

**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	)	Case No. 12-1230-EL-SSO
Establish a Standard Service Offer	)	
Pursuant to R.C. § 4928.143 in the Form	)	
of an Electric Security Plan.	)	

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**JOINT MOTION TO BIFURCATE ISSUES  
AND  
JOINT MEMORANDUM CONTRA FIRSTENERGY'S MOTION FOR  
WAIVER OF RULES  
BY  
ENVIRONMENTAL LAW AND POLICY CENTER  
NATURAL RESOURCES DEFENSE COUNCIL  
NORTHEAST OHIO PUBLIC ENERGY COUNCIL  
NORTHWEST OHIO AGGREGATION COALITION  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The undersigned public advocates move the Public Utilities Commission of Ohio (“Commission” or “PUCO”) to bifurcate, for purposes of expeditious treatment in this case or in a separate case, the issue of bidding demand response resources and PJM - qualifying energy efficiency resources into the PJM 2015-2016 Base Residual Auction in May 2012. The remaining issues--together with potential improvements to the proposed electric security plan--can then be resolved on a more manageable timeline that provides for all appropriate due process protections and superior opportunities for informed decision-making.<sup>1</sup> This motion should be granted for the reasons explained in the attached memorandum in support.

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<sup>1</sup> This especially appropriate as the levelizing strategy concerning the three year auction appears to cancel out the benefits of levelizing the Alternative Energy Rider.

Respectfully submitted,

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**I. HISTORY OF THE CASE**

The undersigned respond to the Motion for Waiver of Rules (“Waiver Motion”) that Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, “FirstEnergy” or the “Companies”) filed with the Public Utilities Commission of Ohio (“PUCO” or “Commission”) on Friday, April 13, 2012, at day-end after the Companies minutes earlier initiated this case by filing an application (“Application”). FirstEnergy attached to its Application a Stipulation and Recommendation (“Stipulation”) that requests Commission approval of the Application by May 2, 2012.<sup>2</sup>

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<sup>2</sup> Stipulation at 2. The proposed time line is repeated in the Motion. Motion at 1.



FirstEnergy's ESP Plan fails to comply with the standards under Ohio Adm. Code 4901:1-35-03(C) and First Energy's proposed timeline offers insufficient time for parties who did not sign the Stipulation to prepare and present their response to the Commission. This case affects almost two million Ohioans. And under FirstEnergy's proposed waivers there would be precious little information available regarding many of the requirements that the PUCO established in its rules for filing such an Application. The undersigned parties recommend that the PUCO deny various of FirstEnergy's specific waiver requests as well as deny the general request for waivers contained in the Motion.

## **II. STANDARD OF REVIEW**

Ohio Adm. Code 4901:1-35-02(B) allows for waivers of the PUCO's filing requirements where "good cause is" shown. In a recent case involving Aqua Ohio, Inc.,<sup>3</sup> the Commission applied this standard of "good cause" in considering waiver requests under the Standard Filing Requirements in a rate case under R.C. Chapter 4909.<sup>4</sup>

In *Aqua*, the Commission's consideration of various waivers (and denial of waivers) included whether the information subject to the waiver request was "necessary for an effective and efficient investigation."<sup>5</sup> In determining whether there is good cause to grant FirstEnergy's Motion, the Commission should consider, *inter alia*, whether certain of the information the Companies ask to not make available is nonetheless necessary for parties (and the Commission) to make an effective and efficient review of the Application.

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<sup>3</sup> *In re Aqua Ohio*, Case No. 09-560-WW-AIR, Entry at ¶7 (July 29, 2009) ("*Aqua*").

<sup>4</sup> Ohio Adm. Code 4901-1-07 (Appendix A).

<sup>5</sup> *Aqua*, Entry at ¶¶9 and 11.

In this case under R.C. Chapter 4928, there is no requirement for a report by the PUCO Staff as there is under R.C. 4909.19. Moreover, the PUCO Staff has signed the Stipulation. Under the circumstances, non-signing parties will bear even more burden to provide for an effective review of FirstEnergy's proposals. Therefore, the PUCO's standard for judging whether there is good cause to grant FirstEnergy's waiver requests should include whether the information FirstEnergy asks not to file is nonetheless necessary for other parties (and, ultimately, the Commission) to make an effective and efficient review of the Application.

