

FILE

6



76 South Main Street  
Akron, Ohio 44308

James W. Burk  
Senior Attorney

330-384-5861  
Fax: 330-384-3875

January 16, 2007

Ms. Renee J. Jenkins  
Director, Administration Department  
Secretary to the Commission  
Docketing Division  
The Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, OH 43215

RECEIVED-DOCKETING DIV  
2007 JAN 17 AM 11:51  
PUCO

RE: PUCO Case No. 06-1201-AU-ORD  
In the Matter of the Review of Chapters 4901:5-17, 4901:5-19, 4901:5-21,  
4901:5-23, 4901:5-25, 4901:5-29, 4901:5-33, 4901:5-35, and 4901:5-37 of the  
Ohio Administrative Code  
Reply Comments of Ohio Edison Company, The Cleveland Electric Illuminating  
Company and the Toledo Edison Company

Dear Ms. Jenkins:

Enclosed for filing please find the original and twelve (12) copies of *Reply Comments regarding* the above-referenced case which was fax-filed today. Please file the attached. File-stamp the two extra copies and return them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,

*James W. Burk*  
James W. Burk

JWB:ls  
Enclosures 12  
By Federal Express

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician JW Date Processed 1-17-07

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of Chapters )  
4901:5-17, 4901:5-19, 4901:5-21, 4901:5-23, )  
4901:5-25, 4901:5-29, 4901:5-33, 4901:5-35, ) Case No. 06-1201-AU-ORD  
and 4901:5-37 of the Ohio Administrative Code)

**Reply Comments of Ohio Edison Company,  
The Cleveland Electric Illuminating Company and The Toledo Edison Company**

Come Now Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company ("Companies"), by counsel, and in accordance with the Commission's Entries issued on October 11, 2006 and November 14, 2006 hereby submit their reply comments to the proposed rules filed in this docket.

The Companies agree with the comments of Duke Ohio and AEP, among others, that the Commission's energy emergency rules must recognize that emergency processes already exist at both PJM and MISO, and that the Commission's rules should not conflict with those of the RTO's or create ambiguity when ambiguity is least desirable, i.e., during an energy emergency. The Companies also agree with the comments of Duke Ohio and others that it is not practical for electric power producers or coal producers to monitor the consumption of consumers during a time of energy emergency to track whether the usage is for a priority use. This requirement should be removed from the proposed rules.

The Commission should not promulgate rules that will create a Hobson's choice for an electric utility or electric power producer of choosing which rule to follow in the

event of a conflict between the rules of the Commission and an RTO. But in the event this undesirable outcome occurs, the Companies agree with DPL that electric utilities should be permitted to recover in rates any costs or penalties that arise from following the PUCO rules and thereby not those of the RTO. On a similar note, as recommended by DPL, the Companies believe that the rules should expressly permit recovery of costs and penalties arising from complying with the rule requirement to not run pollution control equipment.

The Companies believe that one of the underlying purposes of R.C. 4935.03, and the rules promulgated thereunder, is to have one agency as the point of coordination and contact for all energy providers, as well as the Governor's office, during an energy emergency. The OCC's suggestion that it be copied on all of the reports and information provided to the Commission would undermine this fundamental purpose. The fact residential usage is a priority use and that OCC is a residential advocate in proceedings before the Commission does not form a legitimate basis for the information to be provided to OCC. If this were the case, all persons directly or indirectly associated with any priority use should also be provided the information, which is certainly not contemplated by the statute and would hamper the efforts of the Governor and Commission to manage the energy emergency. If OCC receives calls during an energy emergency, those calls should be directed to the Commission to better assure a consistent response will be given to consumers. The Companies believe OCC's request to include in the rules provisions that OCC be copied on this information should be denied.

The Companies believe, as suggested by OCC, that the Commission should have up to date contact information and that parties should understand what information is to be reported. With regard to the former, it is not necessary to have a simulated energy emergency to obtain updated contact information, and as to the latter, in large part, this rulemaking proceeding will determine what information must be provided. The Companies do not believe the Commission should include a requirement in the rules for a simulated energy emergency.

While it is common to have the ability to waive the application of a rule in a particular instance, the Companies agree with others that changes to these rules must follow the standard administrative rulemaking process if they are to be changed.

The Companies thank the Commission for the opportunity to submit comments in this proceeding and urge the Commission to consider the foregoing reply comments in their formulation of new energy emergency rules.

