

FILE

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

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AMENDED APPLICATION

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (hereinafter collectively referred to as the "Companies"), by this Amended Application request regulatory authority to establish a standard service offer ("SSO") pursuant to R.C. § 4928.141. As their SSO, and pursuant to and consistent with the provisions of R.C. § 4928.143, the Companies propose to implement this amended comprehensive electric security plan designed to provide stable pricing of energy services for their customers, assure supplies of electricity, enhance distribution service, and promote economic development and job retention within their service areas. As the Commission noted in its January 29, 2009 Entry, time is of the essence, and to the extent the Commission does not act quickly on this Amended Application, the Companies will be required to secure generation supply for the period beginning April 1, 2009 through a competitive bidding process.

The Companies' amended electric security plan is embodied in the attached Stipulation and Recommendation ("Stipulation", the Companies' amended plan hereinafter referred to as the "Stipulated ESP") which is incorporated by reference herein

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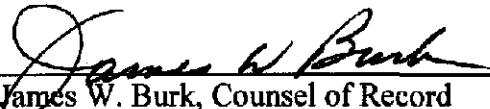
and as if all of the terms and conditions set forth in such attachment are fully written here. As demonstrated by the number and diversity of signatory parties ("Signatory Parties"), the Companies believe that the vast majority of the issues and concerns raised by the Signatory Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall fair and reasonable resolution of such issues. This Stipulation is the product of the discussions and negotiations of the Signatory Parties, and accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties, and is entitled to careful consideration by the Commission.

The Stipulated ESP provides a broad and flexible approach which can address not only the supply of generation, but also allow for the inclusion of various provisions in an overall package to address the broad range of issues contemplated within the scope of Am. Sub. S.B. 221. The Stipulated ESP has numerous quantitative and qualitative elements, carefully integrated into a package which, taken in the aggregate, is considerably more favorable to customers than the Market Rate Offer alternative. Further, the Stipulated ESP addresses price issues from several perspectives, including that: 1) it provides price stability over the Stipulated ESP period; 2) it settles pricing and service arrangements for the totality of electric service, not just generation; and 3) it provides substantial flexibility for the Commission to manage overall price trends over the Stipulated ESP period.

The Companies further request that the Commission take administrative notice of the evidentiary record that was previously developed in this docket and of the evidentiary records established in the Market Rate Offer ("MRO"), Case No. 08-936-EL-SSO, Case

No. 08-124-EL-ATA, et. al., and Case No. 09-21-EL-ATA, et. al., and thereby incorporate by reference those records for the purposes of and use in this proceeding.

It is in the best interest of all parties that a timely ruling is made. Accordingly, the Companies respectfully request that the Commission issue an order approving certain provisions, as more fully described in Section I. of the Stipulation and Stipulated ESP, by March 4, 2009, and approve the remaining provisions of the Stipulation and Stipulated ESP as filed by March 25, 2009. The Companies may, at their sole discretion, extend either or both the March 4, 2009 date and March 25, 2009 date by no more than seven (7) days with written notice.


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AND THE TOLEDO EDISON COMPANY

BEFORE

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**In the Matter of the Application of Ohio
Edison Company, The Cleveland Electric
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Pursuant to R.C. § 4928.143 in the Form
of an Electric Security Plan**

Case No. 08-935-EL-SSO

**In the Matter of the Application of Ohio
Edison Company, The Cleveland Electric
Illuminating Company and The Toledo
Edison Company for Approval of Rider
FUEL and Related Accounting Authority**

Case No. 09-21-EL-ATA

Case No. 09-22-EL-AEM

Case No. 09-23-EL-AAM

STIPULATION AND RECOMMENDATION

INTRODUCTION

Rule 4901-1-30, Ohio Administrative Code ("OAC") provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below (the "Signatory Parties") and to recommend that the Public Utilities Commission of Ohio (the "Commission" or "PUCO") approve and adopt this Stipulation and Recommendation ("Stipulation"), as part of its Opinion and Order in these proceedings, resolving all of the issues in the proceedings.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or

precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Signatory Parties in a cooperative process and undertaken by the Signatory Parties representing a wide range of interests to resolve the aforementioned issues. This Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties, and it is entitled to careful consideration by the Commission. For purposes of resolving the issues raised by these proceedings, the Signatory Parties stipulate, agree and recommend as set forth below.

In the event the Commission does not approve certain provisions of this Stipulated Electric Security Plan (the "Stipulated ESP") as filed by Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), The Toledo Edison Company ("Toledo Edison") (hereinafter individually and collectively "Company" or "Companies"), as more fully described in Section I below, by March 4, 2009, then the Companies may render this Stipulation and Stipulated ESP null and void and the Amended Application filed with this Stipulation shall be considered withdrawn by filing a written notice with the Commission by March 13, 2009. In the event the Commission does not approve this Stipulated ESP as filed by the Companies by March 25, 2009, then the Companies may render this Stipulation and Stipulated ESP null and void and the Amended Application filed with this Stipulation shall be considered withdrawn by filing a written notice with the Commission by April 8, 2009, provided however that those provisions in Section I previously approved by the Commission in this proceeding shall remain in full force and effect. However, the Companies may, at their sole discretion, extend either or both of the March 4 date and the March 25 date by no more than seven (7) days with written notice to the Commission.

PARTIES

This Stipulation is entered into by and among the Staff of the Public Utilities Commission of Ohio ("Staff"), the Companies and the other Signatory Parties hereto. All the Signatory Parties have agreed to fully support the Stipulated ESP filed in this proceeding as set forth in this Stipulation.

RECITALS

WHEREAS, the Companies filed on July 31, 2008, an application for a standard service offer ("SSO") pursuant to R.C. § 4928.141. The application was for an electric security plan in accordance with R.C. § 4928.143 (hereinafter the "ESP"). In addition, on July 31, 2008, the Companies filed an application for a market rate offer in accordance with R.C. § 4928.142 (hereinafter the "MRO"). After extensive discovery, several local public hearings, lengthy evidentiary hearings, and briefs and reply briefs, the Commission issued an Opinion and Order on November 25, 2008 denying the Companies' MRO and on December 19, 2008, the Commission issued an Opinion and Order that modified and approved the Companies' ESP. On December 22, 2008, the Companies filed a notice that they were exercising their right pursuant to R.C. § 4928.143(C)(2)(a), to withdraw and thereby terminate their application for an electric security plan, and on December 22, 2008 filed an Application for Rehearing of the Commission's decision in the MRO;

WHEREAS, since the Companies do not own generation resources and their wholesale power supply agreement expired on December 31, 2008, the Companies procured power in the open market and conducted a competitive bid process to procure

electric generation for delivery from January 1, 2009 through March 31, 2009 for retail customers using a Request for Proposal (RFP) format administered by an independent third party;

WHEREAS, on January 14, 2009, the Commission issued a Finding and Order in the Companies' Rider FUEL Case, Case No. 09-21-EL-ATA, permitting the Companies to implement Rider FUEL to recover the difference in costs incurred by the Companies to purchase power for customers receiving generation service and the unbundled generation revenue that will be received as set out in the Companies' most recent SSO;

WHEREAS, on January 29, 2009 an Entry was issued directing the Staff to develop a proposal to establish an electric security plan for the Companies, circulate the proposal among the parties to the case, and ordering Staff to conduct a conference with the parties to discuss Staff's proposal and the possibility of an agreement on Thursday, February 5, 2009. After such proposal was distributed and conference held, and following further discussions among the Companies, the Staff, and other parties, this Stipulation was developed;

WHEREAS, all of the related issues and concerns raised by the Signatory Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Signatory Parties, and is not intended to reflect the views or proposals which any individual party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests

represented by the Signatory Parties, and is entitled to careful consideration by the Commission;

WHEREAS, as proposed in the Stipulated ESP, the impact upon customer bills will be mitigated by the modifications to the charges and rate arrangements, as more fully described in the Stipulated ESP below, so that customers of the Companies will experience more stable and certain rate levels than otherwise would have been in place during this period. Through such modifications, customers will enjoy benefits that without the implementation of the Stipulated ESP would not have been made available;

WHEREAS, the Stipulated ESP as set forth in this Stipulation represents a serious compromise of complex issues and involves substantial customer benefits that would not otherwise have been achievable. Through combining more certain rate levels and timely recovery of all amounts authorized by the PUCO to be collected through rate components and deferral of cost recovery, the Stipulated ESP provides electric service at more predictable prices for an extended period, which would not have been available otherwise, all of which is critical to the economy of Ohio and the well-being of Ohioans. Rates provided in the Stipulated ESP essentially assure customers of level prices through the periods covered by the different aspects of the Stipulated ESP;

WHEREAS, the process set forth in R.C. § 4928.143 for an Electric Security Plan shall be preserved.