### **III. ARGUMENT**

#### **A. The Undersigned Parties' Joint Motion to Bifurcate Issues Should be Granted.**

The undersigned public advocates encourage the Commission to address expeditiously in this case or in a separate case one of the stipulators' aforementioned issues -- "enabling the Companies to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015-2016 Base Residual Auction."<sup>6</sup> The remaining issues--together with potential improvements to the proposed electric security plan--can then be resolved on a more manageable timeline that provides for all appropriate due process protections and superior opportunities for informed decision-making.<sup>7</sup>

The Companies included in the Stipulation their rationale for the expedited treatment sought in this case. The Stipulation states: The Signatory Parties recognized

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<sup>6</sup> Stipulation at 3.

<sup>7</sup> This especially appropriate as the levelizing strategy concerning the three year auction appears to cancel out the benefits of levelizing the Alternative Energy Rider.

the advantages of implementing ESP 3 at this time including without limitation: 1) enabling the Companies to bid demand response resources and PJM-qualifying energy efficiency resources<sup>8</sup> into the PJM 2015-2016 Base Residual Auction, if ESP 3 is approved on or before May 2, 2012, thereby adding to supply in that auction, which may in turn increase low-cost capacity supply in that auction; 2) modifying the bid schedule previously approved in the Companies' current ESP so that the bids to occur in October 2012 and January 2013 will be for a three year period rather than a one year period in an attempt to capture the current historically lower generation prices for a longer period of time that would be blended with potentially higher prices occurring over the life of the ESP 3 plan thereby smoothing out generation prices and mitigating volatility in generation pricing for customers; 3) to extend the recovery period for renewable energy credit costs over the life of the ESP 3 plan in order to lower costs to customers related to compliance with the statutory benchmarks for renewable energy resources and such recovery will not result in a deferral to the AER Rider beyond the term of this ESP 3; and 4) to maintain the benefits gained and now being realized from the 2010 ESP Stipulation for an additional two years, thus enhancing the stability and predictability of rate levels and tariff provisions for customers.<sup>9</sup>

However, FirstEnergy has not demonstrated that the Commission's rules require a modification to the existing ESP in order to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015-2016 Base Residual Auction. That being said, if the Commission determines a waiver is required, the undersigned

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<sup>8</sup> The term "PJM-qualifying energy efficiency resources," as used herein, is defined in Section E.9 of the Stipulation.

<sup>9</sup> Stipulation at 2-3.

parties generally would be supportive of an approach where, if FirstEnergy wants to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015-2016 Base Residual Auction, there would be authorization for the Companies to do so. The undersigned would be willing to work cooperatively with FirstEnergy and other stakeholders to accomplish that objective in time for the May 7, 2012 PJM BRA auction. But there is no need for the Companies to be granted in exchange for the auction--and no need for customers to pay--an additional \$90 million<sup>10</sup> in distribution capital recovery on an expedited basis, and no need for some of the other ESP plan modifications that will prove detrimental to consumers in the form of higher charges.

**B. Waiver Requests Should Be Denied.**

**1. The Commission should find the Application deficient.**

FirstEnergy has made several waiver requests in hopes of avoiding certain filing requirements. However, prior to granting the waiver requests, the Commission should take a careful look at the Companies' Application to determine if deficiencies in that filing should cause the Commission reason to deny the waiver requests. Commission rules require "a complete description of the ESP **and testimony explaining and supporting each aspect of the ESP.**"<sup>11</sup> The Companies have filed a five page Application supported by Mr. Ridman's 20 page testimony containing a single attachment. A cursory review of Companies Application and only piece of testimony filed in this case<sup>12</sup> will demonstrate that the Companies have not complied with, nor

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<sup>10</sup> Stipulation at 20 ( \$195 million (Year 1 cap) + \$210 (Year 2 Cap) = \$405 million. See also Case No. 10-388-EL-SSO, ESP II Stipulation at 14, \$150 million (Year 1 cap) + \$165 million (Year 2 cap) = \$315 million. \$405 million – 315 million = \$90 million.

