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FirstEnergy

76 South Main Street
Akron, Ohio 44308

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Kathy J. Kolich
Senior Attorney

330-384-4580
Fax: 330-384-8875

*Via Federal Express
and Facsimile (614-466-0313)*

PUCO

February 2, 2009

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

Dear Ms. Jenkins:

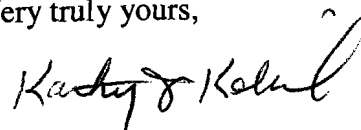
Re: *Reply Memorandum of Ohio Edison Company, The Cleveland
Electric Illuminating Company and The Toledo Edison Company
Case No. 09-1299-EL-UNC*

08

Enclosed for filing, please find the original and fifteen (15) copies of the Reply Memorandum regarding the above-referenced case. Please file the enclosed Reply Memorandum, time-stamping the two extras and returning them to the undersigned in the enclosed envelope.

Thank you for your assistance. Please contact me if you have any questions concerning this matter.

Very truly yours,



kag
Enclosures

cc: Parties of Record

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
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BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

| | | |
|---|---|-------------------------|
| In the Matter of a Commission |) | |
| Investigation Into the Reliability of the |) | |
| Electric Distribution Service Provided |) | Case No. 08-1299-EL-UNC |
| by Ohio's Investor-Owned |) | |
| Electric Companies |) | |
| |) | |

**REPLY MEMORANDUM OF OHIO EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON
COMPANY**

Pursuant to Section 4901-1-12(B)(2) of the Ohio Administrative Code, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, "FE Companies") submit their reply memorandum to the Memorandum Contra the FE Companies' Motion to Dismiss submitted by Consumers for Reliable Electricity in Ohio ("CREO").

In its Memorandum Contra, CREO again tries to justify the opening of an investigation into the reliability and quality of service provided by the FE Companies stating, "Th[e] magnitude of [the perceived reliability problem] is significant and justifies the call for some formal review of [the FE Companies'] reliability and the reasons underlying the problems experienced by customers." (CREO Memo contra, p. 3.) The Commission clearly disagrees. In its recent Order in the Companies' distribution rate case (Case No. 07-551-EL-AIR, hereinafter "*Distribution Case*"), the Commission addressed the FE Companies' reliability performance stating:

With respect to [Office of the Ohio Consumers' Counsel's]¹ recommendation for a separate proceeding to investigate the Companies' service quality and reliability, *the Commission finds that such proceeding is unnecessary*. In preparation of the Staff Reports for this proceeding,

¹ OCC is a member of CREO.

Staff thoroughly investigated the service quality and reliability of the Companies. A considerable portion of the Staff Report for each operating Company is devoted to that investigation [citations omitted]. Each intervenor had the opportunity to file objections to the conclusions contained in the Staff Report, and OCC filed multiple objections to the Staff Report related to service quality and reliability. The UMS Report was addressed in the Staff Report for CEI and the UMS Report was received into the record of this proceeding. A substantial amount of testimony was received related to service quality and reliability, and the parties had the opportunity to make arguments related to service quality and reliability in their briefs. Although OCC may not agree with Staff's conclusions and recommendations in the Staff Report, OCC has not identified any factual issues which have not been thoroughly investigated and litigated in this proceeding. Therefore, *the Commission finds that further litigation on this issue is not necessary.* [*Distribution Case*, Jan. 21, 2009 Order, pp. 35-36 (Italics added.)]

Further, in the FE Companies' memorandum in support of their motion to dismiss this matter, they noted, "If CREO has *facts* to substantiate a claim of unreliable service or related violations, the state legislature provided a process through which such complaints can be heard." (FE Cos. Memo in Support, p. 3) (italics in original.) In its *Distribution Case* Order the Commission agreed, saying, "Nonetheless, the Commission notes that OCC retains the right to file a complaint under Section 4905.26, Revised Code, raising any issues it has with respect to the Companies' service quality and reliability." (*Distribution Case*, Jan. 21, 2009 Order, p. 36.)

