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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric ) Case No. 07-551-EL-AIR  
Illuminating Company, and The Toledo Edison ) Case No. 07-552-EL-ATA  
Company for the Authority to Increase Rates ) Case No. 07-553-EL-AAM  
for Distribution Service, Modify Certain ) Case No. 07-554-EL-UNC  
Accounting Practices and for Tariff Approvals. )

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POST HEARING BRIEF OF THE OHIO SCHOOLS COUNCIL

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## TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY .....	ii
I. Introduction.....	1
A. Description of the Ohio Schools Council .....	1
B. The Energy for Education II program.....	2
C. Background and Statement of the Case .....	2
D. Burden of Proof.....	4
II. A Brief History of First Energy's School Rates .....	4
A. History Lesson the Companies Ignored: The Historical Basis of Lower Cost Based School-Specific Rates .....	4
B. Extra Credit: Schools Ongoing Efforts to Keep Costs Low .....	6
III. Companies' Rate Design Impact on the Schools should be Graded "F" .....	7
A. The Companies failed to or chose not to do their homework in creating the rates and tariffs that will apply to the Schools. ....	7
B. What The Math <i>would</i> have shown: School Summer Vacation + Summer Peaks = Lower Cost of Service which Justifies Lower School Rates .....	9
C. Even though the Companies failed to do their homework, they're asking for "A" grade rate increases from the Schools.....	12
D. Elimination of the School Rates for CEI and TE is Irreconcilable with Established Rate Design Principles Espoused by the Companies .....	15
E. The Companies' proposed School Rate design is contrary to Ohio law.....	16
F. The Companies' attempts at gradualism, including the Business Distribution Credit Rider, do not apply to the Schools.....	18
G. Contract-Demand: A work-in-progress .....	19
H. Companies Rate of Return should be lowered due to increased revenue stability that will result in lower business risk.....	20
I. The Companies' record-breaking 2007 financial performance shows that shareholders are being rewarded at the expense of the Schools. ....	21
J. The Stipulation: Schools feel like they're being bullied by the stipulation's rate design implications.....	22
IV. Schools' Rate Proposals: Alternatives for Setting School Rates .....	23
1. School Rates should be retained for CEI and TE, and added for OE .....	23
2. Cost Based Rate for Distribution Demand Charges .....	24
3. A School Rider should be established to reduce rate impact on Schools .....	25
4. Revise the Contract Demand Provision for Schools.....	26
5. Lower Revenue Requirement based on more stable Rate of Return .....	26
V. Conclusion .....	27

## **EXECUTIVE SUMMARY**

The Ohio Schools Council ("Schools") intervened in this proceeding on behalf of the 249 public school districts it represents within the Ohio Edison Company ("OE"), the Cleveland Electric Illuminating Company (CEI), and the Toledo Edison Company ("TE") (collectively the "Companies") service territories. The Schools' intervention in this case was necessitated by the profound and adverse impact the Companies' proposed distribution rates will have on the Schools, both in terms how the new rates are designed and, most importantly, how the rates will impact the overall cost these 249 public school districts pay for their electric service.

Put simply, the Companies are proposing to eliminate school rates in place for CEI and TE since the early/mid 1990's and significantly increase the revenue responsibility allocated to school customers for all three Companies. The Companies make this proposal in a filing and on a record that is nearly devoid of any analysis of the proposed rates impacts on the Schools, or on the more favorable load characteristics and lower cost causation of the Schools as a class. As the Schools will demonstrate, the Companies' application is unjust, unfair, unreasonable and unlawful as to its impact on the Schools. The Companies' proposals are neither based on the established principles of rate design cited by the Companies in their application nor justified on a cost-of-service or any other basis. They grossly violate the fundamental rate precept of gradualism. For these reasons, and more, the Commission should reject the Companies' applications as proposed as to the Schools in favor of adopting the Schools' proposals set forth in its Brief.

To address the Schools' legitimate objections in this case, the Schools propose the following three alternative proposals for the Commission to consider:

1. **Retain School Rates** – The small and large school rates currently in place for CEI and TE should be retained. These school rates should be offered to Schools also in the OE service territory (with the same eligibility requirements as currently in place for CEI and TE schools), as the OE Schools present similar load characteristics. If the School rates are retained, the Schools’ calculation of the rates is set forth in IV (1), infra. The Schools believe that these specific school rates continue to be the most just and reasonable approach to serving the unique School customer class; or
  2. **27% Downward Rate Adjustment** – If the Commission accepts the Companies’ proposed rate design eliminating school rates, a 27% downward rate adjustment for distribution demand charges for Schools within the General Service class should be ordered. This adjustment is reasonable based on Schools’ diverse (and more favorable) load profiles during the Companies’ 3 month summer peak period. This adjustment accurately reflects the actual cost of service to the Schools, and will eliminate any subsidy other General Service customers would otherwise receive from the Schools from the elimination of the school rates. The Schools’ proposed tariff language is set forth in Attachment A; or
  3. **School Demand Credit Rider**– An alternative approach would be to establish a School Demand Credit Rider, similar to the Business Distribution Credit Rider the Companies are proposing for other customers for gradualism purposes, to temper the drastic increase to Schools’ accounts resulting from the elimination of School specific rates. The Schools’ proposed tariff language for the School demand credit rider is set forth in Attachment B.
- Regardless of which of the above three School rate proposals the Commission determines to be the most just and reasonable, the Schools also propose the following:

4. **Revise Contract Demand Tariff** – The Companies’ revision to the proposed Contract Demand language proposed at hearing should be approved. Additionally, the tariff language should be revised to include additional specific language including that the Contract Demand provisions shall not apply to School facilities during the months of June, July, and August. The Schools’ proposed Contract Demand tariff language is set forth in Attachment A.
5. **Rate of Return Reduction** – Based on the principle of revenue stability and the Companies’ rate design in this case, the Schools’ class rate of return should be reduced by 50 basis points before revenues are calculated and rates designed. Further, the Companies’ record 2007 financial performance (\$1.31 billion of income) should be considered in reviewing the Companies’ application in this case and considering an appropriate rate of return.

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### POST HEARING BRIEF OF THE OHIO SCHOOLS COUNCIL

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#### **I. Introduction**

##### **A. Description of the Ohio Schools Council**

The Ohio Schools Council ("Schools" or "Council" or "OSC") is a regional council of governments established under Chapter 167 of the Ohio Revised Code, and is a political subdivision of the State of Ohio. The OSC operates a variety of cooperative programs for its member school districts including the group purchasing of electricity and natural gas designed to reduce their energy costs. Savings from OSC's programs are returned to the member districts.

