

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	Case No. 14-1297-EL-SSO
Illuminating Company and The Toledo)	
Edison Company for Authority to Provide)	
for a Standard Service Offer Pursuant R.C.)	
4928.143 in the Form of an Electric)	
Security Plan.)	

**MOTION FOR
SUBPOENA DUCES TECUM**

The Office of the Ohio Consumers' Counsel ("OCC") under Ohio Adm. Code 4901-1-21(B), hereby respectfully moves the Public Utilities Commission of Ohio ("Commission" or "PUCO"), any commissioner, the legal director, the deputy legal director, or the attorney examiner assigned to this case to issue a subpoena duces tecum compelling the Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company ("Utilities") to produce, two hours before the Deposition of Eileen Mikkelsen, the following materials:

- 1) discovery responses to OCC's (and other parties') discovery requests on the Third Supplemental Recommendation and Stipulation;
- 2) documents that she relied upon or referred to in producing her Fifth Supplemental Testimony, including any workpapers that support her Fifth Supplemental Testimony; and

- 3) information in the Companies' possession, custody, or control that pertain to the estimated typical bill impacts to customers that incorporate the provisions of the Third Supplemental Stipulation .

By mutual agreement, Ms. Mikkelsen's deposition is scheduled to begin at 9:30 a.m. on December 22, 2015 at 76 S. Main St., Akron, Ohio 44308. OCC filed and served its Notice To Take Deposition of Ms. Mikkelsen on December 15, 2015. In that notice, OCC requested that the Utilities make the above materials available to OCC two hours before the deposition begins. Subsequently, OCC was advised by Mr. Kutik, one of the Utilities' attorneys that it objected "to any requirement to provide documents before or at the deposition."

Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Willis

Larry S. Sauer, (0039223),
Counsel of Record
Maureen R. Willis (0020847)
William J. Michael (0070921)
Kevin F. Moore (0089228)
Ajay Kumar (0092208)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Telephone [Sauer]: (614) 466-1312

Telephone [Willis]: (614) 466-9567

Telephone [Michael]: (614) 466-1291

Telephone [Moore]: (614) 387-2965

Telephone [Kumar]: (614) 466-1292

larry.sauer@occ.ohio.gov

maureen.willis@occ.ohio.gov

William.michael@occ.ohio.gov

Kevin.moore@occ.ohio.gov

Ajay.kumar@occ.ohio.gov

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MEMORANDUM IN SUPPORT

In this phase of the proceeding, the PUCO will consider whether the Third Supplemental Stipulation and Recommendation is in the public interest and should be adopted. The Attorney Examiner has ruled that a hearing should be held regarding the provisions of the Third Supplemental Stipulation and its effect on the stipulated electric security plan of the Utilities.¹ And to give parties sufficient time and opportunity to present evidence on the stipulation, the Attorney Examiner adopted a procedural schedule allowing for additional discovery to be conducted, including depositions. Under the Attorney Examiner's ruling, OCC is entitled to, *inter alia*, conduct pre-hearing discovery, including depositions.

On December 15, 2015, OCC served a Notice of Deposition, requesting Ms. Mikkelsen to attend a deposition (on December 22, 2015 at 10:00 a.m.) at OCC's Office. OCC also asked that the Utilities make available to OCC, two hours prior to the deposition, certain limited materials.² Subsequently, OCC agreed to reschedule Ms. Mikkelsen's

¹ Entry (Dec. 9, 2015).

² Notice of Deposition (Dec. 15, 2015) (Attachment A).

deposition to 9:30 a.m., December 22, 2015, and agreed to depose Ms. Mikkelsen in Akron Ohio, instead of in Columbus. One of the Utilities' Attorneys, Mr. Kutik, however, advised OCC that it objected "to any requirement to provide documents before or at the deposition."³

But, under the PUCO's rules, parties may designate materials to be produced at the deposition.⁴ And the materials OCC designated are reasonably calculated to lead to the discovery of admissible evidence, the standard under the PUCO's rules.⁵ The documents pertain to discovery responses on the Third Supplemental Stipulation and Recommendation, supporting documents pertaining to Ms. Mikkelsen's testimony, and information the Utility has pertaining to bill impacts on customers. These documents are thought to be critical to understanding whether the Third Stipulation is in the public interest. The documents sought may help parties address the implications of adopting the Third Supplemental Stipulation.

