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**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)	Case No. 07-551-EL-AIR
Edison Company for Authority to Increase)	Case No. 07-552-EL-ATA
Rates for Distribution Service, Modify)	Case No. 07-553-EL-AAM
Certain Accounting Practices and for)	Case No. 07-554-EL-UNC
Tariff Approvals.)	

**MOTION TO STRIKE CERTAIN FIRSTENERGY OBJECTIONS
TO THE STAFF REPORTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Pursuant to Ohio Adm. Code 4901-1-12 and Ohio Adm. Code 4901-1-28(B), the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of residential utility consumers, moves to strike three objections to the Reports by the Staff ("Staff Reports") regarding the applications in the above-captioned cases by the Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, "FirstEnergy" or "Company"). Specifically, OCC moves to strike three objections filed by FirstEnergy on January 3, 2008:

- Objection 3, on page 3, relating to FirstEnergy's claim that the Staff Reports failed to provide some mechanism or proceeding for the Company to recover for certain fuel deferrals in the rate certainty plan ("RCP") submitted in PUCO Case 05-704-EL-ATA, et al.;

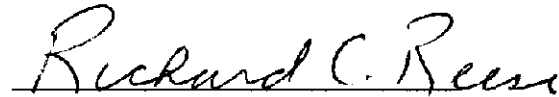
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- Objection 5, on page 3, relating to FirstEnergy's claim that the Staff Reports failed to include December 31, 2008 balances for RCP fuel deferrals in rate base;
- Objection 16, on page 6, relating to FirstEnergy's claim that the Staff Reports failed to provide for amortization of RCP fuel deferrals.

These objections by FirstEnergy should be stricken because they lack specificity or are contrary to Commission rulings. The grounds for OCC's Motion to Strike are more fully set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION TO
STRIKE CERTAIN FIRSTENERGY OBJECTIONS TO THE STAFF REPORTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Staff Reports in the above-captioned cases were issued on December 4, 2007. Pursuant to R.C. 4909.19, objections to the Staff Reports were submitted by parties on or before January 3, 2007. FirstEnergy, as well as other parties, submitted objections. An Entry dated December 21, 2007 provided that motions to strike objections should be filed by January 10, 2008.¹ The OCC addresses three of FirstEnergy's objections in this pleading, which should be stricken.

¹ Entry at 1, ¶5.

II. ARGUMENT

A. FirstEnergy's Objections Should Be Stricken Because They Lack Specificity, In Violation Of Ohio Adm. Code 4901-1-28(B).

All three of the objections identified in the OCC's Motion to Strike claim that the Staff Reports unreasonably failed to deal with fuel deferrals that stem from PUCO Case 05-704-EL-ATA, et al. These objections fail to properly specify how the PUCO Staff erred in light of the Supreme Court of Ohio's decision in *Elyria Foundry Co. v. Pub. Util. Comm.*, 114 Ohio St.3d 305, 2007-Ohio 4164 ("Elyria Foundry"). In Elyria Foundry, the Supreme Court of Ohio did not permit the collection of generation-related charges in distribution cases. The above-captioned cases are *distribution* cases.

Moreover, the Commission found the following concerning FirstEnergy's proposed Fuel Cost Recovery Rider (Fuel Rider): "The RSP authorizes FirstEnergy to seek an adjustment to its *generation* charge to recover increases in the costs of fuel above the 2002 fuel cost baseline."² The Commission thereafter specified how such fuel costs would be collected from customers in generation rates.³ Therefore, the subjects of the three objections that are the subject of the OCC's Motion to Strike have already been dealt with by the Commission in another case.

² In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Modify Certain Accounting Practices and for Tariff Approvals, Case No. 07-1003-EL-ATA et al., Finding and Order (January 9, 2008) at 4.

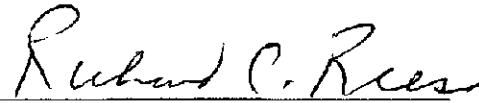
³ Id.

III. CONCLUSION

For the reasons set forth herein, the Commission should strike three of FirstEnergy's objections as discussed above, in accordance with Ohio Adm. Code 4901-1-28(B).

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

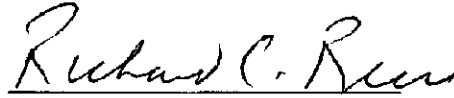
A handwritten signature in cursive script, reading "Richard C. Reese".

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike Objections by the Office of the Ohio Consumers' Counsel was served by first class United States Mail, postage prepaid, to the persons listed below, on this 10th day of January, 2008.



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