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September 29, 2008

**VIA HAND DELIVERY**

Public Utilities Commission of Ohio  
Docketing Division, 10<sup>th</sup> Floor  
180 East Broad Street  
Columbus, Ohio 43215-3793

RE: Case No. 08-935-EL-SSO


Dear Sir/Madam:

The attached Direct Testimony of John T. Courtney, P.E. on Behalf of the City of Cleveland in the above captioned case is hereby served on the Commission.

Pursuant to Rule 4901-1-02 of the Ohio Administrative Code, attached to this correspondence is one (1) original and twenty (20) copies.

Please provide one (1) time-stamped copy of the attached document to the representative hand-delivering this information.

Sincerely,



Andre Porter

ATP:rac

Enclosures

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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 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

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**DIRECT TESTIMONY  
OF  
JOHN T. COURTNEY, P.E.  
ON BEHALF OF  
THE  
CITY OF CLEVELAND, OHIO**

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September 29, 2008

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BEFORE  
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In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric )  
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**DIRECT TESTIMONY  
OF  
JOHN T. COURTNEY, P.E.  
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THE  
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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  
JOHN T. COURTNEY, P.E.  
ON BEHALF OF  
THE  
CITY OF CLEVELAND, OHIO**

## I. INTRODUCTION

**Q. Please state your name and business address.**

A. My name is John T. Courtney. My business address is Courtney & Associates, 1016 North Blanchard Street, P.O. Box 676, Findlay, Ohio 45839.

**Q. What is your position with Courtney & Associates?**

A. I am the owner of the firm.

**Q. In what business is Courtney & Associates engaged?**

1 A. Courtney & Associates provides consulting services to municipal, industrial and non-  
2 profit clients with respect to public utility rates, contracts, and other utility-related  
3 matters.

4 **Q. Please describe your educational background and professional experience.**

5 A. I graduated from Ohio Northern University in 1976 with a B.S. in Civil Engineering. I  
6 have been a registered professional engineer in Ohio since 1980. I have been a public  
7 utility consultant since 1981, first with the Findlay, Ohio firm of J.S. Sawvel and  
8 Associates, then with Courtney & Associates, which I formed in 1989. A more detailed  
9 description of my professional experience is provided in Exhibit JTC-1, which is attached  
10 to my testimony.

11 **Q. Have you previously testified before this Commission?**

12 A. Yes. As shown in Exhibit JTC-1, I testified regarding billing and rate design issues on  
13 behalf of a large commercial customer in Toledo Edison's 1981 rate case, Case No. 81-  
14 620-EL-AIR. I also testified on behalf of a property owner's association with respect to  
15 projected cash flow requirements in a water company emergency rate case, Case No. 85-  
16 519-WW-AEM, and I testified in Case No. 95-02-EL-ABN on behalf of Clyde, Ohio in  
17 connection with Clyde's efforts to reestablish its municipal electric system. I also  
18 testified in Case Nos. 03-2045-EL-CSS and 04-85-EL-CSS on behalf of Miami Valley  
19 Communications Council, Dominion Retail, Inc. and Green Mountain Energy Company  
20 concerning the reasonableness of Dayton Power & Light's Company's charges for  
21 providing consolidated billing services to competitive retail electric service ("CRES")  
22 providers. Most recently, I submitted testimony in Case No. 08-936-EL-SSO concerning  
23 the reasonableness of the Application of Ohio Edison Company, The Cleveland Electric

1 Illuminating Company and The Toledo Edison Company (collective referred to as  
2 “Companies”) for Approval of a Market Rate Offer to Conduct a Competitive Bidding  
3 Process for Standard Service Offer Electric Generation Supply, Accounting  
4 Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation  
5 Service.

6 **Q. On whose behalf are you testifying in these proceedings?**

7 A. I am testifying on behalf of the City of Cleveland, Ohio (“Cleveland”), an intervenor in  
8 this proceeding.

9 **Q. What is the purpose of your testimony?**

10 A. I have been retained by Cleveland to evaluate the reasonableness of the Companies’  
11 Application for Authority to Establish a Standard Service Offer Pursuant to R.C. §  
12 4928.143 in the Form of an Electric Security Plan.