The issuance of subpoenas to compel the Utilities to produce the documents requested is necessary because the Utilities' Counsel has indicated it will not voluntarily produce the documents. Otherwise, the discovery rights granted by the Attorney Examiner to parties, including OCC, will be unreasonably diminished.

³ It did claim that "We believe that you will nevertheless have all documents responsive to the notice." This rather cryptic message was not explained .

⁴ See Ohio Admin. Code 4901-1-21(B); 4901-1-25.

⁵ Ohio Admin. Code 4901-1-16.

The PUCO should grant OCC's Motion for Subpoenas and order the documents to be produced two hours prior to the scheduled deposition.

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Willis

Larry S. Sauer, (0039223),
Counsel of Record
Maureen R. Willis (0020847)
William J. Michael (0070921)
Kevin F. Moore (0089228)
Ajay Kumar (0092208)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Telephone [Sauer]: (614) 466-1312

Telephone [Willis]: (614) 466-9567

Telephone [Michael]: (614) 466-1291

Telephone [Moore]: (614) 387-2965

Telephone [Kumar]: (614) 466-1292

larry.sauer@occ.ohio.gov

maureen.willis@occ.ohio.gov

William.michael@occ.ohio.gov

Kevin.moore@occ.ohio.gov

Ajay.kumar@occ.ohio.gov

(All Attorneys Will Accept Service Via
Email)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for Subpoena Duces Tecum, was served by electronic mail service, as agreed to by the following parties of record, this 18th day of December, 2015

/s/ Maureen R. Willis

Maureen R. Willis

Assistant Consumers' Counsel

SERVICE LIST

Thomas.mcnamee@puc.state.oh.us

Thomas.lindgren@puc.state.oh.us

Steven.beeler@puc.state.oh.us

mkurtz@BKLawfirm.com

kboehm@BKLawfirm.com

jkylercohn@BKLawfirm.com

stnourse@aep.com

mjsatterwhite@aep.com

yalami@aep.com

Jennifer.spinosi@directenergy.com

ghull@eckertseamans.com

myurick@taftlaw.com

dparram@taftlaw.com

Schmidt@sppgrp.com

ricks@ohanet.org

tobrien@bricker.com

mkl@smxblaw.com

gas@smxblaw.com

wtpmlc@aol.com

lhawrot@spilmanlaw.com

dwilliamson@spilmanlaw.com

blanghenry@city.cleveland.oh.us

hmadorsky@city.cleveland.oh.us

kryan@city.cleveland.oh.us

mdortch@kravitzllc.com

rparsons@kravitzllc.com

burkj@firstenergycorp.com

cdunn@firstenergycorp.com

jlang@calfee.com

talexander@calfee.com

dakutik@jonesday.com

sam@mwncmh.com

fdarr@mwncmh.com

mpritchard@mwncmh.com

cmooney@ohiopartners.org

callwein@wamenergylaw.com

joliker@igsenergy.com

mswhite@igsenergy.com

Bojko@carpenterlipps.com

ghiloni@carpenterlipps.com

barthroyer@aol.com

athompson@taftlaw.com

Christopher.miller@icemiller.com

Gregory.dunn@icemiller.com

Jeremy.grayem@icemiller.com

blanghenry@city.cleveland.oh.us

hmadorsky@city.cleveland.oh.us

kryan@city.cleveland.oh.us

tdougherty@theOEC.org

jfinnigan@edf.org

Marilyn@wflawfirm.com

todonnell@dickinsonwright.com

gkrassen@bricker.com
dstinson@bricker.com
dborchers@bricker.com
DFolk@akronohio.gov
mkimbrough@keglerbrown.com
sechler@carpenterlipps.com
gpoulos@enernoc.com
toddm@wamenergylaw.com
dwolff@crowell.com
rlehfeldt@crowell.com