WHEREAS, in order to address these and other concerns and provide customers with assurances as to the price of electricity covered by the Stipulated ESP during the Stipulated ESP period, the Signatory Parties stipulate and agree to the Stipulated ESP as set forth below.

NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission approve the Stipulated ESP set forth in this Stipulation and issue its Opinion and Order in accordance herewith, and recommend that the Commission act by March 4, 2009 on those certain provisions, as more fully described in Section I, and by March 25, 2009 on the remaining provisions of this Stipulated ESP.

A. Generation

1. For the period beginning April 1, 2009 and ending May 31, 2009, the Companies will obtain from FirstEnergy Solutions Corp. the necessary energy, capacity and resource adequacy requirements to serve their retail SSO load and their load for special contracts, at the average wholesale rate of the power supply tranches acquired in the initial RFP process for which supply contracts were signed on January 2, 2009 - \$66.68/MWH. This wholesale rate will be adjusted for distribution line losses using a 4.78% overall average loss factor to obtain a retail rate. Loss factors will vary by Company and by class consistent with the procedure used in the January 2009 through March 2009 period. The Companies will remain as the Load Serving Entity for this time period and the costs charged to the Companies by MISO for that SSO load and special contract load shall be recovered by the Companies through the transmission rider. The purchased power costs arising from this wholesale purchase will be recovered from retail customers in the same fashion as authorized by the Commission in their January 14, 2009 Finding and Order in Case No. 09-21-EL-ATA.
2. For purposes of implementing this Stipulation and in consideration of the Companies' agreement to extend the SSO rate for April and May, 2009, the

Signatory Parties agree that, and request that the Commission find, by March 4, 2009: (i) that the procurement process used to acquire power that resulted in the supply costs incurred for January 1, 2009 through March 31, 2009 was not imprudent, and (ii) that it is not necessary for the Commission to determine whether cost recovery is required to avoid a confiscatory result in order for the Companies to be granted recovery. The Signatory Parties further agree that they will not challenge the recovery or amount of such supply costs for the January 1, 2009 through March 31, 2009 period.

3. The deferral of purchased power costs for CEI, as authorized by the Commission's Finding and Order of January 14, 2009 in Case No. 09-21-EL-ATA (and as further clarified by the Entry Nunc Pro Tunc dated January 29, 2009), will continue for purchased power costs in April and May 2009. All deferred purchased power costs for CEI will accrue carrying charges as set forth below.
4. Purchased power costs deferred for CEI (including accumulated deferred interest) as authorized by the Commission's Finding and Order of January 14, 2009 in Case No. 09-21-EL-ATA and such amounts deferred in April and May, 2009 will accrue carrying charges. The deferrals commencing in January 2009 will accrue carrying charges at a rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes until May 31, 2011 and thereafter at a debt rate as of May 31, 2011 (calculated consistent with the 6.54% composite debt rate for the Companies used in Case No. 07-551-EL-AIR) and without reduction for accumulated deferred income taxes. Such recovery will be charged to all CEI

customers as a non-bypassable rider commencing June 1, 2011 on a service rendered basis. The charge will be the factor necessary to recover the accumulated deferrals over a period not to exceed ten years, and will be adjusted annually, or more frequently if necessary, to attain complete recovery.

5. For the period beginning June 1, 2009 and ending May 31, 2011, retail generation rates will be determined pursuant to the results of a descending-clock format competitive bid process, including any costs associated with administering the procurement process, an adjustment for losses, and costs associated with any necessary contingency process. In the competitive bid process, the Companies will seek to procure, on a slice of system basis, 100% of the aggregate wholesale “full requirements” SSO Supply, which includes energy and capacity, resource adequacy requirements, transmission service and transmission ancillaries, to serve their retail SSO load and special contract load for the period June 1, 2009 through May 31, 2011. The bidding process, including its associated contingency process, shall be conducted by an independent bid manager, CRA International. The Commission may also retain a consultant who, in addition to other duties, may monitor the bidding process, the cost of which will be included and recovered as part of the costs of procurement. The independent bid manager shall establish a bidding schedule in conjunction with the Companies. Bidding will occur for a single 2-year product and the bidding process will not be subject to a load cap for bidders. The Companies’ competitive affiliate, FirstEnergy Solutions Corp., may participate without limitation. As in previous solicitations, suppliers must adhere to the bidding rules and enter into a SSO Supply Agreement with the Companies.

The competitive bid process shall be conducted consistent with the (i) communication protocols, (ii) SSO Supply Agreement, and (iii) competitive bid process bidding rules proposed in the MRO as modified to accord with this Stipulation and as more fully outlined in Attachment A. CRA International will select the winning bidder(s), but the Commission may reject the results within forty-eight (48) hours of the conclusion of the auction based upon a recommendation from the independent bid manager or the Commission's consultant that the auction violated the competitive bidding process rules in such a manner so as to invalidate the auction. Such winning bidder(s) will execute the SSO Supply Agreement.

6. Commencing June 1, 2009, the Commission will have the option of phasing-in generation prices resulting from the competitive bid process described in Section A.5. above to all customers (except to certain governmental aggregation customers consistent with R.C. § 4928.20(I)) in an amount not to exceed, in the aggregate for all three Companies, \$300 million in 2009, \$500 million in 2010, and \$200 million in 2011, provided that the Companies have the ability to finance the additional funds at commercially reasonable rates and terms. Purchased power costs equal to the amounts constituting a phase-in discount will be deferred, as set forth herein, and collected through a rider. For accumulated deferred phase-in amounts, interest shall be deferred on the accumulated deferred balance including accumulated deferred interest until securitization or until June 1, 2011 at the rate of 0.7066 per cent per month and without reduction for accumulated deferred income taxes. Thereafter, until recovery, if the amounts are not

securitized, interest shall be deferred on the unrecovered accumulated deferred balances including accumulated deferred interest at a debt rate as of May 31, 2011 (calculated consistent with the 6.54% composite debt rate for the Companies used in Case No. 07-551-EL-AIR) and without reduction for accumulated deferred income taxes. Recovery of the accumulated phase-in deferrals, including carrying charges, will commence on June 1, 2011 via a non-bypassable charge (except to certain governmental aggregation customers consistent with R.C. § 4928.20(I)) to all customers for that Company or Companies for which phase-in has been authorized. The charge will be the factor necessary to recover the accumulated deferrals over a period not to exceed ten years, and will be adjusted annually, or more frequently if necessary, to attain complete recovery.

7. There shall be no minimum stay for residential and small commercial non-aggregation customers.
8. There shall be no minimum default service rider or standby charges as proposed by the Companies in their ESP filed on July 31, 2008 in Case No. 08-935-EL-SSO. There will be no rate stabilization charges ("RSC") starting June 1, 2009. Unless otherwise noted, all generation rates for the Stipulated ESP period are bypassable and there are no shopping credit caps.
9. Renewable energy resource requirements for the period January 1, 2009 through May 31, 2011 will be met using a separate RFP process to obtain Renewable Energy Credits. A generation rider will be established to recover, on a quarterly basis, the prudently incurred cost of such credits pursuant to R.C. § 4928.64 including the cost of administering the RFP and carrying charges on any un-

recovered balances including accumulated deferred interest. The aforementioned generation rider shall be reconciled quarterly and will be bypassable to a shopping customer consistent with R.C. § 4928.64(E), and the supplier of such shopping customer shall provide the requisite renewable energy resources. Carrying charges shall accrue at a rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes.

10. The Companies agree that for any waiver of the alternative energy resource requirements shall be limited to those waivers identified in R.C. § 4928.64. The Companies further agree not to pursue any waiver of the alternative energy resource requirements other than such waivers set forth in R.C. § 4928.64, including but not limited to the ability to obtain any waiver for “good cause” shown, that may be adopted as a result of Case No. 08-888-EL-ORD.
11. The rate design as proposed by the Companies in the MRO proceeding, Case No. 08-936-EL-SSO applies, modified as follows:
 - i) The average rate increase for the period 2008 to 2009 resulting from the Competitive Bid Process for customers on Rate GT, Private Outdoor Lighting, Traffic Lighting, and Street Lighting rates shall not exceed a percentage in excess of one and one-half times the system average (the “cap”) increase proposed in the Companies’ ESP, by Company. In the determination of the increase that will be subject to the cap, the percentage increase shall include the impact of the distribution rate case, transmission rider changes, and termination of special contracts.