In sum, rather than submitting generic replies to pleadings² and wasting budget dollars duplicating the efforts of the Commission, it may behoove CREO to review the actual measures taken to date by the FE Companies to improve reliability and service quality,³ as well as the work performed by Commission Staff in this area. Had CREO

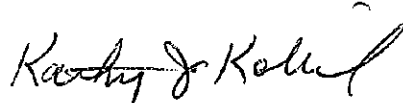
² Compare CREO Memorandum Contra FE Companies' Motion to Dismiss with CREO's January 20, 2009 Reply Memorandum to the AEP Companies' Memorandum Contra.

³ Rather than reiterate them herein, the FE Companies incorporate by reference pages 5 and 6 of their Memorandum in Support of their Motion to Dismiss this proceeding.

done this, perhaps it would have seen that, contrary to their claims, the FE Companies have swept nothing "under the rug" nor have they failed to properly address this matter (as claimed in CREO's Memorandum Contra on page 2.)

CREO raises nothing not already addressed by the Commission in the *Distribution Case* and, accordingly, the FE Companies again urge the Commission to dismiss this matter in its entirety or, alternatively, at a minimum, dismiss the FE Companies as parties.

Respectfully submitted,



Kathy J. Kolich (0038855)
Senior Attorney
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308

Phone: 330-384-4580


Fax: 330-384-3875

kjkolich@firstenergycorp.com

On behalf of Ohio Edison Company,
The Cleveland Electric Illuminating
Company and The Toledo Edison Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of The FE Companies' Motion to Dismiss CREO's Request for an Investigation was served upon the parties set forth below by regular U.S. Mail, postage prepaid, this 2nd day of February, 2009.


Kathy J. Kolich, Esquire

David Boehm
Michael Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202-4454

Glenn Krassen
E. Brett Breitschwerdt
Thomas O'Brien
Sally W. Bloomfield
Bricker & Eckler, LLP
100 South Third Street
Columbus, OH 432215

John Bentine
Mark Yurick
Chester, Willcox & Saxbe LLP
65 East State Street, Suite 1000
Columbus, OH 43215-4213

Garrett Stone
Michael Lavanga
Brickfield, Burchette, Ritts & Stone
1025 Thomas Jefferson Street, N.W.
8th West Tower
Washington, DC 20007

James Burk
Arthur Korkosz
Harvey L. Wagner
Ebony Miller
Mark Hayden
FirstEnergy Corp.
76 South Main Street
Akron, OH 44308

Sam Randazzo
Lisa McAlilster
Joseph Clark
Thomas Froehle
McNees, Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215

Dave Rinebolt
Colleen Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793

Trent Dougherty
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212

Ron Bridges
AARP
17 South High Street, Suite 800
Columbus, OH 43215

Michael Smalz
Ohio State Legal Service
555 Buttlers Avenue
Columbus, OH 43215

Tim Walters
The May Dugan Center
Clevelanders United Against Poverty
4115 Bridge Avenue
Cleveland, OH 44113

Selwyn J.R. Dias
American Electric Power Service Corp.
88 East Broad Street, Suite 800
Columbus, OH 43215

Noel Morgan
Communities United for Action
Legal Aid Society of Southwest Ohio
215 East Ninth Street, Suite 200
Cincinnati, OH 45202

Steven Millard
COSE Group Services Inc.
200 Tower City Center
50 Public Square
Cleveland, OH 44113

Gene Krebs
Greater Ohio
846½ East Main Street
Columbus, OH 43205

Rev. Mike Frank
Neighborhood Environmental Coalition
5920 Engle Avenue
Cleveland, OH 44127

Ellis Jacobs
Advocates for Basic Legal Equality, Inc.
333 West First Street, Suite 500B
Dayton, OH 45402

Dane Stinson
Buckeye Association of School
Administrators
10 West Broad Street, Suite 2100
Columbus, OH 432215

Leslie Kovacik
City of Toledo
420 Madison Avenue, Suite 100
Toledo, OH 43604-1219

Marvin Resnik
Steve Nourse
American Electric Power Service Corp.
1 Riverside Plaza, 29th Floor
Columbus, OH 43215