13 **Q. What materials and information did you review in performing this evaluation?**

14 A. I reviewed the materials and information filed by the Companies in this proceeding. I  
15 also reviewed relevant portions of the Ohio Revised Code relating to the establishment of  
16 a standard service offer price for retail electric generation service under a Market Rate  
17 Offer (“MRO”) and the establishment of an Electric Security Plan (“ESP”).

18 **Q. What conclusions did you reach as a result of your evaluation of the Companies**  
19 **Application for Authority to Establish a Standard Service Offer Pursuant to R.C. §**  
20 **4928.143 in the Form of an Electric Security Plan?**

21 A. For reasons explained in my testimony, I conclude that:

- 22 1. The Companies have not provided any evidence or quantitative analysis supporting  
23 their proposed Minimum Default Service (MDS) Charge and that the proposed MDS  
24 Charge is arbitrary and should be disallowed by the Commission; and  
25

- 1 2. The Companies have not provided any evidence or quantitative analysis supporting  
2 their proposed Standby Charge and that the proposed Standby Charge is arbitrary and  
3 should be disallowed by the Commission; and  
4  
5 3. The Companies' proposed Delta Revenue Recovery Rider purports to grant the  
6 Companies automatic, 100% recovery of non-quantified, unidentified and  
7 uncontrolled costs (including revenue variances) without adequate review by the  
8 Commission, its staff, customers and other interested parties and, at minimum, the  
9 Commission should limit the amount of Delta Revenue to be recovered through the  
10 Delta Revenue Recovery Rider so as not to impose a financial hardship on the retail  
11 customers that do not receive a discount through a special contract.  
12  
13  
14

## II. MINIMUM DEFAULT SERVICE CHARGE

15 **Q. What is the "MDS" Charge proposed by the Companies?**

16 A. As described on page 14 of the Application, and on pages 10-12 of the direct testimony  
17 of the Companies' witness Mr. Kevin T. Warvell, the proposed MDS Charge is a 1.0 cent  
18 per kWh, non-bypassable charge, necessary to recover, among other things, generation  
19 related administrative costs and hedging costs associated with the Companies' obligation  
20 to serve the entire load of their retail customers, which is included in the Companies'  
21 proposed base generation charges.

22 **Q. Do you agree with the Companies' proposed MDS Charge?**

23 A. No, I do not. It is my opinion that the Companies' proposed MDS Charge is arbitrary  
24 and is merely intended as mechanism to allow the "base generation price to be offered at  
25 a lower level than otherwise would have been achievable," as stated on lines 1 and 2 of  
26 page 12 of Mr. Warvell's direct testimony, thus providing a disincentive for customers to  
27 switch to an alternate supplier. Furthermore, the Companies have not provided any  
28 evidence or quantitative analysis justifying the proposed 1.0 cent per kWh MDS Charge.

1   **Q.     How would you propose that the Commission deal with the proposed MDS Charge?**

2   A.     I would propose that the Commission disallow the proposed MDS Charge and require the  
3           Companies to provide a quantitative analysis justifying the proposed MDS Charge.

4  
5                                   **III. STANDBY CHARGE**

6   **Q.     Please describe the Standby Service Charge proposed by the Companies?**

7   A.     As described on page 15 of the Application and on pages 20-22 of the direct testimony of  
8           Companies' witness Mr. Kevin T. Warvell, the proposed Standby Charge, which is 1.5  
9           cents/kWh in 2009, 2.0 cents/kWh in 2010 and 2.5 cents/kWh in 2011, is a bypassable,  
10          generation charge intended to compensate the Companies for costs associated with  
11          hedging the risk of customers that have switched to an alternative supplier wanting to  
12          return to the Companies at the SSO base generation rate.

13   **Q.     Do you agree with the Companies' proposed Standby Charge?**

14   A.     No, I do not. It is my opinion that the Companies' proposed Standby Charge is arbitrary  
15          and is merely intended as mechanism to dissuade customers from switching to an  
16          alternate supplier. Furthermore, the Companies have not provided any evidence or  
17          quantitative analysis justifying the proposed Standby Charges.