- ii) *Load response* – the ELR (Economic Load Response rider) and OLR (Optional Load Response rider), as proposed in the Companies' ESP, and as modified on Attachment B to this Stipulation, shall be approved;
- iii) *Qualifying Schools* - generation rates from the competitive bid process will be discounted by 8.693% to match the discount process from the distribution rate case;
 - (1) The definition of qualifying schools is provided in Case No. 07-551-EL-AIR, and should also specifically include any new public school district buildings that otherwise would have qualified to participate in the Company's Energy for Education II program as of December 31, 2008.
- iv) Residential generation rates will be modified to reflect the first 500 kWh blocking as proposed in the Companies' ESP.
- v) As a demand response program under R.C. 4928.66, any revenue shortfall resulting from the application of the \$1.95 per kW interruptible credit in the OLR and ELR will be recovered from all customers as part of the non-bypassable demand side management and energy efficiency rider ("DSE");
- vi) Any revenue shortfall resulting from the application of the above modifications (excluding amounts recovered under item v.) shall be recovered from the General Service Secondary and General Service Primary customers on a non-bypassable basis;
- vii) The EDR rider shall be reconciled quarterly and will be determined and allocated per Company per class as proposed in the Companies' ESP. The following EDR credits and the EDR charges arising as a result of those credits,

including the methodology to determine those charges, as proposed in the Companies' ESP, shall be included as part of this Stipulated ESP:

(1) Residential Non-Standard Credit Provision

(2) General Service - Transmission (Rate GT) Provision: provides load factor provisions funded within the schedule by non-bypassable demand charges and non-bypassable energy credits as proposed in the ESP.

(3) Street Lighting and Traffic Lighting if not modified by the "one and a half times" limitation specified above.

viii. The initial allocation of revenue responsibility associated with establishing rates to recover the results of the CBP for Ohio Edison rate schedules Rate GS and Rate GP will be implemented so as to produce a percentage increase, as compared to overall July 2008 rate levels, which is approximately equal for the two schedules.

12. A bypassable Generation Service Uncollectible Rider shall be established to recover reasonably incurred generation uncollectible costs. Such rider, effective April 1, 2009 on a service rendered basis, will initially be set at the average rate of .0403 cents per kWh (composite of all Companies) but shall be reconciled quarterly to reflect actual uncollectible generation costs incurred after December 31, 2008.

13. A non-bypassable Generation Cost Reconciliation True-up rider shall be established to implement reconciliation of seasonal generation cost recovery and to recover the difference between amounts paid to suppliers and amounts actually billed to customers.

14. The Signatory Parties recognize that time is of the essence to successfully conduct a competitive bid for process for power to be delivered June 1, 2009 through May 31, 2011 as contemplated in this Stipulation. Accordingly, the Signatory Parties agree that the competitive bid rules, procedures and protocols set forth herein for use in such competitive bid process are not to be considered binding or precedent for any subsequent competitive bid process of the Companies through an ESP or an MRO. The Companies further agree that prior to filing another ESP that contains a competitive bid process for establishing generation prices or an MRO, they will engage the Signatory Parties hereto in a collaborative process to attempt to reach a consensus on such matters. Such collaborative will commence at least 60 days prior to the filing of any such case.
15. The bid price for winning bidders will be incrementally adjusted to the extent that the MISO rate for Network Integration Transmission Service (NITS), Seams Elimination Cost Adjustment (SECA) or other non-market-based FERC-approved charges change, or are newly approved, and apply to the CBP winning bidder(s) during the period June 1, 2009 through May 31, 2011 pursuant to a FERC order. Retail rates shall automatically adjust through Rider GEN to reflect changes resulting from this paragraph. The Companies shall provide supporting documentation for such changes to the Staff.

B. Distribution

1. Pursuant to this Stipulated ESP, there will be a base distribution rate freeze (subject to riders and other charges provided in the tariffs and subject to the rate increase in Case No. 07-551, et. al. for CEI effective May 1, 2009 as set forth in

the Commission's Opinion and Order dated January 21, 2009), subject to the "significantly excessive earnings test", until December 31, 2011, except in a case of an emergency pursuant to the provisions of R.C. § 4909.16, for new or increased taxes or as otherwise provided in this Stipulated ESP. The Companies are not precluded during this period, however, from implementing changes in rate design that are designed to be revenue neutral or any new service offering, both as approved by the Commission. There will be deferrals and deferral recovery that will continue beyond the termination date of this Stipulated ESP, May 31, 2011.

2. A delivery service improvement rider ("DSI") starting April 1, 2009 on a bills rendered basis and ending December 31, 2011 at a rate of \$.002 per kWh, on average, allocated by Company and rate schedule as set forth in the ESP, is approved for the Companies. The intent of the incentive DSI is to improve the overall performance, including reliability, of the distribution systems. The approval of DSI is in recognition of the Companies' commitments to (i) stabilize distribution rates through December 31, 2011, (ii) write-off in excess of \$200 million of RTC recovery that would have otherwise been available to invest in the business, and (iii) make aggregate capital investments in their distribution systems in Ohio that are at least \$225 million during the period January 1, 2009 through December 31, 2011 in excess of the annual aggregate distribution depreciation expenses of the Companies for 2008 (i.e., approximately \$130 million in aggregate for the Companies), accordingly the total aggregate investment under this (iii) shall be no less than approximately \$615 million over the period January 1, 2009 through December 31, 2011. No later than February 15th of 2010, 2011,

and 2012, the Companies shall provide to the PUCO's Service Monitoring and Enforcement Department Staff ("SMED") an interim report as to the amount of expenditures made by the Companies in the previous calendar year in aggregate across all three Companies for informational purposes to show the progress toward compliance with provision (iii) above. The Companies shall provide SMED evidence that the requirements in (iii) above were met over the period as part of the 2012 submission. Notwithstanding the Companies providing such information to SMED, there will be no annual cost based reviews or requirement that such expenditures are incremental to those in Case No. 07-551-EL-AIR et al., particularly given the status of the state and national economy, the status of the financial and credit markets, and utility sales and cost levels. DSI revenues will not be considered as contribution in aid of construction.

3. During the period January 1, 2009 through December 31, 2011, the Companies, in the aggregate, may defer line extension costs, including post-in-service carrying charges (at the rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes), in an amount representing the difference between (1) what customers would have paid directly for line extension projects under the Companies' proposed line extension program in Case No. 07-551-EL-AIR et al. and (2) the amounts customers are required to pay for line extensions under the Commission's decision in that case or any subsequent order or rule. Interest shall be deferred on the accumulated deferred balances (including accumulated deferred interest): 1) for the period January 1, 2009 through December 31, 2011 at the rate of 0.7066 percent per month and without reduction

for accumulated deferred income taxes; and 2) for the period January 1, 2012 until recovery is complete at a debt rate as of December 31, 2011 (calculated consistent with the 6.54% composite debt rate for the Companies used in Case No. 07-551-EL-AIR) and without reduction for accumulated deferred income taxes. In addition, the Companies may defer any additional amounts that a subsequent order or rule requires to be funded by the Companies for line extensions. Cost recovery for line extension deferrals shall occur over three (3) years commencing January 1, 2012.

4. A rider shall be approved to recover reasonably incurred deferrals for distribution uncollectible expenses incurred subsequent to December 31, 2008 (including uncollectible expenses for RTC rates) in excess of those provided for in Case No 07-551-EL-AIR. Carrying charges on the deferred balances (including accumulated deferred interest) shall be approved at a rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes and the new non-bypassable distribution rider will be created and adjusted quarterly to recover this deferral, beginning April 1, 2009.
5. The Companies will not be authorized to recover the incremental costs related to hurricane Ike damage.
6. The calculation of the return on equity for the "significantly excessive earnings test" shall specifically exclude the impact: (i) associated with the write-off of regulatory assets due to implementing the Stipulated ESP; (ii) resulting from revenues associated with DSI; (iii) of a reduction in equity resulting from any write-off of goodwill; and (iv) of deferred carrying charges. The significantly

excessive earnings test applicable to plans greater than three years and set forth in R.C. § 4928.143(E) is not applicable to this two-year Stipulated ESP.

7. Customers have received the benefit of service rendered in prior periods, but the costs associated with those benefits, or portions thereof, have been deferred for future recovery with Commission approval. The recovery of certain of such deferred balances is provided for in this section of the Stipulated ESP. A Deferred Distribution Cost Recovery Rider shall be established to recover the following: 1) the post-May 31, 2007, unrecovered actual balances of distribution costs deferred under the Rate Certainty Plan (Case No. 05-1125-EL-ATA); 2) the post-May 31, 2007 unrecovered actual balances of deferred transition taxes under the Electric Transition Plan (Case No. 99-1212-EL-ETP); and 3) the post-May 31, 2007 unrecovered actual balances of line extension deferrals pursuant to Case No. 01-2708-EL-COI.¹ The Deferred Distribution Cost Recovery Rider shall be effective January 1, 2011 on a service rendered basis. Interest shall be deferred on the accumulated deferred balances (including accumulated deferred interest): 1) for the period January 1, 2009 through December 31, 2010 at the rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes; and 2) for the period January 1, 2011 until recovery is complete at a debt rate as of December 31, 2010 (calculated consistent with the 6.54% composite debt rate for the Companies used in Case No. 07-551-EL-AIR) and without reduction for accumulated deferred income taxes. The Deferred Distribution Cost Recovery

¹ May 31, 2007 was the date certain in the Companies' distribution base rate case in Case No. 07-551-EL-AIR.