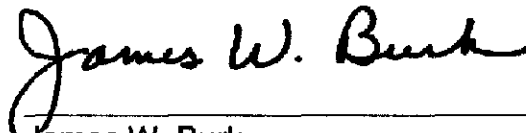
Respectfully submitted,

  
James W. Burk  
Senior Attorney

FirstEnergy Service Company  
76 South Main Street  
Akron, Ohio 44308  
Phone 330-384-5861  
Fax 330-384-3875  
Email: burkj@firstenergycorp.com  
Attorney for  
The Cleveland Electric Illuminating Company  
Ohio Edison Company  
The Toledo Edison Company

## Certificate of Service

I hereby certify that a copy of the foregoing Reply Comments were served on all persons that filed initial comments with the Commission in this proceeding as set forth on the attached list by U.S. Mail, First Class, postage prepaid, this 16<sup>th</sup> day of January 2007.



James W. Burk  
Senior Attorney

Steven T. Nourse  
Marvin I. Resnik  
Counsel for Columbus Southern Power  
Company and Ohio Power Company  
American Electric Power Service Corp.  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
Email: stnourse@aep.com  
miresnik@aep.com

Randall Griffin  
Alissa Stephens  
Dona R. Seger-Lawson  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, Ohio 45432  
Email: Dona.Seger-Lawson@DPLInc.com

John W. Bentine  
Todd M. Rodgers  
Bobby Singh  
Attorneys for AMP-Ohio, Inc.  
Chester, Willcox & Saxbe, LLP  
65 E. State Street, Suite 1000  
Columbus, Ohio 43215-3413

Buckeye Power, Inc.  
P.O. Box 26036  
Columbus, Ohio 43226-0036

Ohio Rural Electric Cooperatives  
6677 Busch Boulevard  
Columbus, Ohio 43229

Thomas E. Lodge  
Kurt P. Helfrich  
Carolyn S. Flahive  
Ann B. Zallocco  
Attorneys for Ohio Rural Electric  
Cooperatives, Inc. and Buckeye Power, Inc.  
Thompson Hine LLP  
10 West Broad Street, Suite 700  
Columbus, Ohio 43215-3435

David W. Rubadue  
Mark Kempic  
Stephen B. Seiple  
Attorneys for Columbia Gas of Ohio, Inc.  
200 Civic Center Drive  
P.O. Box 117  
Columbus, Ohio 43216-0117  
Email: drubadue@nisource.com

Mark A. Whitt  
Attorneys for the East Ohio Gas  
Company D/B/A Dominion East Ohio  
Jones Day  
P.O. Box 165017  
Columbus, Ohio 43216-5017  
Email: mawhitt@jonesday.com

Rocco O. D'Ascenzo  
Paul A. Colbert  
Duke Energy Ohio, Inc.  
139 East Fourth Street  
Cincinnati, Ohio 45201

Donald I. Marshall  
Eagle Energy, LLC  
4465 Bridgetown Road  
Cincinnati, Ohio 45211

Samuel C. Randazzo  
Lisa G. McAlister  
Daniel J. Neilsen  
Attorneys for Industrial Energy Users-Ohio  
McNees Wallace & Nurick LLC  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215-4228  
sam@mwncmh.com  
lmcAlister@mwncmh.com  
dneilsen@mwncmh.com

Douglas R. Melin  
Marathon Petroleum Company  
539 South Main Street  
Findlay, Ohio 43215  
Email: DRMelin@MarathonPetroleum.com

Janine L. Migden-Ostrander  
Larry S. Sauer  
Melissa R. Yost  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
sauer@occ.state.oh.us  
yost@occ.state.oh.us

April R. Bott  
Nathaniel S. Orosz  
Counsel for the Ohio Coal Association  
Chester, Willcox & Saxbe, LLP  
65 E. State Street, Suite 1000  
Columbus, Ohio 43215-3413

M. Howard Petricoff  
Stephen M. Howard  
Attorneys for the Ohio Gas Marketers Group  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
Columbus, Ohio 43215  
Email: mhpetricoff@vssp.com

W. Jonathan Airey  
Gregory D. Russell  
Attorneys for the Ohio Oil and Gas Assoc.  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008

Roy Rushing  
Ohio Gas Association  
200 Civic Center Drive, Suite 110  
Columbus, Ohio 43215

Nancy J. Dragani  
Executive Director  
Ohio Department of Public Safety  
Emergency Management Agency  
2855 West Dublin-Granville Road  
Columbus, Ohio 43235-2206  
Email: ndragoni@dps.state.oh.us

Duane Luckey  
Public Utilities Commission of Ohio  
Public Utilities Section  
180 E. Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215

John M. Dosker  
Stand Energy Corporation  
1077 Celestial Street, Suite 110  
Cincinnati, Ohio 45202-1629  
Email: jdosker@standenergy.com