18   **Q.     How would you propose that the Commission deal with the proposed Standby**  
19          **Charge?**

20   A.     I would propose that the Commission disallow the proposed Standby Charge and require  
21          the Companies to provide a quantitative analysis justifying the proposed Standby Charge.



1 **IV. DELTA REVENUE RECOVERY RIDER**

2 **Q. Please describe the Delta Revenue Recovery Rider proposed by the Companies?**

3 A. As described on pages 27 and 28 of the Application and on pages 11 and 12 of the direct  
4 testimony of Companies' witness Mr. Gregory F. Hussing, the proposed Delta Revenue  
5 Recovery Rider is intended to provide 100% recovery of revenue foregone resulting from  
6 any reasonable arrangement, governmental special contract, or unique arrangement. The  
7 Delta Revenues are to be recovered through the Delta Revenue Recovery Rider, which  
8 will be applicable to all of the Companies retail customers, except that Delta Revenues  
9 related to existing special contracts with CEI customers that continue past December 31,  
10 2008 will be recovered only from CEI's retail customers.

11 **Q. How does the Companies' proposed Delta Revenue Recovery Rider purport to grant**  
12 **the Companies an automatic, 100% recovery of non-quantified, unidentified and**  
13 **uncontrolled costs (including revenue variances) without adequate review by the**  
14 **Commission, its staff, customers and other interested parties?**

15 A. The Companies have not provided any information in their filing with regards to the  
16 process for reviewing and approving changes in the Delta Revenue Recovery Rider or the  
17 potential magnitude of these future Delta Revenues. In essence, Rider CRT would  
18 provide the Companies a blank check to pass on to its customers 100% of non-quantified,  
19 unidentified and uncontrolled delta revenues they incur associated with special contracts  
20 without adequate review by the Commission, its staff, customers and other interested  
21 parties.

1 **Q. In your opinion, should the Companies be allowed to automatically recover 100% of**  
2 **the delta revenues through the Delta Revenue Recovery Rider?**

3 A. No. In my opinion, future recovery of these items should be subject to full review of the  
4 Commission, its staff, customers and other interested parties as a part of a full rate setting  
5 process.

6 **Q. Do you have any other concerns with regards to Rider CRT?**

7 A. Yes. I am concerned that the automatic recovery of 100% of the Delta Revenues could  
8 have a significant, adverse impact on the rates of retail customers that do not receive a  
9 discount through a special contract. This impact will be in addition to the base rate  
10 increase currently proposed by the companies. As indicated previously, the Companies  
11 have not provided any information in their filing with regards to the potential magnitude  
12 of the future Delta Revenues to be recovered through the Delta Revenue Recovery Rider.  
13 I am also concerned that there is nothing in the Companies' proposal that would prevent  
14 them from giving 25% discounts to all of their General Service - Primary, General  
15 Service - Subtransmission and General Service - Transmission customers, which would  
16 result in a Delta Revenue Recovery Rider of nearly 1.7 cent per kWh. This would equate  
17 to rate increase of nearly 15% for Residential Service customers on top of the increase  
18 proposed for the base rates.

19 **Q. How would you propose that the Commission deal with the proposed Standby**  
20 **Charge?**

21 A. First of all, I would propose that the Commission establish a clear policy with regards to  
22 the review and approval of any future special contract. That policy should give all parties  
23 an opportunity to review the proposed special contract and to present arguments opposing

1 the special contract and recovery of the Delta Revenues. Secondly, I would propose that  
2 the Commission set a cap on the amount of Delta Revenue that can be recovered through  
3 the Delta Revenue Recovery Rider. That cap should take into account the impact on the  
4 retail customers that do not receive a discount through a special contract.  
5

#### 6 IV. CONCLUSIONS

7 **Q. What are your conclusions regarding the Companies' Application for Authority to**  
8 **Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an**  
9 **Electric Security?**