Rider shall be non-bypassable with the rates for such recovery as set forth on Attachment C.

8. A revised Rider SDC tariff will be filed by the Companies to reflect that the definition proposed in Section A.11.iii.(1) above will also apply to the Schools qualifying for the 8.693% distribution discount.

C. Transmission

1. For the period January 1, 2009 through May 31, 2009, costs for transmission service will be recovered through the applicable transmission riders in effect during this period. For the period June 1, 2009 through May 31, 2011, transmission, as proposed in the Companies' MRO, will be part of the product that is obtained through the competitive bid process. Except for reconciliation, the transmission rider will be set at zero for the period of June 1, 2009 through May 31, 2011.
2. Pursuant to its Finding and Order in Case No. 04-1931-EL-AAM, the Commission permitted the Companies to defer certain incremental transmission and ancillary service-related charges, with recovery of such deferrals authorized in Case No. 04-1932-EL-ATA. Under the Stipulated ESP, recovery of such deferrals will commence April 1, 2009 and end December 31, 2010, pursuant to a non-bypassable Deferred Transmission Costs Recovery Rider, the calculation and structure of which will be similar in all material respects to that approved by the Commission for Rider TAS.

D. CEI RTC provisions

1. 50% of the Extended RTC balance as of May 31, 2009 shall be written off (amount of write off is approximately \$215 million);
2. Recovery of the remaining RTC balance and Extended RTC balance is modified from the process included in the Rate Certainty Plan as follows:
 - i) The RTC rate and residential rate credits currently in effect remain in effect for service rendered until May 31, 2009;
 - ii) The RTC rate and residential rate credits for the remainder of 2009 and 2010 will be the levelized amount necessary to recover any remaining RTC balance, as well as the remaining Extended RTC balance, with carrying charges at 0.7066 percent per month and without reduction for accumulated deferred income taxes. The rates that will be charged are shown on Attachment D and reflect the impact of the write-off. This rate will initially recover any remaining RTC balance.
 - iii) Upon the termination of CEI's RTC, any phase-in reduction authorized by the Commission for CEI pursuant to paragraph A.6. above then in effect shall be decreased and the phased-in generation charge shall be increased both in an amount equal to the RTC reduction.
3. After full recovery of RTC and Extended RTC balances, any additional amounts collected through the RTC charge shall be applied to reduce the purchased power deferrals that arose for CEI during the January 1, 2009 - May 31, 2009 period.

E. Energy Efficiency/Demand Response, AMI & Smart Grid

1. There will be no Company-funded energy efficiency and AMI programs as part of this Stipulated ESP .

2. The Demand Side Management and Energy Efficiency rider (as proposed in the Companies' ESP excluding smart grid) will recover costs reasonably incurred by the Companies associated with energy efficiency, peak load reduction and demand side management programs, including program administration costs and recovery of lost distribution revenues as permitted by the Commission rules, resulting from implementation of such programs and any unrecovered DSM program costs from the Rate Certainty Plan. Costs incurred associated with programs recommended by a collaborative process and approved by the Commission shall be deemed to be reasonable. The Demand Side Management and Energy Efficiency rider will be non-bypassable and will continue after May 31, 2011 to the extent such rider is necessary to recover energy efficiency and peak load reduction program costs. The Demand Side Management and Energy Efficiency rider will be implemented as proposed in the Companies' ESP, excluding smart grid; provided, however, that the allocation of costs will be on a rate schedule/class specific basis or as otherwise recommended as part of the energy efficiency collaborative, except for the \$1.95 kW interruptible credit, which will be allocated as described in Section A.11.v., above.
3. The Companies will develop a proposal to pursue federal funds available under the Economic Recovery Act that may be available for smart grid investment. The Companies will work with Staff and Signatory Parties to expeditiously develop and seek Commission approval of tariffs for customers that include critical peak, time of day and real time pricing and consideration of including a load factor provision (i.e. a demand charge and energy credit to the kWh charge) for Rate

GSU and Rate GP. The recovery for smart grid investment shall be through a non-bypassable rider; any under or over-recovery of costs by the Companies due to time-differentiated rate structures shall also be passed through a non-bypassable rider applicable to all customers, allocated on a voltage differentiated basis, and reconciled quarterly; any load factor pricing provisions implemented for either Rate GSU or Rate GP shall be funded within the specific rate schedule by non-bypassable demand charges and non-bypassable energy credits and shall be consistent with the Additional Provisions of Section (d) of Rider EDR, and reconciled quarterly.

4. The Companies agree that upon Commission approval of this Stipulation and the Companies' acceptance thereof, that they will withdraw any application for rehearing related to the requirement imposed by the Commission in the Opinion and Order in Case No. 07-551-EL-AIR that the Community Connections program be continued and funded at the level of \$5 million annually. So long as the Companies fully recover all costs associated with such funding, the Companies commit to continuing funding for the program at the level approved by the Commission in Case No. 07-551-EL-AIR until new distribution rates are implemented as a result of a subsequent application to increase distribution rates or until the date an extension of the distribution rate freeze authorized in Section B.1. above goes into effect, whichever is earlier. Ohio Partners for Affordable Energy shall remain manager of the program and shall be paid out of the commitment above an administrative fee equal to 3% of the program funding payable annually on the first day of the program year.

5. During the term of the Stipulated ESP, the Companies will work with the City of Cleveland to identify energy efficiency programs for government facilities taking distribution service from CEI so that such programs can be recommended to the collaborative process under the EEPD Program for approval.
6. Energy Efficiency Collaborative
 - a. R.C. § 4928.66 requires the Companies beginning in 2009 to implement energy efficiency and peak demand reduction programs that achieve proscribed energy savings and peak demand reductions. Energy efficiency and peak demand reduction is an important objective that draws interest and input from a wide-ranging and diverse group of stakeholders. Thus, it is essential that any programs pursued to ensure that the Companies meet their statutory requirements, are based on sound program evaluation, garner general support from stakeholders, and are pre-approved for statutory compliance and cost recovery from the Commission. The Companies' Stipulated ESP provides the following Energy Efficiency and Peak Demand Program for the period 2009 through 2011 ("EEPD Program").
 - b. The Companies EEPD Program will begin with a market study to be conducted on or before September 1, 2009 that will identify potential residential, small commercial and industrial energy efficiency and peak demand reduction opportunities within the Companies' respective service areas (the "Market Study"). The Companies will accept input from

Signatory Parties² for purposes of the Market Study and provide a copy of the Market Study, upon request, to the Signatory Parties hereto.

- c. The Companies will commence a collaborative process with Signatory Parties and third party administrator(s) to consider the energy efficiency and peak demand reduction opportunities identified in the Market Study and establish priorities which will offer the greatest potential for energy efficiency and peak demand reductions satisfying the requirements of R.C. § 4928.66 in a cost effective (as defined by the Commission's Total Resource Cost Test, or as otherwise deemed appropriate. The Companies will seek approval of such programs they deem most cost effective and necessary to meet the statutory requirements. The fact that some Proposed Programs do not meet the Total Resource Cost Test (e.g. low-income and education) shall not be used to deny the request for recovery of expended program costs. Signatory Parties will have the opportunity through the collaborative process to recommend additional or alternative energy efficiency and peak demand reduction programs.
- d. Based on input from the collaborative process, the Companies will select the energy efficiency and peak demand reduction programs that will be implemented for each year of the EEPD Program (the "Proposed Programs").
- e. The Companies will propose an independent third-party administrator(s) to establish measurement and verification protocols to ascertain whether the Proposed Programs have achieved the desired impact and deemed

² For purposes of this Section E.6, Signatory Parties shall include the Cleveland Clinic.

savings ("M&V Consultant"). The cost of such M&V Consultant shall not exceed 5% of total program costs. The M&V Consultant will also verify and submit the results achieved from completed programs to the Commission.