<sup>11</sup> Ohio Adm. Code 4901:1-35-03 (C) (1) (emphasis added).

<sup>12</sup> Direct Testimony of William Ridman (April 13, 2012).

sought a waiver from this rule. In light of the Company's failure to explain and support each aspect of its ESP, the Commission should not consider granting the waiver requests. The Company has approached the two-year extension of its ESP in this case using the same approach that it used in 2010.<sup>13</sup> The Commission must consider that circumstances have changed and electric markets have changed, and only through a comprehensive review of FirstEnergy's filing can the Commission comply with its obligation to determine whether FirstEnergy has adequately supported each aspect of the ESP. Mr. Ridman's cursory testimony fails to meet this criteria. Information is key for Commission decision-making, as the Commission recently stated in a decision in an American Electric Power ESP case:

In the Opinion and Order, the Commission recognized that these rate impacts may be significant, based upon evidence indicating that total bill impacts may, in some cases, approach 30 percent. However, the evidence in the record inadvertently failed to present a full and accurate portrayal of the actual bill impacts to be felt by customers, particularly with respect to low load factor customers who have low usage but high demand.<sup>14</sup>

To assure the Commission has a full and accurate portrayal of the issues presented in a case as important as this particular case, the Commission should assure that all parties and intervenors are granted ample due process rights. The Companies are focused on getting to the finish line as expediently as possible, but the Commission should be willing to slow down the process, and make sure all aspects of the ESP are fully understood and presented to the Commission for a fair decision on the merits. This entails First Energy filing testimony supporting each aspect of the ESP, and then setting a procedural schedule that

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<sup>13</sup> See Case No. 10-388-EL-SSO where the Company filed its Application, with a Stipulation, and Waiver.

<sup>14</sup> *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al, Entry on Rehearing at 11 (February 23, 2012).

allows the parties adequate time to conduct discovery, file testimony, hold hearings, and file briefs.

**2. Certain specific waiver requests should be denied for lack of good cause.**

**a. Ohio Adm. Code 4901:1-35-03(C)**

FirstEnergy seeks a waiver to avoid filing pro forma financial projections on the effect of the ESP, under Ohio Adm. Code 4901:1-35-03(C)(2). There is not good cause to grant this waiver request. The information that FirstEnergy wants waived from filing would show the financial impact on the electric utilities. The Commission should not permit the FirstEnergy to compromise the ability of interested parties to review the Application on the merits by granting the requested waivers, and permitting the Companies to scale back the information contemplated by the PUCO's rules. Such information can be useful, for example, assessing the effect of rate collections, such as \$405 million in distribution collections, on the FirstEnergy utilities.<sup>15</sup>

The Motion merely states that the information is not available "upon the filing of the[ ] Application."<sup>16</sup> But the waiver should not be granted merely because FirstEnergy has not prepared the information, and First Energy's argument is merely conclusory. The waiver should be denied.

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<sup>15</sup> Stipulation at 18-24 (\$195 million in year 1 and \$210 million in year 2).

<sup>16</sup> Motion at 2.

Next, FirstEnergy seeks a waiver of Ohio Adm. Code 4901:1-35-03(C)(6), regarding the effect non-bypassable generation on large-scale governmental aggregation.<sup>17</sup> Again, the Companies fail to adequately support this request.

This rule amplifies the requirement stated in R.C. 4928.20(K) that the Commission must “consider the effect on large-scale governmental aggregation of any non-bypassable generation charges.” According to the Stipulation, the reconciliation rider, Rider GCR, would change from a bypassable charge under the terms of the existing ESP to a non-bypassable charge under circumstances described in the Stipulation.<sup>18</sup> Those circumstances might change from month-to-month, providing for instability regarding the terms under which aggregation could proceed (or, due to the instability, not proceed). Those circumstances would also include instances where FirstEnergy’s projections, unsupervised by the Commission, would trigger unavoidable charges.<sup>19</sup>

FirstEnergy’s argument for the provisions in its Stipulation -- i.e., it is “beneficial for all customers”<sup>20</sup> -- should be reserved for its brief at the end of the case after information has been aired for PUCO decision-making. The argument is inappropriate in support of a waiver request at the beginning of the case, and the request should be denied as lacking good cause.

