

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Consolidated Duke Energy Ohio, Inc.,	)	Case Nos.:	03-93-EL-ATA
Rate Stabilization Plan Remand and	)		03-2079-EL-AAM
Rider Adjustment Cases.	)		03-2080-EL-ATA
	)		03-2081-EL-AAM
	)		05-724-EL-UNC
	)		05-725-EL-UNC
	)		06-1068-EL-UNC
	)		06-1069-EL-UNC
	)		06-1085-EL-UNC

NOTICE OF INDUSTRIAL ENERGY USERS-OHIO

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May 17, 2007

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(C232513)

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NOTICE OF INDUSTRIAL ENERGY USERS-OHIO

This case, involving Duke Energy-Ohio's ("DE-Ohio") rate stabilization plan ("RSP"), was remanded to the Public Utilities Commission of Ohio ("Commission") by the Ohio Supreme Court in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 300, 2006-Ohio-5789 on November 22, 2006. On remand, the Court directed the Commission to, among other things, provide additional record evidence and sufficient reasoning to support the Commission's Opinion and Order and Entry on Rehearing approving Duke's current RSP. Subsequently, the Attorney Examiners issued an Entry bifurcating the proceeding to consider first the Ohio Supreme Court's remand of the RSP case ("Phase I"), and second, the issues relating to the costs and management of certain defined components of the RSP previously approved by the Commission ("Phase II").¹

¹ Entry at 2 (February 1, 2007).

The evidentiary hearing for the Phase I portion of this proceeding commenced on March 19, 2007 and concluded on March 21, 2007. Initial and reply briefs were filed for the Phase I portion of the proceeding on April 13 and 24, 2007, respectively. The evidentiary hearing for Phase II of this proceeding commenced on April 10, 2007 and concluded on April 19, 2007. On April 9, 2007 DE-Ohio filed a stipulation and recommendation ("Stipulation") at the Commission, signed by DE-Ohio, Commission Staff, Ohio Energy Group, Ohio Hospital Association, City of Cincinnati, and People Working Cooperatively indicating that the Stipulation resolves all of the issues raised by DE-Ohio and the Commission's December 20, 2006 Entry in these cases relative to the suspension of the Fuel and Purchased Power ("FPP") tracker, System Reliability Tracker ("SRT"), and the Annually Adjusted Component ("AAC") of DE-Ohio's market-based standard service offer.² After clarifying with DE-Ohio witness Paul Smith that nothing in the Stipulation would affect the scope or nature of the Commission's ability to review the costs eligible for recovery through the FPP, SRT, or AAC mechanisms or the ability of the Commission to exercise its discretion regarding the amount recoverable through such mechanisms,³ Industrial Energy Users-Ohio ("IEU-Ohio") indicated on the record that it would not oppose the Stipulation.⁴ At the conclusion of the evidentiary hearing, the Attorney Examiners set forth the due dates for the initial and reply briefs in the Phase II portion of this proceeding for May 17 and 30, 2007, respectively. IEU-Ohio hereby gives notice that it will not

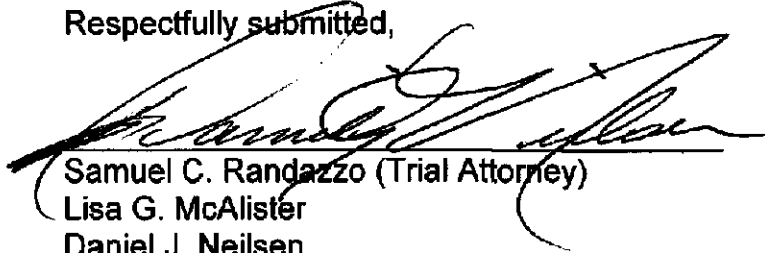
² Stipulation and Recommendation at 1 (April 9, 2007).

³ Tr. Vol. II at 122, line 14 through 123, line 1 (April 19, 2007).

⁴ *Id.* at 153, lines 1-3.

file an initial brief in the Phase II portion of this proceeding, but reserves the right to file a reply brief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Samuel C. Randazzo', is written over a horizontal line.

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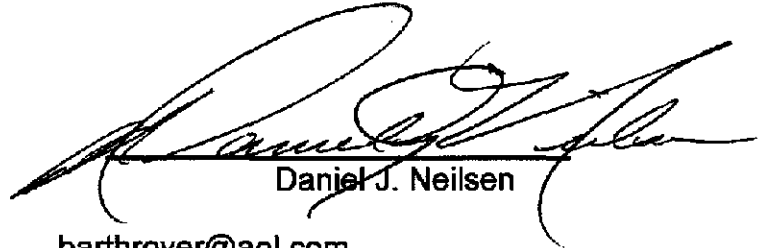
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Notice of Industrial Energy Users-Ohio* was served upon the following parties of record this 17th day of May 2007, via electronic transmission.



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