- f. The Companies will request Commission approval of the Proposed Programs to confirm that the Proposed Programs meet the requirements of, and may be used by, the Companies to comply with R.C. § 4928.66. The request for approval shall include recovery by class/rate schedule, unless an alternative cost allocation process is recommended by the collaborative process, through the appropriate rider of all reasonably incurred costs associated with the EEPD Program of said class or rate schedule. The third party administrator(s) will design and implement the Proposed Programs upon Commission approval.
- g. Any and all over compliance with R.C. § 4928.66 in any calendar year or years will not be counted toward such calendar year, but rather counted and applied to the subsequent calendar year. Accordingly, any such over compliance will not reduce the baseline usage and/or demand.
- h. The Companies and Signatory Parties agree, and request that the Commission find, that the costs associated with the EEPD Program including without limitation, the reasonably incurred costs of (i) retaining third party administrator(s) upon commercially reasonable terms and conditions, (ii) designing and implementing the Proposed Programs, (iii) conducting the Market Study, (iv) the M&V Consultant, and (v)

maintaining and auditing the Proposed Programs, are reasonable and are approved for recovery by the Companies by class/rate schedule through the Demand Side Management and Energy Efficiency rider (as proposed in the ESP) ("DSE rider") for recovery of class/rate schedule specific expenses, unless an alternative cost allocation process is recommended by the collaborative process. All reasonably incurred costs associated with the EEPD Program shall be fully recovered.

- i. Administrator(s) may be assigned specific programs, class of customers or be otherwise directed to accomplish the goals of the programs.

- i. Among other classes and/or programs, the Companies agree to use the following administrators, provided that such administrators commit to a reasonable level of energy efficiency and peak demand reductions on behalf of their members; agree to a reasonable administration fee; and agree to track and provide documentation evidencing the incremental energy reduction and actual kWh savings achieved from the Proposed Programs.

- 1. Ohio Schools Council will serve as administrator for the class of customers comprising public school districts in the service territories of the Companies.

- 2. Ohio Hospital Association will serve as administrator for the class of customers comprising hospitals in the service territories of the Companies.

3. Council of Smaller Enterprises ("COSE") will serve as administrator for the class of customers comprising small business customers in the service territories of the Companies.
4. Such other administrator(s) the Companies shall select from time to time, which shall not exclude the Companies as an administrator to any or all customer classes.
 - ii. The administration fee is subject to and limited to the amount the Commission shall authorize for recovery through the DSE rider.
- j. The Companies may elect, in their sole discretion, to terminate any energy efficiency program, which the Companies determine has failed to produce a reasonable annual incremental energy reduction at a reasonable cost. The Companies will replace such terminated programs with such other alternative programs, first utilizing other Commission-approved alternative programs to the extent available. Such termination shall not be used to deny recovery of expended program costs.
- k. The Companies will provide the third party administrator(s) with all necessary customer billing load and other data subject to confidentiality requirements and customer authorization to the extent required.
- l. The EEPD Program, including the use of third party administrator(s), may be extended at the discretion of the Companies beyond 2011 and through 2013, if the Companies determine that the collaborative process and the programs implemented are appropriate means to meet the requirements of

R.C. § 4928.66 in a cost effective and efficient manner, and the Signatory Parties participating in the collaborative agree.

- m. Customers that commit their demand-response or other customer-sited capabilities, whether existing or new, for integration into the Companies' demand response or energy efficiency programs, may be exempt, with Commission approval, from the Companies' cost recovery mechanisms designed to recover the cost of such programs ("Exempt Customers").
- n. Lost distribution revenues associated with the energy efficiency programs, including demand response programs shall be recovered from all customers based on the allocation of distribution revenues approved in Case No. 07-551, et. al. for a period not to exceed the earlier of the Companies' effective date of the Companies next base distribution case, or six years from the effective date of this Stipulated ESP. Lost distribution revenues recovered will be distribution lost revenues for new (not existing) programs started after January 1, 2009.
- o. Mercantile Customers:
 - i. Mercantile customers that commit all or some of the results from their self-directed demand-response, energy efficiency or other customer-sited capabilities, whether existing or new, for use by the Companies to achieve targets contained in SB 221, may seek exemption from the Companies' DSE Rider designed to recover the costs of programs created to meet the energy savings and peak demand reduction benchmarks set forth in division (A)(1)(a) and

(b) of the above referenced statute. The Companies will work cooperatively with those mercantile customers to develop all of the necessary details to include in the applications and to file the joint applications with the Commission seeking approval of the exemption. Mercantile customers may utilize the M&V Consultant to perform any measurement and verification required by the Companies.

- ii. Mercantile customers may receive their electric supply from the Companies or a CRES provider.
- iii. An applicant customer must demonstrate to the Commission that it has undertaken or will undertake self-directed energy efficiency and/or demand reduction programs that have produced or will produce annual percentage energy savings and/or peak demand reductions equal to or greater than the statutory benchmarks to which the Companies are subject.
- iv. The energy savings and demand reductions resulting from the customer's self-directed program shall be calculated using the same methodology used to calculate the Companies' energy savings and demand reductions for purposes of determining compliance with the statutory benchmarks, including normalization adjustments to the baseline, where appropriate. Annual savings and/or reductions attributable to self-directed

customer programs implemented prior to January 1, 2006 shall not be included in the calculation.

- v. As part of the application, applicant customers shall provide a calculation of the customer baseline and independent measurement and verification of the level of energy savings and demand reduction achieved or anticipated, and, to retain the exemption, shall, thereafter, on an annual basis, make a filing with the Commission demonstrating that it remains eligible for the exemption under the criteria set forth herein.
- vi. The parties recommend that achievement of energy savings and demand reductions from customers self-directed programs implemented after January 1, 2006 above the benchmarks and baseline for energy efficiency pursuant to R.C. § 4928.66 shall be allowed to carry over the increment above the current year benchmark to meet subsequent two years' benchmarks.
- vii. The application for exemption shall include proposed consequences for the customers' failure to achieve the energy savings and/or demand reductions claimed in the application.
- viii. Applicant customers may seek confidential treatment of materials provided in support of the application, including, but not limited to, customer names, price, and trade secret(s).

F. Economic Development and Job Retention

1. During the period April 1, 2009 through December 31, 2011, the Companies will contribute, in the aggregate, \$25 million to support economic development and job retention activities within their service areas. The Companies agree not to seek recovery of such amounts. Such contribution shall not be used to fund special contracts and/or reasonable arrangements filed with the Commission. Of the total \$25 million amount: i) at least \$7.5 million will be made available for projects identified by Ohio Manufacturers' Association; ii) \$1 million dollars will be made available to Ohio Partners for Affordable Energy for its Community Connections program or the fuel fund; iii) at least \$500,000 will be made available to the City of Cleveland for economic development and job development activities, at least \$500,000 will be made available to the City of Akron for economic development and job development activities, and at least \$500,000 to other municipalities within the Companies' service territories which are provided electric distribution service by the Companies for economic development and job development activities.
2. As proposed in the Companies' ESP, Reasonable Arrangements and the Delta Revenue Recovery riders will be established and applied on a non-bypassable basis. The Reasonable Arrangements rider and Delta Revenue Recovery rider will continue after May 31, 2011 to the extent such riders are necessary to provide tariff discounts and to recover delta revenues for contracts approved by the Commission after January 1, 2009. The Delta Revenue Recovery rider will be determined and allocated per Company per class as proposed in the Companies' ESP. The Delta Revenue Recovery rider will initially be set at zero and will be

updated and reconciled quarterly. Special contracts will be reviewed by the Commission on a case by case basis for inclusion in the above riders.

3. A separate non-bypassable delta revenue rider for existing CEI contracts will be established effective April 1, 2009 for 100% of the delta revenue associated with CEI's special contracts that are presently in place and continue past December 31, 2008. These charges will be recovered only from CEI's customers.

G. Other Issues

1. At the Companies' option, generation-related and distribution-related deferrals and carrying charges may be securitized and recovered provided that such securitization has lower future costs for customers as compared to a deferral with carrying charges as provided in Section A.6. In either case, the recovery may not exceed ten years and would be non-bypassable. As part of the Companies' securitization option, the accumulated balance of deferred generation and distribution costs, together with the associated carrying charges and the related securitization transaction costs, may be securitized pursuant to R.C. § 4928.143(B)(2)(f) and § 4928.144 and recovered over the period that the securitization bonds are repaid. The amounts securitized shall be recovered through a non-bypassable deferred generation or distribution cost rider to be paid by existing and future customers receiving service from the Companies except in the case of certain governmental aggregation customers as provided for in R.C. § 4928.20(I). If the Companies elect to securitize, the Commission shall make such changes in the rate over the period of the securitization to assure full recovery of

the principal and interest on such securitized funds. If the Companies exercise the option to securitize deferrals, the net savings will be passed on to customers.