Next, FirstEnergy requests a waiver of Ohio Adm. Code 4901:1-35-03(C)(8), regarding whether the Application supports State policy. This request is nothing less than argument against the Commission’s rule itself. FirstEnergy states that it should not be

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<sup>17</sup> Id. at 3.

<sup>18</sup> Stipulation at 11-12.

<sup>19</sup> Id. at 12 (“Companies may convert Rider GCR to a non-avoidable charge provision if they believe”).

<sup>20</sup> Motion at 3.

required to discuss State policy because “those policies can conflict in practice.”<sup>21</sup> The time for argument against the promulgation of the Commission’s rule is long past. The waiver request should be denied.

**b. Ohio Adm. Code 4901:1-35-04**

FirstEnergy seeks a waiver of the notice to the public, by newspaper, regarding what has been filed that affects recipients of the notice (the public). FirstEnergy’s request, regarding Ohio Adm. Code 4901:1-35-04,<sup>22</sup> is closely connected with a statutory requirement, which may not be waived.

The commission shall set the time for hearing of a filing under section . . . 4928.143 [i.e., an ESP filing] of the Revised Code, send written notice of the hearing to the electric distribution utility, and *publish notice in a newspaper of general circulation* in each county in the utility’s certified territory.<sup>23</sup>

The point of the law is to provide consumers the opportunity to participate in hearings. Ohio Adm. Code 4901:1-35-04(B) elaborates on this statutory requirement and requires the ESP applicant to submit “a proposed notice for newspaper publication that fully discloses the substance of the application, including rates impacts, and that prominently states that any person may request to become a party to the proceeding.” But the procedural schedule sought by FirstEnergy would not fulfill the law, because it cuts off interventions on April 20, 2012, without any arrangements to notify the public in advance regarding this case.<sup>24</sup>

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<sup>21</sup> Id.

<sup>22</sup> Id. at 5.

<sup>23</sup> R.C. 4928.141(B) (emphasis added).

<sup>24</sup> Motion at 5.



FirstEnergy's statement that it will publish newspaper notice "as ordered by the Attorney Examiner(s)" should not need to be stated.<sup>25</sup> That statement, however, misses the point of Ohio Adm. Code 4901:1-35-04(B). The Commission's rule requires *FirstEnergy* to draft a proposed notice for publication. With the assistance of any commenting parties, the Commission could thereafter approve such a draft notice or make edits and arrange for *timely notice to the public that invite persons to become party to the case*. FirstEnergy's request for waiver of this rule would deny the public the notice that is required pursuant to Commission rule.

Approval of FirstEnergy's Motion would deny interested parties the opportunity to comment in this proceeding. The notice, which should contain information that will be echoed in the announcement of local public hearings,<sup>26</sup> should at a minimum state the following:

The FirstEnergy Companies of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company filed an application on April 13, 2012 in Case No. 12-1230-EL-SSO to establish rates for electric generation, transmission, and distribution service. The application is on file at the Public Utilities Commission of Ohio's offices, 180 East Broad Street, Columbus, Ohio 43215-3793, and can be viewed on the Commission's web page at <http://www.puc.state.oh.us>. A hearing will commence on [date to be determined] at 10:00 a.m., 11<sup>th</sup> Floor Hearing Room 11-A. Any person may request to become a party to the proceeding.

In their application, the companies seek Commission approval of changes in their standard service offer for generation service to customers that would go into effect on June 1, 2014 and would extend through May 31, 2016. Generation rates would partly be determined by auctions that would begin in October 2012. The generation requirements of low-income (percentage of income

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<sup>25</sup> Motion at 5.

<sup>26</sup> Entry (March 24, 2010).

payment plan, or “PIPP”) customers would be excluded from the auction and those customers would receive a 6 percent discount linked to a three-year power supply contract with FirstEnergy Solutions, an affiliate of the companies. The possible generation rate increases paid by large industrial customers, private outdoor light customers, and municipalities for their traffic and street lighting would be limited. Other special generation rate provisions would apply to interruptible customers, large automaker facilities, and colleges.