Attorney Examiners:

Gregory.price@puc.state.oh.us
Mandy.willey@puc.state.oh.us
Megan.addison@puc.state.oh.us

matt@matthewcoxlaw.com
mfleisher@elpc.org
drinebolt@ohiopartners.org
meissnerjoseph@yahoo.com
LeslieKovacik@toledo.oh.gov
trhayslaw@gmail.com
Jeffrey.mayes@monitoringanalytics.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
msoules@earthjustice.org
sfisk@earthjustice.org

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Illuminating Company and The Toledo)	
Edison Company for Authority to Provide)	
for a Standard Service Offer Pursuant)	
R.C. 4928.143 in the Form of an Electric)	
Security Plan.)	

**NOTICE TO TAKE DEPOSITION
AND REQUEST FOR PRODUCTION OF DOCUMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Pursuant to Ohio Adm. Code Rule 4901-1-21(B), please take notice that the Office of the Ohio Consumers' Counsel ("OCC") will take the deposition of Eileen M. Mikkelsen on December 22, 2015 beginning at 10:00 a.m. The deposition shall be held at Office of the Ohio Consumers' Counsel at 10 W. Broad St., Columbus, Ohio 43215 and will continue from day to day, except for holidays and weekends, until completed.

Ms. Mikkelsen will be deposed on relevant topics within the scope of these proceedings, including but not limited to, the subject matter of her Fifth Supplemental Testimony and her knowledge and expertise on the electric security plan as modified by the Third Supplemental Recommendation and Stipulation. The deposition will be taken upon oral examination (as upon cross-examination) before an officer authorized by law to take depositions.

Under Ohio Adm. Code Rules 4901-1-21(E) and 4901-1-20, Ms. Mikkelsen shall make available to OCC, two hours before the start of the deposition, the following

documents: discovery responses to OCC's (and other parties') discovery requests on the Third Supplemental Recommendation and Stipulation; documents that she relied upon or referred to in producing her Fifth Supplemental Testimony, including any workpapers that support her Fifth Supplemental Testimony; and information in the Companies' possession, custody, or control that pertain to the estimated typical bill impacts to customers that incorporate the provisions of the Third Supplemental Stipulation .

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Larry Sauer

Larry S. Sauer, (0039223),
Counsel of Record
Maureen R. Willis (0020847)
William J. Michael (0070921)
Kevin F. Moore (0089228)
Assistant Consumers' Counsel
Ajay Kumar (0092208)
Staff Attorney

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone [Sauer]: (614) 466-1312
Telephone [Willis]: (614) 466-9567
Telephone [Michael]: (614) 466-1291
Telephone [Moore]: (614) 387-2965
Telephone [Kumar]: (614) 466-1292
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maureen.willis@occ.ohio.gov
William.michael@occ.ohio.gov
Kevin.moore@occ.ohio.gov
Ajay.kumar@occ.ohio.gov
(All Attorneys Will Accept Service Via
Email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice to Take Deposition and Request for Production of Documents was served via electronic service upon the parties this 15th day of December 2015.

/s/ Larry Sauer

Larry Sauer
Assistant Consumers' Counsel

SERVICE LIST

Thomas.mcnamee@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
Steven.beeler@puc.state.oh.us
mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
Jennifer.spinosi@directenergy.com
ghull@eckertseamans.com
myurick@taftlaw.com
dparram@taftlaw.com
Schmidt@sppgrp.com
ricks@ohanet.org
tobrien@bricker.com
mkl@smxblaw.com
gas@smxblaw.com
wttpmlc@aol.com
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us
mdortch@kravitzllc.com
rparsons@kravitzllc.com
gkrassen@bricker.com
dstinson@bricker.com
dborchers@bricker.com
DFolk@akronohio.gov
mkimbrough@keglerbrown.com