2. Recovery of the 2006 and 2007 deferred fuel expense and associated carrying charge is currently pending before the Commission in Case No. 08-124-EL-ATA *et seq.* As part of this Stipulated ESP, the Companies will establish a non-bypassable rider to recover \$10 million less than the December 31, 2008 balance of deferred fuel costs including carrying charges. Effective January 1, 2008, carrying charges on deferrals (including accumulated deferred interest) will accrue at a rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes until December 31, 2010, and thereafter, at a debt rate as of December 31, 2010 (calculated consistent with to the 6.54% composite debt rate for the Companies used in Case No. 07-551-EL-AIR) and without reduction for accumulated deferred income taxes. The new non-bypassable rider will be created to collect the fuel deferrals with recovery to begin in January 1, 2011 on a service rendered basis for a period of 25 years.
3. The Companies will continue to offer the Green Resource program - for Type I renewable resources per Case No. 06-1112-EL-UNC - which offers customers an opportunity to purchase a specific number of Renewable Energy Certificates (RECs) on a monthly basis.
4. In order to provide for recovery of reasonably incurred uncollectible expenses associated with customers joining the PIPP program and PIPP customers to the extent such expense is incurred by the Companies and not otherwise reimbursed as a result of modification of state policy on or after July 31, 2008, a non-

bypassable PIPP Uncollectible Rider shall be established to recover such expenses. Such rider, applicable to all customers effective April 1, 2009 on a service rendered basis initially set at zero, shall be updated and reconciled on a quarterly basis. Carrying charges on the deferred balances (including accumulated deferred interest) shall accrue at a rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes.

5. Purchased power is considered fuel for the purposes of cost recovery.
6. The Signatory Parties agree and recommend the Commission determine that the provisions set forth in Section I of this Stipulated ESP are more favorable in the aggregate than the expected outcome of a market rate offer over the April – May 2009 timeframe, based upon, *inter alia*, the Companies' willingness to commit to stable and predictable generation prices during the April – May 2009 period to the benefit of customers and the economy in Ohio, the beneficial impacts on customers from the rate mitigation aspects of such provisions, and providing the Commission the opportunity to consider the remaining provisions of this Stipulated ESP.
7. This Stipulated ESP is more favorable in the aggregate to customers as compared to the expected results that would otherwise occur under an MRO alternative and represents a serious compromise of complex issues and involves substantial customer benefits that would not otherwise have been achievable. Through combining more certain rate levels and timely recovery of all amounts authorized by the Commission to be collected through rate components and deferral of cost recovery, this Stipulated ESP provides electric service at more predictable prices

for an extended period, which would not have been available otherwise, all of which is critical to the economy of Ohio and the well-being of Ohioans. Rates provided in this Stipulated ESP essentially assure customers of level prices through the periods covered by the different aspects of this Stipulated ESP.

8. Environmental Information Services Generation Attribute Tracking System ("GATS")

i. The Companies will designate PJM – GATS as the registry to handle creation, issuance and transfer functions needed to be performed to facilitate compliance with renewables, energy efficiency and demand response requirements of SB221.

ii. In order to maximize the opportunities for Ohio-based RECs, the Signatory Parties recommend that the Commission approve a process, including any application form, to enable receipt of such RECs as soon as reasonably possible.

H. Compliance with Commission Rules

1. If this Stipulated ESP is inconsistent with the Commission's rules in effect, the Companies request waivers to the extent deemed necessary, and the Commission's approval of this Stipulated ESP shall constitute a waiver of any Commission rule that is inconsistent with or in conflict with the provisions of this Stipulated ESP .

I. Interim Provisions

1. In recognition of the limited time period in which present circumstances allow the Commission to act on the Application, coupled with the fact that the Companies do not own generation nor do they have wholesale power arrangements that

extend beyond March 31, 2009, the Commission must authorize certain provisions of this Stipulated ESP by March 4, 2009 or this Stipulated ESP may be rendered null and void and the Application filed with this Stipulation may be considered withdrawn consistent with Section J, below. These provisions include:

- i) Section A.1., A.2., A.3., A.4., A.12;
- ii. Upon the approval of Section I.1., paragraph v., of the Stipulation (Interruptible Buy Through arrangements for the period prior to June 1, 2009), the Signatory Parties agree to withdraw with prejudice for themselves and on behalf of their clients all cases pending at the Commission, and hereby release any claims and agree not to file new complaint cases, regarding contract termination dates, interruptible protocols and other similar issues related to special contracts or interruptible protocols applied prior to June 1, 2009. The Companies agree to implement the provisions of Section I.1., paragraph v., of the Stipulation (Interruptible Buy Through arrangements for the period prior to June 1, 2009) immediately upon Commission approval and not to modify the procedure or its application for service prior to June 1, 2009. Any person choosing to file such a complaint shall lose all benefits otherwise available under the Stipulated ESP;
- iii. If the Commission approves Section I.1., paragraph v. of the Stipulation (Interruptible Buy Through arrangements for the period prior to June 1, 2009) and these provisions are fully implemented by the Companies, the Signatory Parties agree, and request that the Commission find, that the procedures and the protocols the Companies adopted and implemented for the period January 1, 2009 through May 31, 2009 to call for interruptible buy through events and economic interruptions

are reasonable and consistent with the scope and terms of the Companies'

interruptible protocols generally;

- iv. The Signatory Parties agree, and request that the Commission find, that all special contracts terminate(d) on the applicable specific dates set forth in the RCP Stipulation approved by the Commission in Case No. 05-1125-EL-ATA et seq., and that no previous extension of termination dates for special contracts or RTC charges may be interpreted or relied upon to extend the termination dates of special contracts beyond the applicable dates set forth in the RCP Stipulation cited above because, *inter alia*, the rate plan provided for a specific termination date for each such contract;

- v. Interruptible Buy Through arrangements for the period prior to June 1, 2009.

- 1. This provision applies to customers served on interruptible contracts as of February 1, 2008, which contracts have since terminated. Effective for bills rendered from April 1, 2009 through May 31, 2009, these customers may elect to return load to interruptible service as of April 1, 2009, subject to the following provisions:

- i. The electing customer continues to be served on the same rate schedule for April and May on which it is served as of the date the Commission approves the Stipulation as set forth in Section I, expected to be March 4, 2009, as long as its load characteristics qualify it for such schedule, and such schedules will be modified to accommodate and bill the interruptible credit described below.

- ii. In addition to the terms and rates in that rate schedule, the customer may elect to specify the amount of load to be included as firm load, but such amount shall not result in an amount of interruptible load for that customer in excess of that in effect as of February 1, 2008.
- iii. Interruptible load is fully interruptible without limitation in an emergency situation, as described in Rider OLR as proposed by the Companies in the ESP; failure to comply will result in termination of the customer's inclusion in this program, and will preclude the customer's future participation in the Companies' interruptible service programs.
- iv. An interruptible credit of \$10/kW will apply to the interruptible load calculated as described in the third paragraph of Attachment B to the Stipulated ESP.
- v. The interruptible load is subject to Economic Buy Through events as described in the second paragraph of Attachment B to the Stipulated ESP.
- vi. During Economic Buy Through events, customers shall elect to either:
 - 1. buy through the interruption by paying to the EDU the MISO day ahead price per kWh for the designated hours plus 10%,
or
 - 2. reduce load to their firm load level.

- vii. Only the amount of generation revenue collected from customers billed under the interruptible credit and Buy Through load provisions set forth herein will be reflected in the Rider FUEL reconciliation procedure.
- 2. This provision applies as of the date the Commission approves the Stipulation as set forth in Section I, expected to be March 4, 2009 to customers served: 1) on OE and TE interruptible tariffs as of February 1, 2008; and 2) on continuing CEI interruptible contracts, is effective for bills rendered beginning on March 4, 2009 and shall apply to service under those tariffs through May 31, 2009, subject to the following provisions:
 - i. The second paragraph of Attachment B to the Stipulation will be the applicable standard for an Economic Buy Through Event.
 - ii. During Economic Buy Through Events, customers shall elect to either:
 - 1. buy through the interruption by paying to the Company the MISO day ahead price per kWh for the designated hours plus 10%, or
 - 2. reduce load to their firm load level.
 - iii. Only the amount of generation revenue collected from customers billed under the Buy Through load provision set forth herein will be reflected in the Rider FUEL reconciliation procedure.

- iv. Buythrough arrangements specified herein shall replace in their entirety all other buythrough arrangements in such tariffs or contracts, except as provided in 2.v. below, and such tariffs and contracts will be amended hereby under the Commission's continuing jurisdiction to reflect that change.
 - v. Any contract customer whose contract is impacted by section 2.iv. above may maintain the economic buythrough terms of its current contract by providing written notice to that effect to its respective Company by April 1, 2009.
 - vi. No new incremental interruptible credits apply since the respective contract or tariff under which the customer takes service already contains provisions for the economic value of this service;
- vi. Additional arrangements for the period April 1, 2009 through May 31, 2009.
- 1. This provision applies to domestic automaker facilities that use more than 50 million kWhs annually at a single site and are SSO customers of the Companies. For each site of a domestic automaker that uses more than 50 million kWhs annually, the generation price will be 5 cents/kWh for the April 1, 2009 through May 31, 2009 period. The existing RSC charge will continue to be charged to these customers with the balance of the 5 cent/kWh generation price allocated to the generation component and Rider FUEL. Only the amount of generation revenue collected from customers billed under this arrangement will be reflected in the Rider FUEL reconciliation procedure; and,

- vii. Nothing impacting the April 1, 2009 – May 31, 2009 period set forth above modifies the existing rate plan shopping credit structure, including the shopping credit cap, for this period.