In this case, the OSC represents the 249 public school districts that participate in its electricity program, all of which are served by the Ohio Edison Company ("OE"), The Cleveland Electric Illuminating Company (CEI), and the Toledo Edison Company ("TE") (collectively the "Companies"). These 249 districts include all but 5 of the public school districts served by the Companies, and represent 41% of all public school districts in the State of Ohio. There are approximately 731,000 school children enrolled in the 249 school districts represented by OSC in this case.

## **B. The Energy for Education II program**

The “Energy for Education II” (E4E II) program is the second electricity prepayment program the Ohio Schools Council has negotiated with the Companies on behalf of participating districts.<sup>1</sup> The E4E II program and its predecessor “Energy for Education” program are electricity prepayment programs whereby the Schools arrange for the issuance of municipal bonds to prepay a lump sum amount to the Companies representing participating school districts’ anticipated electric usage for the contract term in exchange for a negotiated discount off their electric base rates. (OSC Ex. 4 at 2; Tr. VII, p 125; Tr. Austintown L.P.H. 3/6/2008, p. 39 - 40). The term of the current E4E II program is for 2005 through the end of 2008, and the Schools prepaid the Companies \$241 million during late 2004. (Tr. Austintown L.P.H. 3/6/2008, p. 39 – 40) The Schools and the Companies negotiated a 10% discount in exchange for prepayment, which combined with additional financing savings derived from prepayment at 2005’s present value results in a current 13.4% savings to participating school districts. *Id.* The contract term of the E4E II program ends December 31, 2008.

## **C. Background and Statement of the Case**

On May 8, 2007, the Companies filed a Notice of Intent to Increase Distribution Rates in Case No. 07-551-EL-AIR *et al.* On June 7, 2007, they filed the Application to increase rates. On September 22, 2007, the Schools filed a Motion to Intervene. The Schools were granted intervention in this proceeding on December 21, 2007 by Entry of Attorney Examiner Janet K. Stoneking. On December 4, 2007, the PUCO Staff filed 3 separate Staff Reports of Investigation (together “FE SRIs” or “OE SRI”, “CEI SRI”, or “TE SRI” separately). The Schools timely

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<sup>1</sup> The Ohio Schools Council, and the boards of education of the 249 public school districts, entered into the E4EII special contracts with the Companies under O.R.C. § 4905.34.

filed Objections to the Staff Reports on January 3, 2008, and timely filed the direct testimony of Mr. Howard Solganick P. E. on January 10, 2008.

Evidentiary hearings were held in the case from January 29, 2008 through February 25, 2008. The Schools participated throughout the evidentiary hearing. During the hearing, the Schools presented the testimony of one expert witness, Mr. Solganick. Mr. Solganick is a highly credentialed rate design and cost-of-service expert who testified on February 11, 2007 regarding all issues and objections raised by the Schools. (OSC Ex. 2, p. 4-7)

After the conclusion of the evidentiary hearing, twelve local public hearings commenced beginning on March 5, 2008 and continued through March 24, 2008. Schools actively participated in each of the 12 local public hearings as over 40 school officials representing over 100 public school districts testified under oath as to the impact the Companies' proposed rate design and distribution rate increases will have on school districts, teachers and other school employees, taxpayers, and the children being educated in Ohio's public schools. A summary of the testifying school officials' comments and concerns is attached as Attachment C to this Brief.<sup>2</sup>

In this case, as part of their proposed rate design, the Companies have proposed to eliminate or discontinue the school specific rates currently in place for CEI and TE. The Companies have proposed that Schools in all three Companies' service territories take service on rate schedules General Service-Secondary (GS) or General Service-Primary (GP) with all other commercial customers. Based on the significant tariff restructuring proposed by the Companies in their application, the Companies did not address the impact that the elimination of school specific rates would have on school customer's accounts within its application nor did they assess the rate increases to schools as a class through a cost-of-service study. Staff also failed to

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<sup>2</sup> As of March 28, 2008, when Post Hearing Briefs are due to be filed, testimony from only \_\_\_ of the 12 Local Public Hearings has been published on the PUCO's website. Thus, the number of school officials and the comments they made are more numerous than what is attached in Attachment C.



consider or address how the school customers as a class would be impacted by the Companies' proposed rates.

**D. Burden of Proof**

In this case, the applicant has the burden of proof under O.R.C. 4909.19 to demonstrate that, among other things, the Companies' proposed elimination of school rates is just and reasonable. The Companies have failed to discharge their burden of proving that the Companies' proposed rate design and tariff rates in their application are just and reasonable as to their impact upon the Schools, and have failed to prove that the Companies adequately analyzed the adverse disproportionate impact to the Schools of discontinuing school rates and implementing their new rate design.

**II. A Brief History of First Energy's School Rates**

**A. History Lesson the Companies Ignored: The Historical Basis of Lower Cost Based School-Specific Rates**

It is important to chronicle the origin of the Companies' School tariffs to appreciate the severe impact the Companies' proposed rate design and rate increase will have on the Schools.

For TE small and large tariff rate schedules, the genesis was TE's Application filed with the Commission in Case No. 90-717-EL-ATA in 1990. In that application, TE designed and proposed special school rates to "recognize the lower contributions of primary/secondary schools to summer peak loads." The Commission approved the TE special school rates by Order dated August 2, 1990 stating "Toledo Edison recognized that it is less expensive to serve schools than commercial customers and [TE] proposed rates which reflected this conclusion." (OSC Ex 3, p. 54)

As to CEI, the proper vantage point was the Commission's last opportunity to establish rates for CEI, specifically CEI's last rate case, Case No. 95-300-EL-AIR *et al.* (noticed as OSC

Ex. 3) After attempts by the Schools beginning in 1993 to negotiate School rates with CEI proved fruitless, the Schools, represented by the Greater Cleveland Schools Council (n/k/a Ohio Schools Council), intervened and participated in the 1995 case. In that case, CEI acknowledged that the school class costs less to serve than the general commercial class and that was why there were schools rates proposed (OSC Ex 3, p. 54)

On April 11, 1996, the Commission issued its Opinion and Order in that case addressing a number of the issues raise by the Schools during the case including rate design and revenue distribution. In analyzing the School rates and tariffs proposed by CEI and TE, the Commission expressly recognized the School's position that

[S]chool rates should reflect that most school buildings are not in use for at least two months of CEI's peak summer period and, consequently, the rates schools pay should reflect the schools' higher load factor usage pattern. CEI agrees that schools are less likely than other non-residential facilities to be operating during summer afternoons, when the system experiences its maximum demand.

(OSC Ex 3. at 54; Tr. VII, 119).

