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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ohio
Edison Company, The Cleveland Electric
Illuminating Company, and The Toledo
Edison Company for Authority to Establish
a Standard Service Offer Pursuant to
R.C. §4928.143 in the Form of an Electric
Security Plan.

Case No. 10-388-EL-SSO

MERIT BRIEF OF THE CITY OF AKRON

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April 30, 2010

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Security Plan.)	

MERIT BRIEF OF THE CITY OF AKRON

Pursuant to the briefing schedule established by the Attorney Examiners, the City of Akron ("Akron") hereby respectfully submits its Merit Brief for the consideration of the Public Utilities Commission of Ohio ("Commission").

On May 1, 2008, Governor Ted Strickland signed into law Amended Substitute Senate Bill ("SB 221"). SB 221 modified, among other things, Chapter 4928 of the Revised Code, and requires each Ohio electric distribution utility ("EDU") to establish a standard service offer ("SSO") in accordance with Sections 4928.142 or 4928.143, Revised Code.¹ On March 23, 2010, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "FirstEnergy" or "Companies") filed an Application and Stipulation and Recommendation in this proceeding for the purpose of, among other things, establishing an SSO during the period of June 2011 through May 2014. A Supplemental Stipulation ("Stipulation")² is

¹ Section 4928.142, Revised Code, governs market rate option ("MRO") plans while Section 4928.143, Revised Code, controls electric security plans ("ESP").

² The March 23, 2010 Stipulation and the Supplemental Stipulation are hereinafter collectively referred to as "Stipulation."

expected to be filed with the support of all the signatory parties to the original Stipulation as well as Akron and the Council of Smaller Enterprises ("COSE").

In considering the reasonableness of a stipulation, the Commission has applied the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

Cincinnati Gas & Elec. Co., FirstEnergy Corp. and Columbus & Southern Ohio Elec. Co., Case No. 84-1187-EL-UNC, Opinion and Order (November 26, 1985), and *Cleveland Elec. Illuminating Co.*, Case No. 82-485-EL-AIR, Opinion and Order (March 30, 1983). Furthermore, the Ohio Supreme Court has endorsed the Commission's use of these criteria to evaluate the reasonableness of settlements and their effect on the interests of customers and public utilities. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St. 3d 123 (1992).

The Stipulation represents a just and reasonable resolution of all issues in these proceedings, meets the above criteria established by the Commission, and, therefore, should be adopted by the Commission.

First, the Stipulation is a product of serious bargaining among capable, knowledgeable parties. Direct Testimony of William R. Ridmann at 11-12 (March 31, 2010) (hereinafter "Ridmann Testimony"); see also Prefiled Testimony of Tamara S. Turkenton at 2 (April 15, 2010) (hereinafter "Turkenton Testimony"). The signatory party list contains a broad array of stakeholders, including the Companies,

Commission Staff ("Staff"), customers from a range of customer classes, and competitive retail electric supply ("CRES") providers. Ridmann Testimony at 11. These signatory parties regularly practice before this Commission and have a demonstrated track record of respected and persuasive advocacy in Commission proceedings.

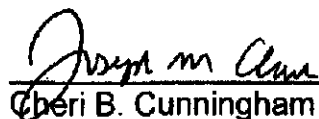
Additionally, the Stipulation, as a package, will benefit ratepayers and the public interest. Ridmann Testimony at 12-13; Turkenton Testimony at 2-6. Adoption of the Stipulation would mitigate uncertainty confronting FirstEnergy's customers, including Akron, on issues regarding the price and reliability of electricity for the period extending through May 31, 2014. The Stipulation will also provide funding to achieve energy efficiency and sustainability goals, which furthers Ohio's state energy policy in Section 4928.02, Revised Code, as well as the energy efficiency and peak demand reduction mandates of Section 4928.66, Revised Code. Further, the Stipulation will support economic development and job retention goals in the Companies' service territories.³ These and other components of the Stipulation create significant benefits for customers and the public interest.

Finally, the settlement package does not violate any important regulatory principle or practice. Ridmann Testimony at 12; Turkenton Testimony at 6.

For the reasons expressed above and based on the record evidence, Akron urges the Commission to adopt the Stipulation forthwith.

³ Aspects of the Stipulation also appear to be designed to insulate consumers from responsibility for regional transmission organization costs and to usefully facilitate the merger between FirstEnergy Corp. and Allegheny Energy Inc. Should this merger be successfully completed, Akron, Ohio will be the home of one of the largest utilities in the Nation.

Respectfully submitted,



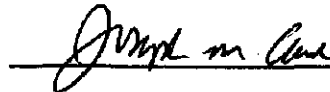
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I hereby certify that a copy of the foregoing *Merit Brief of the City of Akron* was served upon the following parties of record this 30th day of April 2010, via electronic transmission, hand-delivery or first class mail, postage prepaid.



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