J. Governmental Aggregation.

1. For every kWh of energy that a Governmental Aggregation Generation Supplier (“GAGS”) delivers to a governmental aggregation customer of a governmental aggregation group that elects to phase-in, such customer will be entitled to receive a phase-in credit (“GAGS Phase-In Generation Credit”) in an amount equal to the \$/kWh phase-in credit approved by the PUCO for the Company’s(ies’) SSO customers for the period of the Stipulated ESP.
2. For every kWh of energy that a GAGS delivers to a governmental aggregation customer, the GAGS will be granted, subject to Paragraph 2.ii. of this Section J below, the right to receive from the Company(ies) a deferred amount equal to the GAGS Phase-In Generation Credit received by the aggregation customer as described in Paragraph 1. of this Section J. above, plus carrying charges. These deferred amounts plus carrying charges hereafter are referred to as GAGS Deferred Costs.
 - i. The accumulated balance of such accrued and unpaid GAGS Deferred Cost amounts will accrue a carrying charge (“GAGS Deferral Carry Rate”) at a monthly interest rate that will equal the rate approved by the PUCO as the appropriate carrying charge for the Company’s(ies’) unrecovered deferred amounts related to the phase-in of generation prices.

ii. The GAGS's right to collect and receive such accrued and unpaid GAGS Deferred Cost amounts shall be based upon the Commission authorization for the Company(ies) to collect and book such GAGS Phase-In Generation Credit and to add carrying charges, and further limited to the amounts actually collected by the Company(ies) from customers. The mechanics for exercising these rights shall be contained in the supplier agreement to be executed between the GAGS and the Company(ies); these rights shall include the GAGS's right to collect and receive such accrued and unpaid GAGS Deferred Cost amounts from the Company(ies) and from their successors consistent with this Paragraph 2.ii. of this Section J.

iii. Subject to Paragraph 2.ii. of this Section J., the GAGS's right to receive the accrued GAGS Deferred Cost amounts for each kWh of energy delivered to aggregation customers as described above will not be affected or constrained by the GAGS's future performance of any particular term or volume of energy.

3. The GAGS will have a unilateral right to a one time assignment to a single party of its right to collect and receive the accrued GAGS Deferred Cost amounts from the Company(ies) without their prior consent, the Commission's consent, or the consent of any other party or state or governmental entity.

4. The Company(ies) must use commercially reasonable efforts to promptly enter into an agreement with the GAGS that wishes to provide a deferral per the terms proposed herein.

5. The Company(ies) are authorized by the Commission to charge, collect and receive from all customers in governmental aggregation communities, except those communities that have elected not to phase-in pursuant to Paragraph 1. of this Section J, the accrued GAGS Deferred Cost amounts that are to be paid to the GAGS pursuant to this Section J. above through the rider provided for in Section A.6. of this Stipulated ESP.

- i. The Company's(ies') obligation to pay the GAGS the accrued GAGS Deferred Cost amounts, together with the accumulated balance of the Company's(ies') respective deferred costs, shall be regulatory assets of the Company(ies) associated with the phase-in of the generation price, plus carrying charges and any other costs related to recovery of the phase-in amounts.
- ii. The Company(ies) shall recover the accrued deferred cost amounts associated with the regulatory assets including carrying charges described in Paragraph 5.i. of this Section J. above, through a Commission approved deferral recovery rider. The deferral recovery rider shall be non-bypassable regardless of the identity of the current or future energy supplier.

K. Procedural Aspects

In the event the Commission does not approve certain provisions of this Stipulated Electric Security Plan (the "Stipulated ESP") as filed by the Companies, as more fully described in the Section I above, by March 4, 2009, then the Companies may render this Stipulation and Stipulated ESP null and void and the Application filed with this Stipulation shall be considered withdrawn by filing a written notice with the Commission by March 13, 2009. In the event the Commission does not approve this Stipulated ESP as filed by the Companies by March 25, 2009, then the Companies may render this Stipulation and Stipulated ESP null and void and the Application filed with this Stipulation shall be considered withdrawn by filing a written notice with the Commission by April 8, 2009, provided however that those provisions in Section I previously approved by the Commission in this proceeding shall remain in full force and effect. However, the Companies may, at their sole discretion, extend either or both of the March 4 date and the March 25 date by no more than seven (7) days with written notice to the Commission.

The Amended Application and Stipulated ESP is presented, collectively, by all three Companies and its offer is conditioned on its acceptance in its totality with all of its provisions and accepted for all three Companies.

The term of this Stipulated ESP is April 1, 2009 to May 31, 2011. The duration of this Stipulated ESP (including for purposes of determining the applicability of R.C. § 4928.143(E) and for purposes of the Companies commitments in Section A.10.) is the period during which the standard service offer provided by it is in effect, i.e., through May 31, 2011, which will be the termination date, except that certain provisions will

continue after May 31, 2011 to the extent such provisions are necessary to carry out the terms and conditions of the Stipulated ESP. The Signatory Parties request that the Commission take administrative notice of the evidentiary records established in the Market Rate Offer ("MRO"), Case No. 08-936-EL-SSO, Case No. 08-124-EL-ATA, et. al., and Case No. 09-21-EL-ATA, et. al., and thereby incorporate by reference those records for the purposes of and use in this proceeding.

To the extent necessary, the terms and conditions of this Stipulated ESP may require Federal Energy Regulatory Commission ("FERC") approval or a general affiliate waiver. The Stipulated ESP is conditioned upon all necessary FERC approvals to carry out the terms and conditions of matters set forth herein and FirstEnergy Solutions Corp. being able to provide power as contemplated by paragraph A.1 hereof, effectively participate in the competitive bid process as contemplated by paragraph A.5 hereof, and become a Signatory Party to this Stipulated ESP. Any Signatory Party, excluding Staff, to this Agreement shall withdraw any request for rehearing or clarification in FERC Docket Nos. ER09-134-000 et. al.

This Stipulation, except for Section I above, is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, and except as otherwise provided herein, nor is it to be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. The agreement of the Signatory Parties reflected in this document is expressly conditioned upon its acceptance in its entirety and without alteration by the Commission. Notwithstanding anything herein to the contrary, the Companies have the right to withdraw and terminate the Amended Application and the Stipulated ESP if the Commission or any court of

competent jurisdiction, rejects all or any part of the Stipulated ESP or otherwise modifies its terms or provisions. The Signatory Parties agree that if the Commission or any court of competent jurisdiction rejects all or any material part of this Stipulation, or otherwise materially modifies its terms, any adversely affected Signatory Party shall have the right to file an application for rehearing or a motion for reconsideration. If such application or motion is filed, and if the Commission or court does not, on rehearing or reconsideration, accept the Stipulation without material modification within 45 days of the filing of such motion, then anytime thereafter the adversely affected Signatory Party may terminate its Signatory Party status without penalty or cost and regain its rights as a non-Signatory Party as if it had never executed the Stipulation by filing a notice with the Commission and the other Signatory Parties. The provisions of this Paragraph do not impair the right of the Companies to withdraw and terminate the Stipulated ESP at any time prior to approval of the Amended Application and Stipulated ESP by the Commission.

Unless the Signatory Party exercises its right to terminate its Signatory Party status as described above, each Signatory Party agrees to and will support the reasonableness of the Stipulated ESP and this Stipulation before the Commission, and to cause its counsel to do the same, and in any appeal from the Commission's adoption and/or enforcement of the Stipulated ESP and this Stipulation. The Signatory Parties also agree to urge the Commission to accept and approve the terms hereof as promptly as possible.


IN WITNESS WHEREOF, this Stipulation and Recommendation has been signed by the authorized agents of the undersigned Parties as of this 18th day of February, 2009. The undersigned Parties respectfully request the Commission to issue its Opinion and

Order approving and adopting the Stipulated ESP as set forth in this Stipulation. The Stipulation will be held open for additional interveners and parties to sign on as Signatory Parties until the issuance of an Order by the Commission.


