an officer of NOPEC, will not constitute a legally binding agreement unless approved by the Board of Directors of NOPEC (or their designee) on or prior to September 30, 2008.

Section 3.2 Subject to Section 3.1 above, this Letter of Intent:

(a) except as provided in Section 3.3 below, does not constitute a legally binding agreement;

(b) does not constitute a legally binding offer or agreement to consummate the Potential Transaction or any other transaction or to enter into the Definitive Agreements;

(c) does not contain all of the material terms of the Proposed Transaction; and

(d) shall not constitute the basis for an agreement by estoppel or otherwise.

Section 3.3 Subject to Section 3.1 above, Part II of this Letter of Intent constitutes a legally binding agreement between the Parties, enforceable against each Party in accordance with its terms. Articles 5 and 6 shall be legally binding on the Parties and shall survive the termination of this Letter of Intent. Any actions taken by a Party or any other person in reliance on the non-binding terms expressed in this Letter of Intent or statements made (whether orally or in writing) during the negotiations between the Parties shall be at that Party's own risk, and neither this Letter of Intent nor any actions or statements (whether written or oral) made by a Party during the course of negotiation, due diligence and evaluation of the Potential Transaction shall be the basis for a contract by estoppel, implied contract or any other legal theory. Unless and until the Definitive Agreements have been duly authorized, executed and delivered by the Parties, no Party shall have any legal obligation, duty, or liability to the other, expressed or implied, or arising in any other manner under this Letter of Intent or in the course of negotiations as contemplated by this Letter of Intent.

Section 3.4 Any Potential Transaction which arises from the activities of the Parties as contemplated by this Letter of Intent shall be contingent upon the due authorization, execution and delivery by the Parties of the Definitive Agreements, including without limitation the obtaining by each Party of all management and board of director approvals and all other authorizing actions required to be taken by each Party under its organizational documents and under applicable law (if any). No binding commitment shall arise prior to then even if the Parties reach some understanding(s) or agreement(s) in principle. Furthermore, the obligations of the Parties under the Definitive Agreements shall be contingent upon receipt of all governmental approvals and such other conditions precedent to closing, all as may be set forth in the Definitive Agreements.

ARTICLE 4. COSTS AND EXPENSES

Section 4.1 Each Party shall bear its own costs and expenses (including fees of counsel and outside advisors) in connection with the preparation, negotiation and execution of this Letter of Intent (whether or not the Potential Transactions are consummated), in connection with the Potential Transaction, and in connection with the negotiation, authorization, execution and delivery of the Definitive Agreements (except to the extent, if any, otherwise expressly provided for and agreed to by the Parties in the Definitive Agreements).

ARTICLE 5. CONFIDENTIALITY

Section 5.1 No public announcement (whether in the form of a press release or otherwise) shall be made by or on behalf of either Party or its agents or representatives with respect to the subject matter of this Letter of Intent unless the other Party has agreed in writing to permit such public announcement to be made, which permission shall not be unreasonably delayed, conditioned or withheld. Any public announcement made as permitted under this Section 5.1 shall be made only in accordance with a text mutually agreed upon by the Parties, and each Party shall act reasonably and promptly in approving or disapproving any such text. Notwithstanding the foregoing, no such permission (or mutually agreeable text) shall be required if and to the extent disclosure is mandated or required in the reasonable determination of a Party by operation of law, rule or order of any court or governmental authority having jurisdiction over a Party or the Potential Transaction (including, without limitation, securities laws and the rules of any stock exchange); provided however, that a Party disclosing or making a public announcement to comply with any such law, rule or order shall use commercially reasonable efforts to provide the other Party a reasonable opportunity to review and comment on any proposed disclosure in advance

Section 5.2 Except as required to comply with applicable law, each Party shall treat the existence of this Letter of Intent and its contents, and any information disclosed to it by the other Party or its agents and representatives pursuant to this Letter of Intent or otherwise relating to the Potential Transaction or in connection with or in furtherance of the Potential Transaction, as confidential information (meaning neither Party shall make or permit any disclosure thereof to any person or entity except to its employees, representatives and professional advisors who have a "need to know" such information and who will maintain the confidentiality thereof and comply therewith, it being understood that each Party shall be responsible for any breach of this confidentiality obligation by its employees, representatives and professional advisors); provided however, that either Party may request waiver of this confidentiality provision, on a case-by-case basis, when such Party believes that it is in the best interests of the Potential Transaction to disclose information to one or more third parties. The requested Party shall make such a waiver determination at its sole discretion.