The Commission also recognized in its analysis that TE had historically offered School rates, and that in TE's prior 1990 rate case, Case No. 90-717-EL-ATA, "Toledo Edison recognized that it is less expensive to serve schools than commercial customers and [TE] proposed rates which reflected this conclusion. *Id.* Prior to 1990, TE had historically offered school rates as part of city and village ordinance rates.

The Commission's Order in the 1995 case also considered the Schools' argument that CEI's school cost-of-service study was misleading, non-representative, and inaccurate, as it was based on only a 2-school sample as opposed to a prior study sampling 18 schools, which comparatively resulted in a substantially higher load factor calculation that 'reduce[d] the

Schools' coincident peaks about **27 percent** and the fixed costs allocated to the Schools by approximately the same amount." (OSC Ex 3, p. 55) (emphasis added).<sup>3</sup>

Based on this analysis, the Commission appropriately made modifications to the Companies' and Staff's proposals as they related to the Schools. The Commission stated in its Opinion and Order that "schools receiving service under tariff rates in CEI's territory should [] be assigned less revenue responsibility than that being proposed by either the company or the staff." (OSC Ex 3, p. 62) In this decision, the schools' revenue distribution percentage was increased only 0.50 percent, and reasonable school rates were established for both CEI and TE.

The Schools are grateful of the Commission's actions in the last CEI rate case. Currently, the Schools in CEI and TE's service territories benefit from the Commission's recognition that the unique usage and cost-of-service characteristics the Schools provide to the Companies warrant the Large School and Small School rates. The Schools ask the Commission to continue its prior precedent with respect to School rates.

**B. Extra Credit: Schools Ongoing Efforts to Keep Costs Low**

In the years after the 1995 case, the Ohio Schools Council their public school districts became more sophisticated in purchasing their electricity. In light of future rate uncertainties created by S.B. 3 in 1999 and a need to control costs due to the Schools' limited resources, they began to negotiate with the Companies to lock in discounts for future service. The Schools and the Companies negotiated the "Energy for Education" Program in 1998, and the "Energy for Education II" Program explained above.

The Schools are sincerely appreciative of the past cooperation of the Companies in entering into the two Energy for Education programs. Unfortunately, however, based on the

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<sup>3</sup> It is interesting to note that the Schools' previous rate consultant in the 1995 CEI rate case, Baker Clay, arrived at the same **27% rate reduction** recommendation as the Schools' rate expert in this case, Howard Solganick, on two separate occasions with two different sets of data thirteen years apart.

contract term expiration, the E4E II program is slated to end on December 31, 2008. (OSC Ex. 4, p. 2; Tr. Austintown L.P.H. 3/6/2008, p. 40). Due to the expiration of the Energy for Education II program discount at the end of this year, the Companies' proposed rate increase will result in an even greater rate impact for the Schools, an additional 13.4% increase to overall rates to the schools and an additional \$11.7 million dollars in overall profitability to the Companies. This combination of distribution rate increases in this case and the loss of the overall 13.4% discount in the Energy for Education II Program will impact a customer class that is already stretched to the limits by increasingly scarce resources to fund this additional burden.

### **III. Companies' Rate Design Impact on the Schools should be Graded "F"**

Under the Companies' application, the currently available school rates for CEI and TE will be eliminated.<sup>4</sup> (Tr. II, p 16) School customers who have historically taken service under the School rates will be forced to the General Service – Primary and General Service – Secondary schedules. (Company Ex. 13, GFH-1) The Companies' rate design and proposed tariff will result in severe increases in costs for both individual school accounts and the school class as a whole. As the Schools explain below, the Companies' rate design with its attendant adverse impact on the Schools is unfair, unjust, unreasonable and unlawful. The Companies' proposal should be rejected in favor of the Schools' proposals.

#### **A. The Companies failed to or chose not to do their homework in creating the rates and tariffs that will apply to the Schools.**

According to the Staff Report of Investigation, "cost of service studies and related expense analyses are necessary to determine the appropriate level of revenue to be generated and the appropriate recovery of such revenue." (CEI Staff Report, p. 24) One of the most contentious

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<sup>4</sup> There are currently school-specific tariffs only for CEI and TE. OE did not historically have school-specific tariffs. OE merged with Centerior Energy Corp. in 1997 after CEI and TE's last rate case, Case No. 95-299-EL-ATA *et al* discussed above. The Schools submit that there is no substantial difference between the school facilities served by OE as compared to CEI and TE, and the Companies should be ordered to develop and implement appropriate small and large school-specific rate schedule(s) for all three Companies alike.

issues the Schools brought before the Commission in CEI's 95-300 case was that the Company's attempt at a 2 school cost-of-service study in that case was misleading, non-representative, and inaccurate (OSC Ex 3, p. 54 - 55) In this case, the Companies failed and chose not to complete a separate school-focused cost-of-service study to assess the cost of providing service to the Schools. In response to the Schools' discovery requests, the Company responded that they did not develop a school and educational class or subclass, did not perform an analysis of school rates, did not perform the necessary load research, and chose not to track schools separately in the cost-of-service study. (Schools Ex. 2, p 16-17)

It is also worth noting that the Staff, in its approval of the Companies' rate design, also did not complete any school-specific analysis. During cross-examination, Staff's rates and tariffs witness, Mr. Fortney, admitted that the extent of his analysis of the Schools' objections was to read Mr. Solganick's testimony. (Tr. VIII, p.113) Staff did not analyze whether schools are being over allocated costs based on the proposed distribution rates; did not analyze the impacts of the proposed distribution rates on school accounts; had no knowledge of whether the Companies completed any school-focused analysis; did not propose that the Companies complete a cost-of-service study for the schools, did not review CEI's prior 95-300 case in preparing its testimony, and was unaware of the Energy for Education programs existence and its impact on School's rates. (Tr. VIII, p. 113 – 124)

The Schools again submit, just as in CEI's 95-300 case, that they deserve lower school rates based on their usage pattern and lower cost-of-service to the Companies. Staff agreed during cross examination that a cost-of service study is *exactly* how the companies would find out whether a subgroup of customers, like the Schools, has a better load factor. (Tr. VII, P 141) Why didn't the Companies conduct a separate school class cost of service study in this case?

Maybe because the study would have demonstrated that indeed the Schools do have a better load factor and, hence, a lower cost of service.

**B. What The Math *would* have shown: School Summer Vacation + Summer Peaks = Lower Cost of Service which Justifies Lower School Rates**

The concept that the schools in all three Companies' service territories are entitled to lower rates from a cost causation standpoint is logically and analytically irrefutable. The Companies' proposed distribution rates are largely based on demand related rate base, and the Companies fail to recognize the demand diversity of the Schools as compared to the rest of the General Service Class. (OSC Ex. 2, p. 29, HS-8) Based on the demand diversity the Schools represent, their inclusion in the General Service Class and the revenue allocated to them is unfair, unreasonable and unlawful.

