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**Via E-File**

September 9, 2013

Public Utilities Commission of Ohio  
PUCO Docketing  
180 E. Broad Street, 10th Floor  
Columbus, Ohio 43215

**In re: Case No. 11-5201-EL-RDR**

Dear Sir/Madam:

Please find attached the MEMORANDUM CONTRA APPLICATION FOR REHEARING OF INTERSTATE GAS SUPPLY INC. BY THE OHIO ENERGY GROUP for e-filing in the above-referenced matter.

Copies have been served on all parties listed on the Certificate of Service. Please place this document of file.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'D. Boehm', is written over the typed name.

David F. Boehm, Esq.

Michael L. Kurtz, Esq.

Jody Kyler Cohn, Esq.

**BOEHM, KURTZ & LOWRY**

MLKkew

Encl.

Cc: Certificate of Service

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Alternative Energy :  
Rider Contained in the Tariffs of Ohio Edison : **Case Nos. 11-5201-EL-RDR**  
Company, The Cleveland Electric Illuminating :  
Company, and The Toledo Edison Company :

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**MEMORANDUM CONTRA  
APPLICATION FOR REHEARING OF  
INTERSTATE GAS SUPPLY INC.  
BY  
THE OHIO ENERGY GROUP**

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The Ohio Energy Group (“OEG”) submits this response to the Application for Rehearing filed by Interstate Gas Supply Inc. (“IGS”) on August 30, 2013 in the above-captioned proceeding. IGS urges that the Public Utilities Commission of Ohio (“Commission”) require the FirstEnergy operating companies to implement the approximately \$43 million refund ordered by the Commission by: 1) distributing the refund to all customers (shopping and non-shopping) in FirstEnergy’s service territory; 2) identifying which specific customers paid the imprudent REC costs and refunding only those customers; or 3) issuing the refund in some other manner “outside” of Rider AER or FirstEnergy’s generation charges.<sup>1</sup> IGS’ principle concern is that issuing the \$43 million refund through FirstEnergy’s Alternative Energy Rider could “distort the price to compare over the period of the refund.”<sup>2</sup>

The Commission should reject IGS’ recommendations for multiple reasons. As an initial matter, IGS’ argument regarding the implementation of the \$43 million refund is untimely and unsupported. Despite the fact that a very real possibility of a refund by FirstEnergy has existed since the Exeter management/performance audit was filed in this case on August 15, 2012, IGS said nothing about how

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<sup>1</sup> IGS Application for Rehearing at 7-8.

<sup>2</sup> IGS Application for Rehearing at 5.

any refund should be implemented until its Application for Rehearing was filed. Nor did IGS present any evidence/testimony in support of its recommended refund methodologies during its case-in chief. And IGS did not contest the recommendations of other parties regarding how any refund should be implemented. Indeed, both the testimony and briefs filed by OEG and Nucor in this case specifically recommended that any refund be distributed through Rider AER using the rider's current rate design (loss-adjusted kWh charges by rate class). IGS never challenged that recommendation. It is therefore inappropriate and unreasonable for IGS to belatedly contest the Commission's determination regarding how the \$43 million refund will be distributed.

Additionally, both of IGS' suggested refund methodologies are flawed. IGS' first suggestion, distributing the refund to all customers in FirstEnergy's territory, unjustly enriches shopping customers at the expense of non-shopping customers. IGS' second suggestion, identifying the specific customers who paid the imprudent REC costs and refunding only those customers, would be highly complex and administratively burdensome. Sorting through the approximately 2 million customers in FirstEnergy's service territory to determine who was taking service from FirstEnergy when the imprudent REC costs were collected, and which portion of those costs were paid by each individual customer, would be extremely onerous. Though not perfect, the better solution is the one already chosen by the Commission – refunding the imprudent REC costs through Rider AER, which returns the costs to customers in the same way they were collected from customers.

IGS' concern regarding the impact of the \$43 million refund on the price to compare fails to recognize that FirstEnergy's imprudent REC costs previously "distorted" the price to compare in IGS' favor. While FirstEnergy's pending \$43 million refund may lower the price to compare for a brief period in the future, the imprudent REC costs collected by FirstEnergy acted to artificially raise the price to compare in the past.

If the Commission wishes to minimize the impact of the \$43 million refund on the price to compare, the Commission can simply order FirstEnergy to refund customers over a brief period of time. For example, the Application for Rehearing filed by Direct Energy in this case raises the possibility that the entire refund be collected through Rider AER in one quarterly adjustment.<sup>3</sup> This is a reasonable approach that the Commission can adopt to minimize the impact of the refund on the price to compare while still distributing the refund in a reasonable manner.

Respectfully submitted,



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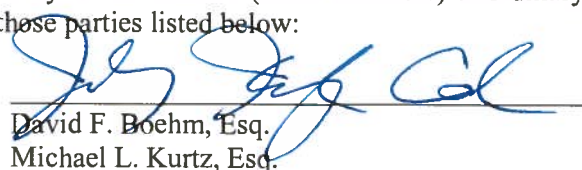
**COUNSEL FOR THE OHIO ENERGY GROUP**

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<sup>3</sup> Application for Rehearing of Direct Energy Services, LLC and Direct Energy Businesses, LLC (September 6, 2013) at 5.

## CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 9<sup>th</sup> day of September, 2013 to those parties listed below:



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**This foregoing document was electronically filed with the Public Utilities**

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Summary: Memorandum Ohio Energy Group (OEG) Memorandum Contra Application for Rehearing of Interstate Gas Supply electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group