Staff of the Public Utilities
Commission of Ohio

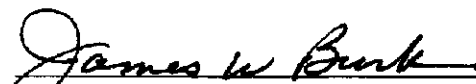

Industrial Energy Users - Ohio

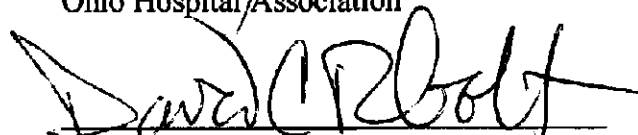

Ohio Edison Company


 / per email authentication 2/19/09
Ohio Energy Group TMM



The Toledo Edison Company



Ohio Hospital Association



The Cleveland Electric
Illuminating Company


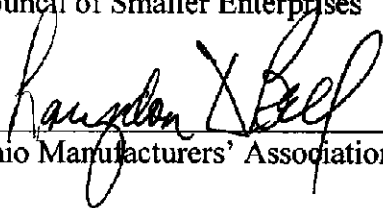

Ohio Partners for Affordable Energy

 / per email authentication
City of Akron 2/19/09 gTMM


Ohio Schools Council

 / per telephone authentication
Nucor Steel, Marion, Inc. 2/19/09
gTMM




City of Cleveland



Council of Smaller Enterprises

Ohio Manufacturers' Association



Material Sciences Corporation


Kroger Company
general at kroger 2/14/09
JTPM

NON Supporting /
Signing as ^{non}non-opposing parties:


Constellation New Energy, Inc.



Constellation Energy Commodities Group, Inc.


Intosys Energy Services, Inc.

Attachment A

Overall changes will need to be made to documents proposed for use in the Companies' MRO including the Master SSO Supply Agreement, Competitive Bidding Process Rules and Communication Protocols, to conform them to the language contained in the Stipulation and to reflect that the requirements of R.C. § 4928.142 shall not apply to the bidding process.

Specific modifications will need to be made to the SSO Supplier Master Agreement as follows:

Article 6 – Creditworthiness

In recognition of the current credit markets and financial conditions, including liquidity constraints, the Companies are modifying and relaxing credit requirements to increase and facilitate bidder participation, mitigate credit costs that suppliers build into the bid price and provide additional financial flexibility regarding the credit process.

These changes include, but are not limited to, the following revisions:

- Section 6.3 – Independent Credit Requirement
 - Will initially be set at \$1.5 million per tranche won and will decline thereafter
- Section 6.4 – Independent Credit Threshold
 - Increase in the % used in calculating the maximum independent credit threshold
- Section 6.5 – Mark-to-Market Credit Exposure Methodology
 - Elimination of the 10% increase to the calculation of Market-to-Market exposure
- Section 6.6 – Credit Limit
 - Increase the credit limit caps and additional revisions to accommodate changes to Section 6.9
- Section 6.9 – Security Instruments
 - Additional provisions to allow for use of a first mortgage bond indenture, letter of credit, or cash as collateral acceptable for margining requirements in excess of \$400 million
- Appendix C & D – Schedule for ICRT & MtM Exposure Amount Calculation
 - Information will be updated and accorded

Specific modifications will need to be made to the competitive bidding process rules as follows:

- p. 4. Section I(A). Change timing for when the Supplier Master Agreement must be signed throughout. Three business days instead of immediately following auction. Also p. 50.
- p. 14. Section II(B). Language regarding credit will have to conform to changes proposed in Supplier Master Agreement.

- Introduce credit-based tranche limits to be applied at the time of bidding as shown below.

Note: Such credit requirements may be waived by the Companies for good cause shown by the bidder(s) with Staff concurrence.

Credit Rating of Bidder/Guarantor			
<u>S&P</u>	<u>Moody's</u>	<u>Fitch</u>	<u>Tranche Cap</u>
BB and above	Ba2 and above	BB and above	Unlimited
BB-	Ba3	BB-	25
Below BB-	Below Ba3	Below BB-	10

Attachment B

Modifications to Riders OLR and ELR

Riders OLR and ELR from the Companies' ESP proposal shall be adopted with the following changes:

In the ELR, an Economic Buy Through Event definition will be modified to include only such hours as the MISO day ahead price (on an hourly basis) exceeds 150% of the wholesale price resulting from the competitive bid process, but not for more than 10% of the hours in any twelve month period beginning in June of each calendar year.

In the ELR, the calculation of the interruptible load to receive the credit will be modified as follows: the Curtailable Load, which shall be calculated by the Company for each customer by subtracting the customer's contract Firm Load from its monthly highest thirty (30) minute integrated kW load occurring during the non-holiday weekday hours of 11 a.m. to 5 p.m. Eastern Standard Time. In no circumstances can the Curtailable Load be negative. Holidays are defined as New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

In a related provision, the Economic Development Rider (EDR), the value of the Interruptible credit provision shall be \$8.05 per kW for each specified rate schedule.

The revenue value of the EDR interruptible credit shall be allocated to customers in GS and GP rate schedules through the EDR nonbypassable charge. The revenue value received from buythrough events shall be allocated as a reduction in the same EDR nonbypassable charge.

The ELR Rider as described above shall remain in effect through at least May 31, 2011.

Except as otherwise provided herein, this Attachment B is also available to interruptible contract customers whose interruptible contract expired on or after February 1, 2008.

Attachment C

Rider DDC (Deferred Distribution Cost Recovery) Charges

I. Rider Charge (2011-2015)

	Rate Schedule	OE	CEI	TE
1	RS - Residential	\$0.001167 per kWh	\$0.001080 per kWh	\$0.000414 per kWh
2	GS - Secondary	\$0.188 per kW	\$0.227 per kW	\$0.070 per kW
3	GP - Primary	\$0.129 per kW	\$0.080 per kW	\$0.030 per kW
4	GSU - Subtransmission	\$0.067 per kVa	\$0.060 per kW	\$0.010 per kVa
5	GT - Transmission	\$0.031 per kVa	\$0.005 per kVa	\$0.003 per kVa
6	TRF - Traffic Lighting	\$0.000471 per kWh	\$0.000135 per kWh	\$0.000113 per kWh
7	STL - Street Lighting	\$0.001939 per kWh	\$0.003583 per kWh	\$0.001027 per kWh
8	POL - Private Outdoor Lighting	\$0.003553 per kWh	\$0.003616 per kWh	\$0.001076 per kWh

II. Rider Charge (2016 until full recovery)

	Rate Schedule	OE	CEI	TE
9	RS - Residential	\$0.000584 per kWh	\$0.000890 per kWh	\$0.000109 per kWh
10	GS - Secondary	\$0.094 per kW	\$0.187 per kW	\$0.018 per kW
11	GP - Primary	\$0.065 per kW	\$0.066 per kW	\$0.008 per kW
12	GSU - Subtransmission	\$0.034 per kVa	\$0.050 per kW	\$0.003 per kVa
13	GT - Transmission	\$0.016 per kVa	\$0.004 per kVa	\$0.001 per kVa
14	TRF - Traffic Lighting	\$0.000236 per kWh	\$0.000111 per kWh	\$0.000030 per kWh
15	STL - Street Lighting	\$0.000971 per kWh	\$0.002952 per kWh	\$0.000270 per kWh
16	POL - Private Outdoor Lighting	\$0.001779 per kWh	\$0.002979 per kWh	\$0.000262 per kWh

Values will be updated to reflect December 31, 2010 composite interest rates to use during the recovery period.

Attachment D

Regulatory Transition Charges and Residential Transition Rate Credits for CEI

Regulatory Transition Charges Effective for service rendered June 1, 2009 for all kWhs, per kWh:

Rate Schedule RS	1.1849 ¢
Rate Schedule GS	1.1448 ¢
Rate Schedule GP	1.1070 ¢
Rate Schedule GSU	1.1026 ¢
Rate Schedule GT	0.5205 ¢
Rate Schedule TRF	1.7968 ¢

The above rates reflect a 55% reduction to previous Regulatory Transition Charge Levels.

Residential Transition Rate Credits:

For purposes of reflecting Credits G or H on customer bills, the Company may reflect the credit as part of transition charges.

Credit G

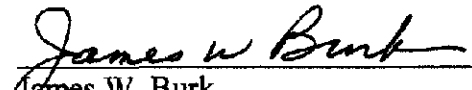
Rate Schedule RS Regulatory Transition Charge above will be reduced by \$2.25 per month. In no event shall Credit G reduce a customer's total bill below zero. This credit reflects a 55% reduction from the previous residential transition rate credit.

Credit H

Rate Schedule RS Regulatory Transition Charge above will be reduced by 12.8%. This percentage reduction will be calculated prior to the application of Credit G. This credit reflects a 55% reduction from the previous residential transition rate credit through its application to the above Regulatory Transition Charge.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Amended Application has been served upon all of the parties of record in Case No. 08-935-EL-SSO by electronic mail and by U.S. Mail, postage prepaid this 19th day of February, 2009.


James W. Burk
Senior Attorney

Case 08-935-EL-SSO Service List

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