ARTICLE 6. LIMITATION ON LIABILITY.

Section 6.1 **IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ITS REPRESENTATIVES FOR ANY SPECIAL, INDIRECT, NON-COMPENSATORY, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY TYPE, INCLUDING LOST PROFITS, LOSS OF BUSINESS OPPORTUNITY OR BUSINESS INTERRUPTIONS WHETHER ARISING IN CONTRACT OR TORT (INCLUDING NEGLIGENCE, WHETHER SOLE, JOINT OR CONCURRENT OR STRICT LIABILITY) OR OTHERWISE, ARISING OUT OF THIS LETTER OF INTENT (COLLECTIVELY, "CONSEQUENTIAL DAMAGES").**

ARTICLE 7. NO THIRD-PARTY BENEFICIARIES

Section 7.1 This Letter of Intent is intended solely for the benefit of the Parties hereto and is not intended to and does not confer any benefit on third parties.

ARTICLE 8. CHOICE OF LAW

Section 8.1 This Letter of Intent shall be governed by the laws of the state of Ohio without regard to its conflicts of laws principles.

Section 8.2 IN ANY LITIGATION ARISING FROM OR RELATED TO THIS LETTER OF INTENT, THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LETTER OR INTENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS LETTER OF INTENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS LETTER OF INTENT.

ARTICLE 9. ASSIGNMENT

Section 9.1 This Letter of Intent may not be assigned or transferred by either Party without the prior written consent of the other Party. Because PMI is defined herein to mean FPL Energy Power Marketing, Inc. and its retail affiliates, for avoidance of doubt it is agreed no assignment of this Letter of Intent by FPL Energy Power Marketing, Inc. to any retail affiliate shall relieve FPL Energy Power Marketing, Inc. of its obligations to NOPEC hereunder.

ARTICLE 10. COUNTERPARTS

Section 10.1 This Letter of Intent may be executed in separate counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Letter of Intent to be executed by their duly authorized representatives on the first date written above.

NORTHEAST OHIO PUBLIC ENERGY COUNCIL	**FPL ENERGY POWER MARKETING, INC.**
By: ____________________	By: ____________________
Name: ____________________	Name: Mark Palanchian
Title: ____________________	Title: Vice President, Origination FPL Energy Power Marketing, Inc.

IN WITNESS WHEREOF, the Parties have caused this Letter of Intent to be executed by their duly authorized representatives on the first date written above.

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

By: [signature]
Name: JOSEPH MIGLIORINI
Title: Chairman

FPL ENERGY POWER MARKETING, INC.

By: ______________________
Name:
Title:

IN WITNESS WHEREOF, the Parties have caused this Letter of Intent to be executed by their duly authorized representatives on the first date written above.

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

By: ______________________________
Name: ____________________________
Title: _____________________________

FPL ENERGY POWER MARKETING, INC.

By: ______________________________
Name: Mark Palanchian
Title: Vice President, Origination
FPL Energy Power Marketing, Inc.

STATE OF MARYLAND

MARTIN J. O'MALLEY
GOVERNOR

ANTHONY G. BROWN
LIEUTENANT GOVERNOR

PUBLIC SERVICE COMMISSION

FACT SHEET

Optional Rate Stabilization Plan For BGE's Residential Electric Customers

- **Last year on July 1, 2006, the rate freeze for electric residential customers in BGE's service territory expired.** As a result, prices for Standard Offer Service (SOS, which is the supply portion of electricity service, but not the distribution portion) for July 1, 2006 to May 31, 2007 were set to increase 72%, or $743 a year for an average residential customer. **However, in June 2006 the General Assembly passed Senate Bill 1, limiting the rate increase to 15%.** Senate Bill 1 required all BGE residential customers to participate in a rate stabilization plan that deferred their payment of the difference between the 15% increase and the 72% increase from July 2006 through May 2007. Senate Bill 1 further requires customers to pay back the deferred amount over a period of 10 years, with interest. For a residential customer using 1000 kwh a month, it is estimated that it will cost an additional $3.00 - $6.00 per month to repay the amounts deferred under Senate Bill 1.

- **Senate Bill 1 also requires that SOS rates for residential customers of BGE are to go to market levels on June 1, 2007.** Current SOS market rates, on an annual basis, are approximately 50% than those put in place last year following Senate Bill 1.

- SOS rates are determined through a competitive bidding process.