10 **A.** I conclude that: (1) the Companies have not provided any evidence or quantitative  
11 analysis supporting their proposed Minimum Default Service (MDS) Charge and that the  
12 proposed MDS Charge is arbitrary and should be disallowed by the Commission; (2) the  
13 Companies have not provided any evidence or quantitative analysis supporting their  
14 proposed Standby Charge and that the proposed Standby Charge is arbitrary and should  
15 be disallowed by the Commission; and (3) the Companies should not be allowed to  
16 automatically recover 100% of the delta revenues associated with special contracts  
17 without adequate review by the Commission, its staff, customers and other interested  
18 parties and that the Commission should limit the amount of Delta Revenue to be  
19 recovered through the Delta Revenue Recovery Rider so as not to impose a financial  
20 hardship on the retail customers that do not receive a discount through a special contract.

21 **Q. Does that conclude your testimony?**

22 **A.** Yes, it does.

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Direct Testimony of John T. Courtney, P.E. on Behalf of the City of Cleveland, Ohio was served via electronic mail to the parties listed on the attached Exhibit A and by regular mail service to the parties listed on the attached Exhibit B on the 29th of September, 2008.

Additionally, a copy of Direct Testimony of John T. Courtney, P.E. on Behalf of the City of Cleveland, Ohio was hand delivered to Jones Day, Mark A. Whitt, Andrew J. Campbell, P.O. Box 165017, 325 John H. McConnell Blvd. Suite 600, Columbus, OH 43216-5017 and the Public Utilities Commission, 180 East Broad St., 3rd Floor, Columbus, OH 43215.



---

Andre T. Porter

## **EXHIBIT A**

### **Case 08-935-EL-SSO Electronic Mail Service List**

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#### **Integrus Energy**

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Washington, DC 20007

[gas@bbrslaw.com](mailto:gas@bbrslaw.com)

[mkl@bbrslaw.com](mailto:mkl@bbrslaw.com)

**Neighborhood Environmental Coalition**

**The Empowerment Center of Greater Cleveland**

**United Clevelanders Against Poverty**

**Cleveland Housing Network**

**The Consumers for Fair Utility Rates**

*Joseph P. Meissner*

Cleveland Legal Aid Society

1223 West Sixth Street

Cleveland, OH 44113

[jpmeissn@lasclev.org](mailto:jpmeissn@lasclev.org)

**Ohio Farm Bureau Federation**

*Larry Gearhardt, Chief Legal Counsel*

280 North High Street

P.O. Box 182383

Columbus, OH 43218-2383

[lgearhardt@ofbj.org](mailto:lgearhardt@ofbj.org)



**EXHIBIT B**

**Case 08-935-EL-SSO  
Regular Mail Service List**

*Gary Reese*  
Director of Environmental Service  
Memorial Hospital of Union County  
Marysville, OH 43040

*Max Rothal, Director of Law*  
161 South High Street, Suite 202  
Akron, OH 44308

*Steven L. Beeler, Assistant Director of Law*  
City of Cleveland  
601 Lakeside Ave., Room 106  
Cleveland, OH 44114

**Cleveland Electric Illuminating Co.**  
**Ohio Edison Company**  
*Harvey L. Wagner*  
76 South Main Street  
Akron, OH 44308

**Exhibit JTC-1**

**JOHN T. COURTNEY**

**B.S., Civil Engineering  
Ohio Northern University (1976)**

**Registered Professional Engineer - Ohio (1980)**

**GENERAL**

Mr. Courtney's professional experience consists primarily of the preparation of economical analyses, feasibility studies, utility rate and cost of service studies and other related matters. For the past twenty-five years, Mr. Courtney has advised municipal and industrial clients in various utility-related matters including rates, financing, operations, management, computerized billing, contract negotiations, etc. He has also testified on numerous occasions as an expert witness concerning rate and other matters before federal and state regulatory agencies.

Mr. Courtney, in conjunction with legal counsel, was directly responsible for the preparation of the feasibility study which lead to the re-establishment of a municipally owned electric system in the City of Clyde, Ohio. He was intimately involved in the projected cost analyses as well as the negotiation of the power supply arrangements for the city and the negotiation of a contract between the city and its largest customer. He was also responsible for the preparation of the Consulting Engineer's Report that was utilized by the city's financial advisors in the marketing of the revenue bonds issued by the city.