Schools are out of session during most of the summertime. (OSC Ex. 1). For example, during the 2007-2008 school year, the Olmsted Falls School District will only be in session, meaning operating at full electric load/demand, for 14 of 92 days: August of 2007 (9 days), June of 2008 (5 days), and July of 2008 (0 days). *Id.* The Companies completely ignored the usage characteristics and seasonal load profile of the Schools in designing their proposed distribution rates. Additionally, the Companies failed to take into consideration the prior existence of school rates or even analyze whether their new voltage-based rate classes would impact Ohio's public schools. (OSC Ex. 2, p. 22)

In creating their new voltage-based rates, the Companies utilized the coincident peak methodology to allocate demand using summer coincident voltage peaks that occur during the months of June, July, and August. Specifically, the Companies' highest peaks were shown to occur during late-July and early-August, a time period when Schools are not in session. (OSC Ex. 2, p. 18, Tr. IV, p. 31-32). Also, the earliest peak for any of the Companies occurred for TE

on June 19<sup>th</sup>, which is well after school is out for the summer and the latest peak occurred on August 7<sup>th</sup>, which is well before the school year starts up again. (OSC Ex. 2, p. 18) The Schools' witness, Mr. Solganick, specifically analyzed this issue and came to the conclusion that the average School's peaks demonstrate that "on an energy basis, school consumption is focused on the instructional school year rather than the Companies' peak summer period." (OSC Ex. 2, p 27, HS-6, HS-7)

In its only attempt to complete any representative analysis whatsoever of the Schools' current usage or the prospective impact of the proposed rate design and tariffs, the Companies, in eleventh-hour rebuttal testimony, analyzed the Schools' peak demands. In an attempt to rebut Mr. Solganick's analysis, the Companies sought to show that a weighted average demand ratio approach was more representative of school peak demand than the average demand ratio used by Mr. Solganick. Together with a criticism of the schools sample<sup>5</sup>, this was the only analysis of the Schools' demand characteristics the Companies completed.

In fact, the Companies do not really rebut the Schools' analysis. First, Mr. Solganick's testimony accurately analyzes and represents the Schools' percentage of non-summer energy consumption and the Schools' maximum, average, and minimum peak demand in HS-6 and HS-7 respectively. To ensure that his analysis was accurate and complete, Mr. Solganick developed the usage criteria in two different ways to show that his examination of demand was unbiased. (Tr. IV, p. 42-44) He also completed an analysis of Schools' air-conditioning usage to ensure that his

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<sup>5</sup> The Schools take issue with Companies' criticism of the Schools' analysis as being misleading. First, the sample and Mr. Solganick's analysis is a 100% accurate representation of what it is purported to be. Mr. Solganick's testimony scientifically lays out how the school sample was derived, what the parameters of the study were, and what the results of the study conclude. (OSC Ex. 2, pp. 26-27). If there is fault for the limited nature of the Schools' analysis, it more appropriately lies with the Companies who could not provide school-specific load research and cost-of-service study data because the Company did not perform this research for the school accounts, and objected to providing billing data for all school accounts to allow the schools to complete a more representative sample. (OSC Ex. 2, pp.16-19) Thus, as explained in Mr. Solganick's testimony, obtaining school bills from OSC was the only way to complete any demand related analysis.

sample and analysis was representative. (OSC Ex. 2, p. 15, HS-2) Within HS-7, Mr. Solganick's testimony purposefully showed the average demand of all school district as simply the average, and not the weighted average reflecting the actual demand of individual districts. Using Mr. Solganick's non-weighted simple average approach is not misleading and is representative because it reflects school demands equally without taking size into account. Some of the smallest schools and smallest districts will be impacted the most by the rate increase. (Tr. Cleveland L.P.H 3/13/3008, p 76-78)

Second, Mr. Hussing's rebuttal analysis using average-weighted demand essentially comes to a similar conclusion as Mr. Solganick's HS-7 using averaged demand: schools load characteristics are diverse from the general service class because schools do not peak in the summertime when they are not in session. In both Table 3 and Table 3-A (Companies Ex. 27) of Mr. Hussing's rebuttal testimony, the Schools' lowest "Sum of Non-Coincident Demand" and "Weighted Demand Ratio" occurred during the month of July during both 2006 and 2007. (Companies Ex. 13-C, p7)

Based on both Mr. Solganick's analysis and the Companies' rebuttal, quite logically, because schools are not in session during the summer, the average school has a distinct drop in demand during the summer months when the Companies are experiencing their greatest peak demands. (OSC Ex. 2, p. 27). As the concept of diversity suggests, the Schools' load characteristics are substantially and materially different from the general service class, which is summer-peaking and has significantly higher summer demand than the schools. (Application App. M; OSC Ex. 2, p27) It is also noteworthy that the Companies did not complete the same average-weighted demand analysis for the general service class as a whole that they completed



for the Schools in rebuttal to compare whether the Schools' load characteristics actually are diverse from those of General Service Class. (Tr. VIII, p. 197)

Similarly, Staff also did not complete any analysis of this issue. (Tr. VII, p. 140-141) The only witness to directly analyze the diversity issue was Mr. Solganick<sup>6</sup>. He concluded that because school facilities have significantly less impact on the Companies' distribution system due to significantly lower summer peak demands, it is unreasonable to include the schools in the general service class. (OSC Ex. 2, p 29) Charging the Schools General Service distribution rates without adjustment to reflect the actual cost to serve the Schools will effectively result in the Schools paying rates in excess of their cost impact on the Companies. For this reason, the Schools should be granted lower rates than what is proposed by the Companies in their revenue distribution and rate design. (Tr. IV, p. 33-34;35)

**C. Even though the Companies failed to do their homework, they're asking for "A" grade rate increases from the Schools**

The impact on Schools of the Companies' proposed distribution rate increase, both in percentage increase and actual dollars schools will be required to pay starting January 1, 2009, will be drastic. For individual OE school customer accounts, distribution rates will increase as much as 150%. For individual CEI school customer accounts, distribution rates will increase as much as 31%. For individual TE school customer accounts, distribution rates will increase as much as 208%. (OSC Ex. 2, p. 20) Importantly, Mr. Solganick's analysis and calculation of these individual rate impacts have never been challenged by the Companies.