Brandi Whetstone
Sierra Club Ohio Chapter
131 North High Street, Suite 605
Columbus, OH 43215

Jenna Johnson-Holmes
Dona Seger Lawson
Judi Sobecki
Dayton Power & Light Co.
1065 Woodman Drive
Dayton, OH 45432

Lance M. Keiffer
Assistant Prosecuting Attorney
711 Adams Street
Toledo, OH 43624

Joseph Meissner
Citizens Coalition
1223 West Sixth Street
Cleveland, OH 44113

Denis George
The Kroger Company
1014 Vine Street, G07
Cincinnati, OH 45202

Jack Shaner
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212

Richard L. Sites
Ohio Hospital Association
155 East Broad Street, 15th Floor
Columbus, OH 43215-3620

The Ohio Cast Metals Assoc.
2969 Scioto Place
Columbus, OH 43221

Randell J. Corbin
AMP-Ohio
2600 Airport Drive
Columbus, OH 43219

Jerry Klenke
Richard Lewis
David Varda
8050 North High Street, Suite 150
Columbus, OH 43235-6486

Rebecca Stanfield
Senior Energy Advocate
Natural Resources Defense Council
101 North Wacker Drive, Suite 609
Chicago, IL 60606

Amy Gomborg
Environment Ohio – Environmental
Advocate
203 East Broad Street, Suite 3
Columbus, OH 43215

Barth Royer
Bell & Royer Co. LPA
33 South Grant Avenue
Columbus, OH 43215-3927

Dale Arnold
Ohio Farm Bureau Federation Inc.
P.O. Box 182383
Columbus, OH 433218

M. Howard Petricoff
Vorys, Sater, Seymour & Pease
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216

The Ohio Aggregates & Industrial Minerals
Assoc.
162 North Hamilton Road
Gahanna, OH 43230

Melissa Mullarkey
Recycled Energy Development LLC
740 Quail Ridge Drive
Westmont, IL 60559

Tommy Temple
Whitfield A. Russell
Ormet Primary Aluminum Corp.
4232 King Street
Alexandria, VA 22302

Joseph Logan
Ohio Farmers Union
20 South Third Street, Suite 130
Columbus, OH 43215

Gregory E. Hitzhusen, MDiv, Ph.D.
Executive Director
Ohio Interfaith Power and Light
P.O. Box 26671
Columbus, OH 43226

Leigh Herington
Executive Director
NOPEC
31320 Solon Road, Suite 20
Solon, OH 44139

Robert J. Triozzi
Steven L. Beeler
City of Cleveland
Cleveland City Hall
601 Lakeside Avenue, Room 206
Cleveland, OH 44114-1077

Steve Lesser
Attorney General's Office
Public Utilities Commission of Ohio
180 East Broad Street, 9th Floor
Columbus, OH 43215

Amy Ewing
Greater Cincinnati Health Council
2100 Sherman Avenue, Suite 100
Cincinnati, OH 45212-2775

Jason B. Keyes
Interstate Renewable Energy Council
Keyes & Fox, LLP
17121 – 21st Avenue East
Seattle, WA 98112

Duane Luckey
Attorney General's Office
Public Utilities Section
180 East Broad Street
Columbus, OH 43215-3793

Theodore Robinson
Staff Attorney and Counsel
Citizen Power
2424 Dock Road
Madison, OH 44057

Paul A. Colbert
Amy Spiller
Tamara R. Reid-McIntosh
Duke Energy Ohio, Inc.
155 East Broad Street, 21st Floor
Columbus, OH 43215

Nolan Moser
Air & Energy Program Manager
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449

Wendy B. Jaehn
Executive Director
Midwest Energy Efficiency Alliance
645 North Michigan Avenue, Suite 990
Chicago, IL 60611

Ned Ford
The Sierra Club, Ohio Chapter
3006 Auten Avenue
Cincinnati, OH 43213

Theodore O. Finnarn
Attorney at Law
421 Public Square
Greenville, OH 45331
Attorney for Ohio Farmers Union