Distribution rates would be subject to a continuation of the Delivery Capital Recovery (DCR) rider. The rider could provide the companies with collections from customers that would reach \$195 million between June 1, 2014 and May 31, 2015 and \$210 million between June 1, 2015 through May 31, 2016. Excess amounts not collected from customers in one year could be collected in subsequent years. The average impact on customer rates per kilowatt-hour during 2012 could be as high as 0.3365 cents for customers of Ohio Edison, 0.4038 cents for Cleveland Electric Illuminating, and 0.3041 cents for Toledo Edison. Collections from customers of all three companies for energy efficiency/demand response programs, including collection for revenues lost as the result of such programs, and for the roll-out of Cleveland Electric Illuminating’s “Smart Grid” communications and metering project would be in addition to the collections under the new distribution rider.

A number of non-rate provisions are also contained in the application. These include construction of equipment for large customers, including the Cleveland Clinic. Improvements would result in charges to all customers according to a new economic development rider in tariffs. Additional details may be obtained on the Commission’s web page or by contacting the Commission’s hotline at 1-800-686-7826.

The deadline for interventions should be extended to the extent necessary to permit new parties to respond to the newspaper notice. While the notice will have to reflect the Commission’s timeline for the case, the timeline FirstEnergy seeks is unreasonably compressed and is unfair to those interested in participating in the case and in making recommendations regarding the Application and the settlement. FirstEnergy’s request for a waiver lacks good cause and should be denied.

**3. FirstEnergy's request for expedited treatment and waiver of Ohio Adm. Code 4901:1-35-06.**

Ohio Adm. Code 4901-1-12(C) was intended to provide interested persons an opportunity to submit responsive memoranda under circumstances where a motion involves disputed matters. FirstEnergy states in an opening footnote that “the Application initiating this matter is being filed contemporaneously with [its] Motion [and] formal intervention has not yet been granted . . . .”<sup>27</sup> The Companies request, if granted, would circumvent Ohio Adm. Code 4901:1-35-06 -- which provides “[i]nterested persons wishing to participate in the hearing . . . *forty-five days* [to intervene].

FirstEnergy requests a waiver of the rule that permits parties forty-five days to intervene; however, that motion should not be granted without giving interested parties an opportunity for opposing argument. Ohio Adm. Code 4901-1-12(F) does not provide for a ruling on such a timeline unless the ruling “will not adversely affect a substantial right of any party.” Intervention is such a substantial right, and an opportunity should be provided to oppose FirstEnergy's request.

The undersigned parties oppose FirstEnergy's request. FirstEnergy's request lacks good cause. FirstEnergy attempts to justify an expedited process for its waiver request, as well as for this proceeding, based upon the ability to “take advantage of historically low market prices.”<sup>28</sup> But FirstEnergy's proposed plan includes a number of expensive elements that also will affect the prices that consumers will pay. FirstEnergy's justifications for its waiver requests are not based upon good cause.

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<sup>27</sup> Motion at 2, footnote 1.

<sup>28</sup> Motion at 5-6.

**a. Ohio Adm. Code 4901:1-35-03(C)(9)**

FirstEnergy seeks a waiver from the requirements stated in Ohio Adm. Code 4901:1-35-03(C)(9),<sup>29</sup> a rule related to information on automatic recovery mechanisms, factors impinging on customer shopping, alternative regulation mechanisms, and infrastructure modernization incentives. The Stipulation is filled with major provisions on these topics, including: hundreds of millions of dollars in distribution revenues (in quarterly adjustments) that will not be subject to the normal scrutiny in a distribution rate case;<sup>30</sup> a Rider GCR that may turn into a non-bypassable charge that would impinge on shopping;<sup>31</sup> the collection of lost revenues in connection with energy efficiency and demand response programs without the adjustment that would exist from a distribution rate case;<sup>32</sup> an expensive Smart Grid initiative in the Cleveland area;<sup>33</sup> and the potential pass through of certain tax increases in customer rates in the absence of action by the Commission.<sup>34</sup> The absence of information on these matters is a major flaw in the Application. The waiver request should be denied as lacking good cause, and information that is vital to the effective and efficient review of the Application should be required.

**b. Ohio Adm. Code 4901:1-35-03(C)(10)**

FirstEnergy seeks a waiver from the requirements stated in Ohio Adm. Code 4901:1-35-03(C)(10),<sup>35</sup> a rule related to information that would assist in the test for

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<sup>29</sup> Motion at 4.