The drastic financial impact that the Companies' proposed rate increases will have on individual districts, individual schools, and the education of hundreds of thousands of Ohio's

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<sup>6</sup> The Ohio Schools Council requested on a number of occasions a breakdown of the impact that the proposed distribution rate increase will have on individual school districts served by the Companies. The Companies have failed to respond to these inquiries. (Tr. Austintown L.P.H. 3/6/2008, p. 39 – 40)

children was recognized by at least 37 Superintendents, School Business and Operations Directors, the Buckeye Association of School Administrators, the Ohio School Boards Association, the Ohio Association of School Business Officials, and the Greater Cleveland School Superintendents' Association who testified at the 12 local public hearings held in the case. These [30] school district representatives all testified as to the potentially devastating financial impact that the proposed rate increase will have on their individual districts, Ohio's public schools, Ohio's taxpayers, and, importantly, on the school kids they educate. A summary of the testifying school officials' comments and concerns is attached as Attachment C to this brief.

One after another, School representatives came forward at the local hearings. While they expressed appreciation for the Companies' past Energy for Education programs, they lamented the Companies' lack of consideration of the proposed rate increase's impact on the Schools. The School officials called on the Commission to recognize both why the proposed increases are unjust and unreasonable to the Schools and how the rate increase will directly impact School districts' ability to educate the children in their communities.

The testimony of the school district representatives can be best summarized as follows. Schools do not operate their facilities during the summer months when electricity is in highest demand and schools are dismissed by mid-afternoon each day, which, combined, create a favorable load profile, and this should have been taken into account by the Companies in designing rates and now should be taken into account by the Commission in this case. (Tr. Cleveland L.P.H 3/13/3008, p 78) Schools' cost of service to the Companies is lower than the General Service class and their rates should reflect that. The Energy for Education II program, which the Schools and Companies negotiated to help Schools control costs, will be discontinued

on December 31, 2008 resulting in an approximately 13% increase, equaling \$11.7 million dollars, in School rates prior to any increase proposed in this case. (*Id.* at p. 15, 19, 33, 53, 67, 75) If the Companies' proposed distribution rate increases are approved, individual school districts will be severely impacted by 30 to 40 percent rate increases. (*Id.* at 15-16, 18, 23, 34, 39, 68, 72, 76) The increase resulting from the discontinuation of the Energy for Education program and the proposed increase in this case will increase the electricity costs for 22 school districts alone by approximately \$4.5 million dollars per year and will force these districts to either terminate or not hire the equivalent of 100 entry level teachers in the future. (*Id.* at 19) Specifically, for the Parma City School District, a 10% increase in rates will require the equivalent of 2.5 teachers to be cut from the annual operating budget and a 35% increase in rates will require the equivalent of 8.5 teachers to be cut from the annual operating budget. (*Id.* at 39)

Unlike businesses, schools cannot pay for this proposed increase by increasing the price of their product, but must either reduce their own costs or increase taxes. (*Id.* at 18) Taxpayers have not been supportive of increasing taxes for school funding as 80% of school operating levies have failed in the past three years. (*Id.* at 87) Alliance City Schools, for example, has had two school operating levies fail by 60% in the past year. (*Id.* at 72) State funding also has not increased for approximately 65% of Ohio school districts during the past two years, and a state-mandated \$101 million Ohio Board of Education budget reduction for the fiscal years 2008 to 2009 will further decrease individual school district funding. (Tr. Cleveland L.P.H 3/13/3008 at 85; Tr. Austintown L.P.H. 3/6/2008) Therefore, the Schools' only option is to reduce funding by cutting teachers, staff, programs, and facilities in the face of increased electric rates. And these

cuts are being forced during a time when the Companies are making record profits<sup>7</sup> and their service quality to some school districts has been unsatisfactory. (*Id.* at 82-84)

In sum, the Companies proposed rate increases, and the severe impact they will have on Ohio's public schools, are unfair and unreasonable.

**D. Elimination of the School Rates for CEI and TE is Irreconcilable with Established Rate Design Principles Espoused by the Companies**

The Companies' treatment of the Schools in its application fails miserably to take into account the impact that its rate design and proposed tariffs will have on the Schools. In support of the Companies' rate design and proposed tariffs' impact on its customers, Company witness Hussing, who was responsible for the Companies' rate design and tariff issues, suggests that

The transition from historic rate levels and structures to proposed rates must be accomplished through a reasoned and gradual approach in order to balance the competing objectives of mitigating significant customer impacts and simplifying and consolidating the tariff design. Incorporating the concept of gradualism is a useful tool in managing overall customer impacts resulting from incorporating the rate design objectives.

(Company Ex. 13, p7). While the Companies purport to adhere to principles of gradualism and reasonableness in transitioning customers from historic to proposed rate schedules, in reality, they do little more than pay lip service to these principles in establishing the rate design and increase that will apply to the Schools.

Staff also represented the importance of these general principles of rate design in the SRIs stating that

In summary, electric rates should be predicated on costs, be fair, equitable, and reasonable, provide for customer understanding, cause minimal impact (sometimes called gradualism), provide continuity in pricing structures, provide

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<sup>7</sup> A number of school districts and other concerned citizens commented on the fact that the proposed rate increase came at a time when the Companies are making record profits. The Schools have attached a newspaper article, submitted to the Attorney Examiners during the Cleveland local public hearing, documenting the Companies' record profits as Attachment D.

the utility the opportunity to recover an authorized revenue by providing for the recovery of costs found proper in a regulatory proceeding.

(Tr. VII, p. 134, CEI SRI p25) Although Staff supported the proposed rate design, Staff witness Fortney during cross-examination agreed that an extreme rate increase such as the 207% increase that will impact some schools accounts “would be an abrupt change that would not comport with the theory of gradualism.” (Tr. VII, p. 134)

**E. The Companies’ proposed School Rate design is contrary to Ohio law.**

The Schools have shown above that they are being disadvantaged by the Companies’ rate design. Schools will be severely prejudiced if they are included in and forced to subsidize the general service class, whose usage characteristics exhibit a substantially higher cost of service to the Companies during their peak summer months than Schools. Ohio Revised Code Chapter 4905<sup>8</sup> provides that it is unlawful for a utility to unreasonably or unduly disadvantage or prejudice any customer of customer class in establishing rates, and that different rates for service should be established based upon actual and measurable differences in the furnishing of services to the consumer. *Ohio Consumers' Counsel v. PUC* (2006), 109 Ohio St. 3d 328, 847 N.E.2d 1184; *AK Steel Corp. v. PUC of Ohio* (2002), 95 Ohio St. 3d 81, 765 N.E.2d 862; *Mahoning County v. Public Utilities Com.* (1979), 58 Ohio St. 2d 40, 388 N.E.2d 739. Factors the utility should consider include the “quantity used, the time when used, the purpose for which used, the duration of use, and other reasonable considerations which essentially distinguish the service

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<sup>8</sup> Specifically,

4905.33(A) No public utility shall directly or indirectly, or by any special rate, rebate, drawback, or other device or method, charge, demand, collect, or receive from any person, firm, or corporation a **greater or lesser compensation for any services rendered, or to be rendered**, except as provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code, than it charges, demands, collects, or receives from any other person, firm, or corporation for doing a like and contemporaneous service under substantially the same circumstances and conditions. (Emphasis added)

4905.35(A) No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, **or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage.** (Emphasis added)

required to meet the various demands.” *County Comm’rs Asso. v. Public Utilities Com.* (1980), 63 Ohio St. 2d 243, 246, 17 Ohio Op. 3d 150, 407 N.E. 2d 534, 536 citing *Cleveland Elec. Illum. Co. v. Public Util. Comm.* (1975), 42 Ohio St. 2d 403, 330 N.E.2d 1; *Mahoning Co. v. Pub. Util. Comm.* (1979).