burkj@firstenergycorp.com
cdunn@firstenergycorp.com
jang@calfee.com
talexander@calfee.com
dakutik@jonesday.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
cmooney@ohiopartners.org
callwein@wamenergylaw.com
joliker@igsenergy.com
mswhite@igsenergy.com
Bojko@carpenterlipps.com
ghiloni@carpenterlipps.com
barthroyer@aol.com
athompson@taftlaw.com
Christopher.miller@icemiller.com
Gregory.dunn@icemiller.com
Jeremy.grayem@icemiller.com
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us
tdougherty@theOEC.org
jfinnigan@edf.org
Marilyn@wflawfirm.com
todonnell@dickinsonwright.com
matt@matthewcoxlaw.com
mfleisher@elpc.org
drinebolt@ohiopartners.org
meissnerjoseph@yahoo.com
LeslieKovacik@toledo.oh.gov

sechler@carpenterlipps.com
gpoulos@enernoc.com
toddm@wamenergylaw.com
dwolff@crowell.com
rlehfeldt@crowell.com

Attorney Examiners:

Gregory.price@puc.state.oh.us
Mandy.willey@puc.state.oh.us
Megan.addison@puc.state.oh.us

trhayslaw@gmail.com
Jeffrey.mayes@monitoringanalytics.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
msoules@earthjustice.org
sfisk@earthjustice.org

STATE OF OHIO
PUBLIC UTILITIES COMMISSION
180 EAST BROAD STREET
COLUMBUS, OHIO 43266-0573

John Kasich
GOVERNOR



THE PUBLIC UTILITIES COMMISSION OF OHIO
SUBPOENA DUCES TECUM

TO: The Ohio Edison Company,
the Cleveland Electric Illuminating Company
and the Toledo Edison Company

CT Corporation System, Statutory Agent
1300 E. 9th St.
Cleveland, OH 44114

James W. Burk
Managing Counsel
FirstEnergy Service Company
76 S. Main St.
Akron, OH 44308

Upon application of Counsel for the Office of the Ohio Consumers' Counsel
("OCC"), Ohio Edison Company, The Cleveland Electric Illuminating Company and the
Toledo Edison Company ("the Utilities"), by its attorney or statutory agent, is hereby
required to produce to OCC, two hours prior to the 9:30 a.m. December 22, 2015,
deposition of Eileen Mikkelsen, the following documents:

- 1) discovery responses to OCC's (and other parties') discovery requests^{*} on
the Third Supplemental Recommendation and Stipulation;
- 2) documents that she relied upon or referred to in producing her Fifth
Supplemental Testimony, including any workpapers that support her Fifth
Supplemental Testimony; and

** for any discovery requests served by December 15, 2015*

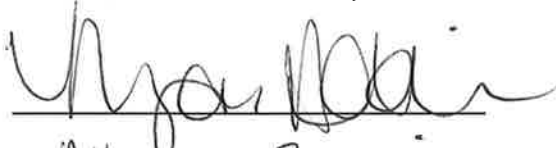
- 3) information in the Companies' possession, custody, or control that pertain to the estimated typical bill impacts to customers that incorporate the provisions of the Third Supplemental Stipulation .

The documents are to be produced in conjunction with the proceeding entitled "In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant R.C. 4928.143 in the Form of an Electric Security Plan."

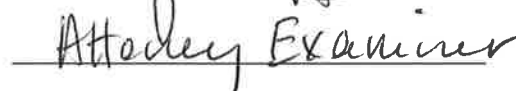
The documents shall be produced on or before 7:30 a.m. on December 22, 2015 at 76 South Main Street, Akron, Ohio. Counsel for OCC shall be granted access to those documents at that time and location.

Dated at Columbus, Ohio, this 18th day of December, 2015.

BY:

A handwritten signature in dark ink, appearing to read "Ryan Blair", written over a horizontal line.

TITLE:

The handwritten words "Attorney Examiner" written in dark ink over a horizontal line.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/18/2015 4:29:24 PM

in

Case No(s). 14-1297-EL-SSO

Summary: Subpoena Motion for Subpoena Duces Tecum by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Willis, Maureen R Mrs.