

In the Matter of the Review of The )  
Alternative Energy Rider Contained in )  
The Tariffs of Ohio Edison Company, The ) Case No. 11-5201-EL-RDR  
Cleveland Electric Illuminating Company )  
and The Toledo Edison Company. )

The Environmental Law and Policy Center, Ohio Environmental Council and Sierra Club (“Environmental Intervenors”) hereby move<sup>1</sup> the Public Utilities Commission of Ohio (“PUCO”) for leave to file the competitively sensitive confidential version of their *Memo Contra FirstEnergy Application for Rehearing* one day out of time.

The Public version of this document was timely filed at the Public Utilities Commission of Ohio (“PUCO” or “Commission”) and served on all parties on September 16, 2013, in accordance with Commission Rules.<sup>2</sup> A protective order addressing information asserted to be confidential by FirstEnergy<sup>3</sup> was also timely filed and served on the same date. However, unredacted versions of confidential documents require

<sup>3</sup> “FirstEnergy” means the Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company.

multiple printed copies. Due to some difficulties with the printing technology utilized by counsel, the printed copies could not be delivered to the Commission prior to the 5:30p.m. filing deadline. Therefore, the Environmental Intervenors request that the Commission accept the printed copies required for this filing on September 17, 2013. The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

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The Environmental Intervenors file this Motion for leave to file the competitively sensitive confidential version of their *Memo Contra FirstEnergy Application for Rehearing* one day out of time, for good cause shown. Pursuant to Ohio Administrative Code Rule 4901-1-02(E), the confidential version is being filed subsequent to the Motion for Protective Order. As stated in the Motion, the Public Version of this Document was timely filed and served. In fact, the confidential, unredacted document was also provided to FirstEnergy in-house and outside Counsel prior to the September 16, 2013 filing deadline. Thus, all parties were aware that the document was going to be filed, the redacted version was received by all parties and FirstEnergy Counsel received a copy of the confidential document.

Though many items are now filed and served electronically, the Commission rules appropriately insist that filing deemed to contain confidential information be filed in-person.<sup>4</sup> This is in order to protect the material deemed confidential within the document by one or more parties. Counsel for Environmental Intervenors understands the

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seriousness of protecting such information, and made diligent efforts to do so while preparing this filing.

At the time that the printing technology would no longer work within Counsel's office, there were two options: 1. Repair the printer within the office, or; 2. Place the document on a portable drive and proceed to a print shop. Because of the nature of the material within the document, the first option was chosen. It is unclear that information transferred to an outside printer or print shop computer, which would be a necessary step in option 2, would be completely erased from these machines. This would not appropriately protect the information deemed confidential by FirstEnergy (and the Commission's August 7, 2013 Order) in this case. Therefore, in order to honor the confidentiality agreement, the print technology in-house was quickly attended to. But the copies were not ready in time to comply with the deadline. Notification was provided to FirstEnergy Counsel that the filing would occur the next day.

The unredacted filing contains information that will clarify and support the Environmental Intervenor's already-filed arguments. Nothing is added to this document that was not present in the public version, and no advantage was gained over any other party via the out-of-time submission.

For the foregoing reasons, Environmental Intervenor respectfully request that the Commission grant this Motion and accept the Competitively Sensitive Confidential version on September 17, 2013.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion for Leave to File the Confidential Version of Environmental Intervenors' Memo Contra FirstEnergy Application for Rehearing One Day Out of Time* by the Environmental Intervenors has been served upon those persons listed below and filed with the Commission via electronic mail this 17th day of September, 2013.

/s/ Christopher J. Allwein

Christopher J. Allwein  
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## **SERVICE LIST**

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Summary: Motion to File the Competitively Sensitive Confidential Version of Environmental Intervenors' Memo Contra FirstEnergy Application for Rehearing One Day out of Time electronically filed by Mr. Christopher J. Allwein on behalf of Ohio Environmental Council and THE SIERRA CLUB and Environmental Law and Policy Center