The Schools have shown above, and both the Commission and the Companies have agreed in previous cases, that the Schools’ usage and cost of service are distinctly lower than that of the general commercial customer class in the General Service class. The Schools submit that the elimination of School rates and the inclusion of the Schools in the General Service class without a proper rate adjustment to reflect the Schools’ actual and lower cost of service constitute an unreasonable, undue and unlawful prejudice and disadvantage to this customer class contrary to Ohio law.

Further, the Ohio Supreme Court has held generally in the areas of public utilities that schools are unique customers deserving of special consideration and individual rates. In *County Comm’rs Assn. v. Public Utilities Com.*, the Ohio Supreme Court upheld the Commission’s approval of special telephone rates for elementary and secondary schools as having a reasonable basis for distinguishing them from counties, including consideration of their unique status, needs, and inability to pass on costs. *County Comm’rs Assn. v. Public Utilities Com.* (1980), 63 Ohio St. at 246.

Schools indeed are unique as a customer class. As explained above, Mr. Solganick was the only witness who addressed this issue, finding that school facilities have significantly less impact on the Companies’ distribution system due to significantly lower summer peak demands. Further, as demonstrated in the local public hearings, Ohio schools currently have severe limitations on their ability to pass on cost increases. (Tr. Cleveland L.P.H 3/13/3008, p 18)

Schools have a unique status because public education in this State is critical to Ohio's long-term economic prospects. The Schools respectfully request that the Commission require the Companies to recognize now, as they have done in the past, that schools are unique, unable to pass on dramatic electric price increases, and are deserving of special rate considerations.

**F. The Companies' attempts at gradualism, including the Business Distribution Credit Rider, do not apply to the Schools.**

Although the Companies did not adhere to the rate-design principles of gradualism and reasonableness in designing rates for the Schools, they did create proposals to alleviate severe customer impacts to other customer groups, but not the Schools. The companies are proposing six (6) riders in their application, including a Residential Distribution Credit Rider and a Business Distribution Credit Rider. (Companies Ex 13-A, p23) Staff in the SRI explains the purpose of the Business Distribution Credit Rider as:

Applicant proposes to simplify the general service distribution rates for multiple schedules to a voltage-based concept that better matches how the distribution system is designed and how customers physically take service. **In doing so, the resulting bills of customers on certain schedules have been rather drastically impacted. To mollify this impact, the Applicant has proposed Rider BDC – Business Distribution Credit.** Staff recommends approval of the uniform tariffs and the credit rider.

(Emphasis added) (SRI, p 31).

The Staff Reports also contain nearly identical language explaining the purpose of the Residential Distribution Credit Rider, which is to alleviate some of the effects of the proposed rate increase on drastically impacted customers. (SRI, p. 30; Tr. VII, p145) These riders, along with the four others proposed by the companies, suggest that the Companies took drastic rate increases into consideration when establishing rates for at least some customers. It is possible that the Companies would have recognized a need to institute a similar credit rider for the Schools if they had completed a cost-of-service study or any other analysis to analyze the

proposed rates' impact on the schools. However, the Companies failed to complete any analysis, and so there was no provision or credit proposed to apply to the schools to help transition them away from their school tariffs. (Tr. II, p. 20)

In rebuttal, the Companies argue that it would be unfair to the other general service customers to apply the Business Distribution Credit Rider to the Schools. (Companies 13-C, p. 9-10) The Companies argue that it would require at least \$10.6 million to be recovered from other customers to apply the Business Distribution Credit Rider to the Schools. Under the Companies' proposed application, however, Ohio's public schools will be paying rates far in excess of their fair share of the costs as part of the General Service class. This should be considered in combination with the additional \$11.7 million dollars in revenue the Companies will receive from Schools with the discontinuation of the E4E II program at the end of 2008. It would be just and reasonable to temper the severity of these rate increases on Schools through a variation of the Business Distribution Credit Rider such as a Schools Rider, or, simply, to remove the Schools from the General Service class and re-institute the current school rates.

**G. Contract-Demand: A work-in-progress**

During the hearing, the Companies recognized that the proposed contract demand language in the General Service tariffs had caused confusion among the parties. (Companies 13-C, p. 10) To remedy this confusion, the Companies are proposing to incorporate revised tariff language as set forth in the rebuttal testimony of Witness Hussing. (Tr. VIII, p. 198-199) While the Schools agree that the Companies' revised language is more clear, the Schools still have some lingering concerns about how this provision will be applied to them.

The Companies have proposed that customers with a Contract Demand on December 31, 2008 will remain at that existing Contract Demand level. (Companies 13-C, p. 11) It is unclear from the Companies revised language whether existing customers' Contract Demand has been



set at the 60% level proposed for new customers. The Companies acknowledged that even for Ohio Edison the calculation of Contract Demand is not defined; “the existing Ohio Edison contract demand provision doesn’t state how the calculation was done”. (Tr. VIII, p. 204) Additionally, the Company has not defined “expected, typical monthly peak”. Existing customers may be subject to a Contract Demand determined well before it had a potential or real impact on distribution charges. Thus the imposition of the Companies’ new revenue floor should be accompanied by a clear definition and implemented at the conclusion of this case with Contract Demands set subsequent to the conclusion of this case. Mr. Solganick’s review of this issue is germane even at the reduced (60%) level now proposed by the Companies. (OSC Ex. 2, p. 31)

**H. Companies Rate of Return should be lowered due to increased revenue stability that will result in lower business risk**

The Companies’ General Service class Contract Demand proposal will effectively establish a revenue floor for distribution service through the setting of each customer’s Contract Demand at their expected, typical peak load. Utilization of a contract demand concept within the Companies’ rate design will ensure stable revenues. Stable revenues will reduce the Companies’ perceived business risks within the marketplace. As a comparison, the Companies’ argue that Provider-of-Last-Resort (POLR) risk increases the Companies’ perceived financial risk because it makes revenues and performance more unstable in the marketplace. Inversely, the Contract Demand provision’s assurance of stable revenues creates increased stability and lowers business risk. (OSC Ex. 2, p. 33-34)

This issue has been addressed in other jurisdictions through a mechanism called decoupling. Decoupling is where a utility’s earnings are disconnected from customers’ use. Although the Companies have not explicitly requested that their revenues be “decoupled” from

customer usage, their application effectually proposes a rate design based on demand, which has the effect of decoupling revenues from usage. By analogizing to decisions made in other jurisdictions regarding similar proposed rate designs, the Schools propose that a 50 basis point downward adjustment would be appropriate to reflect the inherent and significant revenue stability created by the Companies' proposed rate design. *Id.* at 35.