- SOS rates have risen because of supply constraints and cost increases for natural gas, coal and other fuels, which are needed to run generating plants. One-half of the SOS price is from bidding conducted in January and February 2006, and one-half from bids conducted in 2007. Market prices declined roughly 7 percent in the 2007 bidding compared to the 2006 bidding.

- Senate Bill 1 further provides that **BGE's residential customers have the option to** (1) pay the full market price for SOS on June 1, 2007, or (2) voluntarily participate in a Commission approved second rate stabilization plan that will establish intermediate rates between June 1, 2007 and January 1, 2008.

- On March 8, 2007, the Commission instituted Case No. 9099 to carefully examine BGE's rates and a proposed rate stabilization plan for June 1 to December 31, 2007. After conducting extensive hearings for eight days, receiving testimony and conducting cross examination of 23 witnesses, and reviewing hundreds of pages of testimony and other evidence, the Commission issued Order No. 81423 in Case No. 9099 on May 23, 2007.

- The rate stabilization plan approved by the Commission in its order allows customers to choose an option that provides a more gradual transition to market rates. **Customers who choose to participate in the stabilization plan will start paying full market prices on January 1, 2008, rather than June 1, 2007. There will be no interest charged for this second stabilization deferral plan.**

Details of the June 1, 2007 – December 31, 2007 Rate Stabilization Plan for BGE SOS

- **OPTION 1 – Do nothing and begin paying market rates on June 1, 2007.** Customers who do not enroll in Option 2 will see an approximate 50% total annual bill increase. BGE's 2007 rates are published on the company's website at www.bge.com.

- **OPTION 2 – Enroll in BGE's 2007 Rate Stabilization by June 30, 2007.** Under Option 2 you will receive rates that will be approximately 18 percent lower than market rates for the months June through September 2007 and approximately 8 percent lower than market rates for the months October to December 2007. Beginning January 1, 2008, you will pay full market rates at the same level as those customers choosing Option 1. You will pay back the deferred amounts between April 1, 2008 and December 31, 2009. **No interest will be charged for these deferred repayments.** The repayments will be calculated on your usage and appear as a separate line item on your bill. If you choose Option 2, you will pay slightly more than Option 1 customers starting in April 2008, because you will be paying the repayment charges as well as market rates.

- **The enrollment period is May 23 to June 30, 2007.** Customers can enroll in Option 2 by calling BGE's automated telephone system at 1-888-234-0505, or enter their selection through BGE's website at www.bge.com.

- For customers already enrolled in BGE's budget billing program, the rate stabilization plan will not affect the budget billing amount.

- Since the deferral credit will apply to the distribution service, not the generation service, customers who get their supply service from a supplier other than BGE are still eligible to participate in the optional rate stabilization plan. If you choose an alternative supplier after the plan enrollment period ends on June 30, 2007, your previous choice to either enroll in the stabilization plan or do nothing and begin paying market rates on June 1, 2007, will not be changed.

What you can do to reduce your bill:

- **Enroll in a budget-billing plan.** BGE offers a budget-billing plan where your payments are the same each month. By spreading your higher winter heating or summer cooling bills throughout the year, you will not be burdened by a large bill all at once. BGE keeps a rolling balance of what has been billed versus what had been used, and pays you interest on any credit balance in your budget billing account. If you purchase electric from a supplier, ask your supplier if budget billing is available.

Garvin Att. B
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- **Apply for assistance.** The **OFFICE OF HOME ENERGY PROGRAMS (OHEP)** helps low-income Maryland citizens pay their heating bills, minimize heating crises, and make energy costs more affordable. Low income customers can apply for the **MARYLAND ENERGY ASSISTANCE PROGRAM and THE ELECTRIC UNIVERSAL SERVICE PROGRAM.** Please call 1-800-352-1446 for additional information, including the income requirements and an application. **Visit http://170.224.111.196/meap/index.htm for more information.**

- **Shop around.** Obtain a list of the alternative electric suppliers making offers in BGE's service territory from the PSC's website at www.psc.state.md.us or call (410) 767-8028, and choose option #1, to obtain a list.

- **Conserve energy.** Obtain a copy of the PSC's brochure entitled "Tips for lowering your Energy Costs," available from the PSC or on its website at www.psc.state.md.us (look for "Consumer Brochures"). Additionally, you can visit www.bge.com for more energy saving tips.

Garvin Att. B
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing *Direct Testimony of Robert M. Garvin on behalf of FPL Energy Power Marketing, Inc. and Gexa Energy Holdings, LLC,* was served upon the following parties of record by electronic mail this 29th day of September, 2008:

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