<sup>30</sup> Stipulation at 18-24.

<sup>31</sup> Id. at 14.

<sup>32</sup> Id. at 31.

<sup>33</sup> Id. at 29.

<sup>34</sup> Id. at 39 (“deemed approved if the Commission has not ruled to the contrary within 90 days”).

<sup>35</sup> Motion at 4.

significantly excess earnings. Again, the potential for hundreds of millions in additional collections of distribution revenue from customers should demand that the Companies provide the information required in the Commission's rule. The waiver request lacks good cause, and should be denied.

**c. Ohio Adm. Code 4901:1-35-03(G)**

FirstEnergy attached a few documents to its Application, then requests waiver of Ohio Adm. Code 4901:1-35-03(G) "to the extent that such provision contemplates certain work papers not filed as part of the Companies' Application."<sup>36</sup> The filing of workpapers constitutes a critical element in the review process. FirstEnergy's requested waivers broaden thereafter, including matters "to the extent waiver of the requirements of any other provisions of the Commission's rules may be required."<sup>37</sup> As discussed below regarding broadly requested FirstEnergy waiver requests, the Commission has previously stated that broadly-stated waivers will not be granted. FirstEnergy makes no argument whatsoever against the application of the Commission's policy in this case, and the request for waiver obviously lacks good cause. No waivers should be approved that were not specifically identified and justified by FirstEnergy.

**4. All broadly stated waiver requests should be rejected.**

FirstEnergy's seeks several broadly-stated waiver requests. Such blanket-type requests should be rejected. The Companies stated:

In addition to the matters specifically itemized above, to the extent waiver of the requirements of any other provisions of the Commission's rules may be required in order to  
{01462519.DOC;1 } 6 accommodate the Commission's

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<sup>36</sup> Id.

<sup>37</sup> Id. at 5.

expeditious consideration of the Application, such waiver is also herein requested.<sup>38</sup>

Absent specificity with regards to the waiver being requested makes it impossible for the Commission to know exactly what the ramifications of the waivers being requested. The Commission has previously addressed and rejected the type of “gap-filling,” non-specific requests that are contained in FirstEnergy’s Motion. Regarding previous non-specific waivers sought by FirstEnergy, the Commission stated:

The breadth of this waiver request and the lack of any specificity as to the areas of non-compliance make it impossible for the Commission to find good cause for granting the extension of the general waiver. The Commission cannot grant a waiver where the applicant has been unable to state the actual company process, program or function that requires the waiver.<sup>39</sup>

The Motion seeks broad waivers, without explanation, that undermine the Commission’s ability to review the application on the merits as contemplated by the PUCO’s rules. Again, the Commission should find it impossible to grant these broad waivers.

#### **IV. CONCLUSION**

FirstEnergy’s ESP is an important filing that deserves appropriate review to ensure that First Energy’s Plan protects customer interests. The requests for waivers that are the subject of the foregoing arguments should be rejected. The broadly-stated requests should also be rejected, in part based upon Commission policy (stated in Commission precedent) against such general waivers. As stated above, FirstEnergy’s submitted its request without showing good cause. Rulings on FirstEnergy’s Motion

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<sup>38</sup> Id. at 5-6.

<sup>39</sup> *In re FirstEnergy RSP Proposal*, Case No. 03-2144-EL-ATA, Opinion and Order at 40 (June 9, 2004).

should await the filing of responsive pleadings. Finally, FirstEnergy's request to bid demand response resources and PJM's qualifying energy efficiency resources into the May 7, 2012 PJM BRA auction should be authorized, but the rest of the Company's Application should be bifurcated to address the other issues contained in the filing in a manner that provides interested parties with due process protections.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served upon the persons listed below, electronically, this 17<sup>th</sup> day of April 2012.

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Summary: Motion Joint Motion to Bifurcate Issues and Joint Memorandum Contra FirstEnergy's Motion for Waiver of Rules by the Environmental Law and Policy Center, Natural Resources Defense Council, Northeast Ohio Public Energy Council, Northwest Ohio Aggregation Coalition and the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Sauer, Larry S.