**I. The Companies' record-breaking 2007 financial performance shows that shareholders are being rewarded at the expense of the Schools.**

The Schools and the school officials who have testified at the local hearings as to the impact of the rate increase on their districts find it irreconcilable that at the same time the Companies are asking for substantial rate increases from the Schools they are also reporting a \$1.31 billion profit, the highest in the ten-year history of the utility.<sup>9</sup> (Tr. Cleveland L.P.H. 3/13/2008, p. 82-83) The Schools believe that it is fundamentally unfair that the Akron School District, for example, will be forced to grapple with how to pay an additional \$977,000 in electricity costs, likely forcing them lay off the equivalent of 23 teachers, while the Companies' shareholders are already being well compensated for their investment. (Tr. Austintown L.P.H. 3/6/2008, p. 42) The plight of the Schools was well-summarized by Mr. Philip Dickenson, the Director of Business and Operations of Orange City Schools. He concluded his remarks during the Cleveland local public hearing by stating "In review, we have a decrease in customer service, record profits for the utility, possible loss of a discount program and a disproportionately huge rate increase for the public schools." (Tr. Cleveland L.P.H. 3/13/2008, p. 84) The Schools recognize that the Companies are operating a business, and that the Companies, its management and their shareholders should be compensated for running their business effectively. However,

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<sup>9</sup> Mr. Philip Dickenson, Director of Business and Operations for Orange City Schools, submitted as part of his testimony at the Cleveland Local Public Hearing a *Cleveland Plain Dealer* article from February 26, 2008, the day after the evidentiary hearing closed, detailing the record profits First Energy earned during 2007. A copy of this article is attached as Attachment D.

the Schools respectfully request that the Commission consider both the Companies' and the Schools' relative current financial situations and ensure that even greater shareholder benefit does not come at the expense of the Schools.

**J. The Stipulation: Schools feel like they're being bullied by the stipulation's rate design implications**

The Schools objected to the proposed stipulation of the parties as unjust and unreasonable as it pertains to the rate design for the General Service class into which the schools were forced. (Signatory Parties Ex. 1, ¶2; Tr. IX, p. 155-156) The stipulation, principally designed and negotiated to address revenue distribution, allows the signatory parties to sign off on the rate design of the General Service class and the elimination of school rates regardless of whether this will actually impact them and regardless of their intention to support this aspect of the stipulation or not. The Schools object that it is unjust and unreasonable for the Companies to stipulate to the elimination of school rates when the only signatory parties to the agreement are interveners with interests that make them relatively indifferent to the plight of the schools and the continuation of school rates. Those who would have an interest in the impact the proposed stipulation has on Schools and School rates, including the Schools and the City of Cleveland, have chosen not to sign this stipulation.

The Schools also note that the Staff has chosen not to sign the stipulation. While this may or may not reflect the Staff's assessment of the Stipulation as unreasonable, the Staff asserted during the hearing that adherence to gradualism and principles of reasonable rate design are relative and in some cases would not be fulfilled if the Commission sets the revenue requirement at a level where these principles are unobtainable. (Tr. VII, p. 135) Currently, the Companies have done nothing to show that it has applied the principles of gradualism and reasonable rate design in establishing the rates proposed for the School. The Schools strongly

believe that the Commission should not approve the Companies lack of effort as acceptable by accepting the proposed rate design and revenue distribution that so drastically increases rates for schools. Either the Companies should be required to resolve the issues and objections of the Schools, following principles the Companies themselves espoused as the basis of their rate design, or the Companies' revenue requirement should be lowered until the currently onerous impact on the Schools is lessened and becomes just and reasonable.

#### **IV. Schools' Rate Proposals: Alternatives for Setting School Rates**

Based on the foregoing, the Schools submit the following proposals for Commission consideration representing what they believe would give the Companies a "passing grade" for their application as to School rates. Any of the first 3 of these proposals would allow the Commission to continue its precedent as to the Schools established in the Opinion and Order issued on April 11, 1996 in CEI's last rate proceeding (Case No. 95-300-EL-AIR *et al*).

In an effort to establish reasonable School rates, the Schools make the following proposals. Proposals 1, 2, and 3 should be considered as alternative proposals. Proposal 4 addresses how the Companies' Contract Demand language should be revised. Proposal 5 addresses the Companies' Rate of Return and Revenue Requirement.

##### **1. School Rates should be retained for CEI and TE, and added for OE**

The small and large School rates that are currently in effect for CEI and TE should be retained. Similar School rates also should be established for OE (with the same eligibility requirements as are in the CEI and TE school tariffs) based on the similar load characteristics of schools within the three Companies' service territories. To effectuate this proposal, all three operating Companies should have a Small School and Large School rate schedule calculated as either 73% of the new demand based General Service rates or 73% of General Service revenue requirements based on the schools' billing determinants for non-demand based rates. This would

be just, reasonable and lawful because, as shown above, Schools are unique from the remainder of proposed General Service class, and it is unreasonable and unlawful to include Schools within this class without any adjustment to the Schools' rate to reflect their actual and distinct cost of service.

## **2. Cost Based Rate for Distribution Demand Charges**

The Companies have proposed elimination of School specific rates on grounds of rate simplification within their tariff without any analysis or consideration of the unique load characteristics of School customers. As explained above, "schools are stable, have lower demand, and provide diversity during the periods of the Companies' system greatest stress." (OSC Ex. 2, p. 37) The result of this lack of analysis is a rate design that does not take the characteristics of the Companies' School customers into account, and is unfair, unjust, unreasonable and unlawful as to its impact upon the Schools.