Mr. Courtney assisted in the development of a power pooling arrangement for a group of municipalities that allowed for a more efficient utilization of their power supply resources. He also assisted in the preparation of the various contracts and rates required to insure that each municipality was fairly allocated its share of the cost and he was responsible for the implementation of the pool.

Prior to working as an consultant, Mr. Courtney was employed by the Engineering Department of the City of Findlay, Ohio. His responsibilities there included overseeing the design and construction of various capital improvement projects. While employed there he also gained experience in the operation and management of the city's utility, street, and parks departments.

## **Exhibit JTC-1**

### **WORK HISTORY**

- |                  |  |
|------------------|--|
| 8/1/89 - Present | Owner of Courtney & Associates which provides consulting services to municipal and industrial clients in the area of utility rates and other related matters.                  |
| 5/81 - 8/89      | Employed by J. S. Sawvel and Associates, a public utility consulting firm, advising primarily municipal and industrial clients in the area of utility rates and other matters. |
| 5/76 - 5/81      | Employed by the City of Findlay, Ohio Engineering Department. Responsible for overseeing the design, construction and financing of capital improvement projects.               |
| 5/72 - 5/76      | Employed as co-op student by the City of Findlay, Ohio Engineering Department. Assigned to various City Departments (i.e., utilities, streets, parks, etc.).                   |

### **OTHER QUALIFICATIONS**

**Bachelor of Science, Civil Engineering - Ohio Northern University (1976)**

#### **Member**

- National Society Professional Engineers
- Ohio Society Professional Engineers  
Blanchard Valley Chapter (Past President)
- American Water Works Association
- American Municipal Power - Ohio (Associate Member)

**SUMMARY OF TESTIMONY  
FOR  
JOHN T. COURTNEY**

JURISDICTION	CASE NO.	CONTENT OF TESTIMONY
Public Utilities Commission of Ohio	81-620-EL-AIR	Testified on behalf of Seaway Food Town, Inc. concerning billing determinants and rate design in a proceeding on Toledo Edison's electric rates.
Federal Energy Regulatory Commission	ER84-348-001	Testified on behalf of Municipal Resale Customers of Ohio Power Co. in a proceeding involving the equalization of EHV transmission costs among American Electric Power Co.'s operating subsidiaries.
Public Utilities Commission of Ohio	85-519-WW-AEM	Testified on behalf of Lake Buckhorn Property Owners Association concerning reasonableness of emergency rate relief and projected cash flow requirements in a proceeding on rates of Lake Buckhorn Utilities, Inc.
Bankr. D. N.J.	85-00317 Chapter 11	Testified on behalf of Lake Buckhorn Property Owners Association concerning valuation of water property.
Common Pleas, Defiance County (OH)	22964	Testified concerning damages on behalf of plaintiffs in proceeding involving negligent misrepresentation claim against Toledo Edison (case reported at 87 Ohio App. 3d 525 (1993)).
Circuit Court, Wayne County (MI)	92-227151 CK	Testified for plaintiff concerning damages in proceeding against Detroit Edison for breach of contract (wrongful appropriation of employee idea for service improvement).

**SUMMARY OF TESTIMONY  
FOR  
JOHN T. COURTNEY**

JURISDICTION	CASE NO.	CONTENT OF TESTIMONY
Public Utilities Commission of Ohio	95-02-EL-ABN	Testified on behalf of Clyde, Ohio concerning Clyde's efforts to re-establish its municipal electric system (Miller Act Case).
Public Utilities Commission of Ohio	03-2405-EL-CSS 04-85-EL-CSS	Testified on behalf of Miami Valley Communications Council, Dominion Retail, Inc. and Green Mountain Energy Company concerning the reasonableness of Dayton Power & Light Company's charges for providing consolidated billing services to competitive retail electric service ("CRES") providers.
Public Utilities Commission of Ohio	08-936-EL-SSO	Testified on behalf of the City of Cleveland, Ohio concerning the reasonableness of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collective referred to as "Companies") for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service