

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

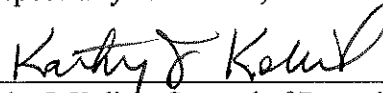
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanisms.)	Case Nos. 09-1947-EL-POR
)	09-1948-EL-POR
)	09-1949-EL-POR
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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 Approval of Their Initial Benchmark Reports.)	Case Nos. 09-1942-EL-EEC
)	09-1943-EL-EEC
)	09-1944-EL-EEC
)	
)	
In the Matter of the Energy Efficiency and Peak Demand Reduction Program Portfolio of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company)	Case Nos. 09-580-EL-EEC
)	09-581-EL-EEC
)	09-582-EL-EEC
)	

MOTION OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY TO VACATE THE ATTORNEY EXAMINER'S SEPTEMBER 23, 2011 ENTRY, AND RELATED MEMORANDUM IN SUPPORT

Pursuant to Ohio Administrative Code § 4901-1-12, and for the reasons more fully discussed in the attached Memorandum in Support, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively "Companies") hereby move to vacate the Attorney Examiner's September 23, 2011 Entry in which a procedural schedule was established for a prehearing and hearing in the above referenced docket "for the purpose of hearing evidence on the street lighting program, the residential energy efficient

products program as it relates to water heaters for customers with access to natural gas, and the shared savings mechanism.”

Respectfully submitted,



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MEMORANDUM IN SUPPORT OF MOTION TO VACATE ENTRY

In a September 23, 2011 Entry issued in the instant action, the Attorney Examiner established a procedural schedule “for the purpose of hearing evidence on the street lighting program, the residential energy efficient products program as it relates to water heaters for customers with access to natural gas, and the shared savings mechanism.”¹ As more fully explained below, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, “Companies”) do not believe that such a hearing is necessary at this time because the Companies do not wish to pursue the aforesaid energy efficiency programs at this time and because there is no shared savings mechanism to evaluate.

In the Commission’s March 23, 2011 Opinion and Order issued in this proceeding, the Commission gave the Companies’ the option to pursue the street lighting and water heater programs, saying:

The Commission finds that the evidence in the record of this proceeding does not support approval of the street lighting program and the residential energy efficient products program as it relates to water heaters for customers who have access to natural gas as well as the shared savings mechanism discussed above. Therefore, further proceedings are necessary regarding the street lighting programs, the residential energy efficient products program as it relates to water heaters, and shared savings; and the Commission will direct the attorney examiner to schedule an additional hearing regarding these programs *should the Companies wish to pursue them.*²

In that same Opinion and Order, the Commission deferred ruling on the shared savings mechanism, directing the Staff to develop a strawman proposal for consideration by interested stakeholders:

[T]he Commission will defer ruling on the [Companies’] proposed shared savings mechanism until further proceedings regarding the Companies’ portfolio programs; in the meantime, [the] Commission directs Staff to prepare a proposal for an incentive

¹This Docket, Entry, p. 2 (Sept. 23, 2011)

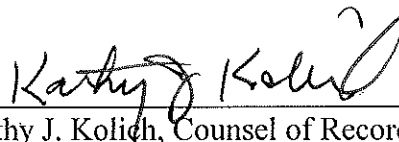
² This Docket, Opinion and Order, pp. 22-23 (Mar. 23, 2011) (italics added).

mechanism which addresses the issues raised by the Commission and to distribute such proposed incentive mechanism to a range of stakeholders.³

In light of the dates set forth in the procedural schedule, the fact that pro rata savings is based on the date on which the program measures are installed, and the anticipated timeline for a decision on the subject matter, the Companies have elected not to pursue either the street lighting program or the residential water heater program at this time. These programs will be reevaluated and vetted with the Companies' Energy Efficiency and Peak Demand Reduction Collaborative Group as part of the development of the Companies' next three year program portfolio, which is now underway. Moreover, because the Staff has yet to provide a strawman proposal for a shared savings mechanism, it is virtually impossible for the Companies to prepare a case for an evidentiary hearing on the subject.

Therefore, based upon the foregoing, the Companies respectfully request that the Attorney Examiner's September 23, 2011 Entry be vacated and the procedural schedule included therein either cancelled or suspended until a shared savings mechanism is proposed consistent with the Commission's directive and all interested parties have had the opportunity to evaluate it.

Respectfully submitted,



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³ This Docket, Opinion and Order (Mar. 23, 2011).

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CERTIFICATE OF SERVICE

I hereby certify that this Motion to Vacate the Attorney Examiner's September 23, 2011 Entry and related Memorandum in Support was filed electronically this 30th day of September, 2011, with the Public Utilities Commission of Ohio Docketing Information System. Notice of this filing will be sent via e-mail to the parties as set forth below.


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9/30/2011 5:23:48 PM

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Case No(s). 09-1948-EL-POR, 09-1947-EL-POR, 09-1949-EL-POR, 09-1942-EL-EEC, 09-1944-EL-EEC,

Summary: Motion to Vacate the Attorney Examiner's September 23, 2011 Entry electronically filed by Ms. Kathy J Kolich on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company