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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Docket Nos. ER09-134, *FirstEnergy Solutions Corp.*; ER09-135, *FirstEnergy Generation Corp.*; ER09-136, *FirstEnergy Nuclear Generation Corp.*; ER09-137, *FirstEnergy Generation Mansfield Unit 1 Corp.*, Amendments to the Market-Based Rate Tariffs Waiving Affiliate Restrictions in Ohio

Dear Secretary Bose:

The Public Utilities Commission of Ohio (Ohio Commission) encourages the Federal Energy Regulatory Commission's (FERC's) approval of the FirstEnergy Solutions Corporation, FirstEnergy Generation Corporation, FirstEnergy Nuclear Generation Corporation, and FirstEnergy Generation Mansfield Unit 1 Corporation (collectively FES) application for waiver of the affiliate restrictions in Ohio to the extent it is necessary to execute the Ohio Commission's decision in Case No. 08-935-EL-SSO, which is slated for an Ohio Commission vote on December 19, 2008.¹

To the extent that FES remains authorized to charge market based rates,² the Commission endorses FERC's approval of the Applicants' waiver requests to the extent that the FirstEnergy Operating Companies proceed with the procurement of generation from FES for a limited period of time either pursuant to an Electric Security Plan of the Operating Companies' approved by the Ohio Commission or for 90 days, whichever is longer, and subject to the condition that the Ohio Commission retains the authority to review the prudence of those contracts for electricity prior to their submission to FERC.

¹ *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 Ohio Revised Code 4928.143 in the Form of an Electric Security Plan.*

² *FirstEnergy Operating Companies*, 125 FERC ¶ 61,074 (2008), paragraph 35, 36.

The Ohio Commission believes these conditions and limitations are necessary to protect consumers from the possibility of an abuse of market power. We note that the Application for waiver indicates, in any competitive solicitation, "given the magnitude of the Ohio Regulated Utilities' generation needs relative to the amounts of uncommitted capacity in the regional bulk power market, it is virtually certain that Applicants will be selected to provide at least a portion of this power supply." Application at p. 9.

The Ohio Commission is not endorsing each and every statement contained in the waiver request regarding the Applicants' interpretation of state and federal law. Moreover, as we are not familiar with the regulatory environment in Pennsylvania, we are not in agreement with the Applicants that Ohio's regulatory environment is comparable.

Finally, the Ohio Commission requests that FERC allow this investigation to remain open to identify later in more detail each individual affiliate transaction waiver that is necessary to execute the Ohio Commission's decision(s) regardless as to which approach is ultimately adopted.

Respectfully submitted,



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TWM/klk

cc: Dan Shields, Ohio Federal Energy Advocate

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Summary: Comments Letter to K. Bose, Secretary of FERC, submitted in Docket Nos. ER09-134, ER09-135, ER09-136, and ER09-137, regarding Amendments to the Market-Based Rate Tariffs Waiving Affiliate Restrictions in Ohio electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio