

FILE

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From:	David F. Boehm, Esq. Michael L. Kurtz, Esq. BOEHM, KURTZ & LOWRY	Date:	November 17, 2008
Re:	In The Matter Of The Application Of Duke Energy Ohio For Approval Of An Electric Security Plan; Case No. 08-920-EL-SSO In The Matter Of The Application Of Duke Energy Ohio For Approval To Amend Accounting Methods, Case No. 08-921-EL-AAM In The Matter Of The Application Of Duke Energy Ohio For Approval Of A Certificate Of Public Convenience And Necessity To Establish An Unavoidable Capacity Charge(s), Case No. 08-922-EL-UNC In The Matter Of Duke Energy Ohio For Approval To Amend Its Tariff, Case No. 08-923-EL-ATA	Pages	<u>9</u> (including cover)

Attached please find the MAIN BRIEF of THE OHIO ENERGY GROUP to be deemed filed today in the above referenced matter. The original and 20 copies will follow by overnight mail.

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**Via Telefax Transmission and
Overnight Mail**

November 17, 2008

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case Nos. 08-920-EL-SSO, et. al.

Dear Sir/Madam:

Please find enclosed an original and twenty (20) copies of the BRIEF OF THE OHIO ENERGY GROUP fax-filed today in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



David F. Boehm, Esq.
Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.
Cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by ordinary mail, unless otherwise noted, this 17th day of November, 2008 to the following:

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**BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO**

In The Matter Of The Application Of Duke Energy Ohio For Approval Of An Electric Security Plan	:	Case No. 08-920-EL-SSO
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	:	
	:	
In The Matter Of The Application Of Duke Energy Ohio For Approval To Amend Accounting Methods	:	Case No. 08-921-EL-AAM
	:	
	:	
	:	Case No. 08-922-EL-UNC
	:	
In The Matter Of The Application Of Duke Energy Ohio For Approval Of A Certificate Of Public Convenience And Necessity To Establish An Unavoidable Capacity Charge(s)	:	Case No. 08-923-EL-ATA
	:	
In The Matter Of Duke Energy Ohio For Approval To Amend Its Tariff	:	

**BRIEF OF
THE OHIO ENERGY GROUP**

The Ohio Energy Group (OEG) is a signator to the Stipulation and Recommendation (hereinafter "Stipulation") filed on October 27, 2008 in this case. OEG submits that this Stipulation meets the three part test established by the Ohio Supreme Court in AK Steel Corp. v. PUCO, 95 Ohio St. 3d 31 (2002). That test requires that stipulations entered into under OAC §4901-1-30 may be determined to be reasonable if:

- a) It was the product of serious bargaining among capable, knowledgeable parties;
- b) As a package benefited ratepayers and the public interest; and
- c) It does not violate important regulatory principle or practice.

OEG, as an experienced, capable and knowledgeable party submits that the Stipulation in this proceeding meets all of these requirements and, in the bargain, represents a just, reasonable and structurally simple and transparent resolution to these most complicated issues. OEG urges its complete acceptance by the Commission.



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