

**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) Case No. 14-1297-EL-SSO
Authority to Provide for a Standard Service)
Offer Pursuant to R.C. 4928.143 in the Form of)
An Electric Security Plan)**

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY’S MOTION TO STRIKE
PORTIONS OF THE REPLY BRIEF OF THE OHIO MANUFACTURERS’
ASSOCIATION ENERGY GROUP**

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) respectfully move to strike the following portions of the Reply Brief of the Ohio Manufacturers’ Association Energy Group (“OMAEG”):

1. Page 8, Lines 1 through 3, including footnote 23;
2. Page 8, Line 17, beginning with the word “one” and ending with the word “existence”.

The Commission should strike this material from OMAEG’s reply brief because OMAEG referenced and discussed testimony of OMAEG witness Edward Hill that the Attorney Examiner excluded from the record. Indeed, the Companies have filed a Motion to Strike equivalent statements included in OMAEG’s initial brief.

For these reasons and those set forth in the attached memorandum in support, the Commission should grant this motion and strike the portions listed above of OMAEG’s reply brief.

Respectfully Submitted,

/s/ James W. Burk

James W. Burk (0043808)
Counsel of Record
Carrie M. Dunn (0076952)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
Telephone: (330) 384-5861
Fax: (330) 384-8375
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

David A. Kutik (0006418)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Fax: (216) 579-0212
dakutik@jonesday.com

James F. Lang (0059668)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
Telephone: (216) 622-8200
Fax: (216) 241-0816
jlang@calfee.com
talexander@calfee.com

ATTORNEYS FOR OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE
TOLEDO EDISON COMPANY

**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) Case No. 14-1297-EL-SSO
Authority to Provide for a Standard Service)
Offer Pursuant to R.C. 4928.143 in the Form of)
An Electric Security Plan)**

**MEMORANDUM OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY IN SUPPORT
OF MOTION TO STRIKE PORTIONS OF THE REPLY BRIEF OF THE
OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

Portions of OMAEG's reply brief should be stricken because OMAEG improperly relies on testimony that the Attorney Examiner excluded from evidence. On page 8 of its brief, OMAEG relies on the excluded testimony of Dr. Hill regarding the Consumer Protection Association. When OMAEG improperly sought at hearing to introduce hearsay statements from Dr. Hill on re-direct that were beyond the scope of cross-examination, the Attorney Examiner correctly granted the Companies' motion to strike those statements as outside the scope of cross examination. Hearing Tr. Vol. XXXIX at 8388-93. Thus, these statements are not record evidence, and OMAEG cannot rely upon them in its reply brief.

On February 26, 2016, the Companies filed a Motion to Strike Portions of the Initial Brief of OMAEG that included these same out-of-record statements. The Companies' arguments in that motion apply equally here and are incorporated herein. As the Companies explained in that motion, the Commission has rejected prior efforts of parties to include information in a brief that is not part of the record. *See, e.g., In the Matter of FAF, Inc., Notice of Apparent Violation and Intent to Assess Forfeiture*, PUCO Case No. 06-786-TR-CVF, Opinion and Order at 3 (Nov. 21, 2006). If allowed to remain in OMAEG's reply brief, the Companies would be prejudiced as

they would have no opportunity to refute Dr. Hill's hearsay statements. Therefore, the Commission should reject OMAEG's improper attempt to introduce these statements into the record via its reply brief.

For the foregoing reasons, the Commission should grant the Companies' motion to strike.

Respectfully Submitted,

/s/ James W. Burk
James W. Burk (0043808)
Counsel of Record
Carrie M. Dunn (0076952)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
Telephone: (330) 384-5861
Fax: (330) 384-8375
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

David A. Kutik (0006418)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Fax: (216) 579-0212
dakutik@jonesday.com

James F. Lang (0059668)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
Telephone: (216) 622-8200
Fax: (216) 241-0816
jlang@calfee.com
talexander@calfee.com

ATTORNEYS FOR OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE
TOLEDO EDISON COMPANY

CERTIFICATE OF SERVICE

I certify that this Motion to Strike was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 4th day of March, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. Further, a courtesy copy has been served upon parties via electronic mail.

/s/ N. Trevor Alexander
One of Attorneys for the Companies

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/4/2016 3:32:16 PM

in

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

Summary: Motion to Strike OMAEG Post-Hearing Reply Brief electronically filed by Mr. Nathaniel Trevor Alexander on behalf of Ohio Edison Company and The Cleveland Illuminating Company and The Toledo Edison Company