If the Commission chooses not to retain School rates, a reasonable and representative approach reflective of how schools actually use and impact the Companies' distribution system would be to adjust the Schools' rates to reflect their actual cost of service to the Company. As explained above, Mr. Solganick was the only witness to analyze this issue. He calculated the proper cost-based rates for Schools to be the product of 90% of the distribution rate base (portion allocated on demand) and a decreased summer peak demand ratio for schools of approximately 30%. (*Id.*, HS-7) This approach results in a cost based rate for distribution demand charges equal to approximately -27% of the rate proposed in the Companies application.

Therefore, if the Commission chooses not to retain the current school rates, the Schools request a rate adjustment for all public school classroom and classroom-related school accounts of -27% be implemented within the rate schedules (GS and GP) that apply to the Schools. The Schools have drafted a proposed "Educational Service Option" within these rate schedules,

which incorporates the same eligibility language that was negotiated between the Schools and CEI during the 95-300 case. The Educational Service Option is set forth in Attachment C.

**3. A School Rider should be established to reduce rate impact on Schools**

If the Commission chooses not to directly establish just and reasonable cost-based rates as set forth in Proposals 1 and 2, another alternative would be to establish a Rider to mollify the drastic impact of these rate increases on the schools. As discussed, the Companies have attempted to moderate the drastic impact that its rate increases will have on some customer classes through the creation of riders such as the Business Distribution Credit Rider. This approach is reasonable, and comports with the principles of gradualism and reasonable rate design. The Companies, however, have not established a rider to apply to the Schools. If the Commission chose not to adopt proposal 1 or 2 above, then the Schools believe that they should be incorporated into either the Business Distribution Credit Rider or a school-specific rider should be established to replace the school-specific rates that are being eliminated.

This School rider should be ordered by the Commission to require the Companies to reduce the rate increase's impact on Schools. Considering that the Companies are proposing a demand based rate structure, the rider should adjust or reduce the demand charges of the Schools appropriately.

Therefore, if the Commission chooses to address the Schools' concerns by ordering a school rider, the Schools have provided a "School Demand Credit Rider" for the Commission's consideration in Attachment A. Similar to proposal 2 above, the School demand credit rider proposes identical eligibility language to what is currently in CEI's Small and Large School rate schedules.

#### **4. Revise the Contract Demand Provision for Schools**

Regardless of which of the three proposals the Commission could decide to adopt, the Companies' Contract Demand language needs to be modified to make it more clear. The Schools do support the revisions to the Companies' Contract Demand language proposed by Company witness Hussing that apply to all three Companies. The Schools believe the revised language should replace the language in the Companies' application, as was represented by the Companies' witness Hussing during the hearing (Tr. VIII, p. 198-199) Further, the Schools submit that the Contract Demand [for new school facilities] should be established at 60% of the expected, monthly peak demand for each school account at the conclusion of this case and not rely on existing, and potentially, inaccurate existing Contract Demands. (OSC Ex. 2, p. 37)

Additionally, the Schools believe that it is unreasonable for the Contract Demand provision to apply to School facilities' accounts during the summer months of June, July, and August based on the significantly lower average usage characteristics during these months. The Schools additionally request that meter pulse data be provided upon request and include a time pulse to ensure that demand management efforts will result in accurate meter reading information applied to billing.

The Schools have proposed specific tariff language to reflect the Schools Contract Demand proposals as set forth in Attachment A.

#### **5. Lower Revenue Requirement based on more stable Rate of Return**

The rates for School facilities should reflect the level of revenue stability provided by the combination of a very stable governmental revenue stream (timely payment and no bad debt losses) and the Companies' rate design that focuses highly on demand based rates, contracts and a minimum Contract Demand. For school facilities, the ultimate rate design should reflect a revenue requirement reflective of a high level of revenue stability. The class or School sub-class

rate of return on equity should be reduced by 50 basis points before revenues are calculated and rates designed. Moreover, the Companies' record-breaking 2007 financial performance should be considered by the Commission in determining the rate of return in this case.

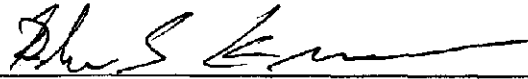
**V. Conclusion**

The Schools have demonstrated that the Companies have failed to propose in their application just and reasonable rates that will apply to the Schools, and have failed to discharge their burden of proof under O.R.C. 4909.19. The Commission already has recognized as precedent the unique rate characteristics of the Schools in CEI's last rate case, and decided that they warranted a reduction from what the Companies and Staff had proposed in that case. Ohio law supports establishment of a special rate for a customer class with markedly different cost and load characteristics and other unique factors, as the Schools have demonstrated in the past and now.

The Schools respectfully request the Commission to follow its past precedent, recognize the drastic and financially devastating rate impact on Schools from the Companies' Application, and adopt the Schools' recommendations and proposals in this case.



Respectfully submitted,



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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Post Hearing Brief of the Ohio Schools Council is being served by electronic or regular mail as previously agreed to by the parties this 28th day of March, 2008.



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# **ATTACHMENT A**

**GENERAL SERVICE – SECONDARY (RATE "GS")****AVAILABILITY:**

Available to general service installations requiring Secondary Service. Secondary Service is defined in the Company's Electric Service Regulations. Choice of voltage shall be at the option of the Company.

**SERVICE:**

All service under this rate schedule will be served through one meter for each installation.

**RATE:**

All charges under this rate schedule shall be calculated as described below and charged on a monthly basis.

**Distribution Charges:**

Service Charge:	\$7.00
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## Capacity Charge:

Up to 5 kW of billing demand	\$18.00
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For each kW over 5 kW of billing demand	\$9.164
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## Reactive Demand Charge applicable to three phase customers only

For each rkVA of reactive billing demand	\$0.26
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**Regulatory Transition Charge:\***

## Energy Charge:

All kWh, per kWh	<del>1.897¢</del>
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\* Charges are estimated and will be calculated consistent with Commission Order, Case No. 05-1125-EL-ATA, et seq.

**BILLING DEMAND:**

The billing demand for the month shall be the greatest of:

1. Measured Demand, being the highest thirty (30) minute integrated kW
2. 5.0 kW
3. The Contract Demand

Measured Demand shall be estimated for all customers not having a demand meter and using over 1,000 kWh per month by applying a factor of 200 by the following formula: Measured Demand = kWh / 200.

**GENERAL SERVICE – SECONDARY (RATE "GS")****REACTIVE BILLING DEMAND:**

For installations metered with reactive energy metering, the reactive billing demand in rkVA for the month shall be determined by multiplying the Measured Demand by the ratio of the measured lagging reactive kilovoltampere hours to the measured kilowatthours by the following formula  $\text{rkVA} = \text{Measured Demand} \times (\text{measured lagging reactive kilovoltampere hours} + \text{measured kilowatthours})$ . For all other installations, the reactive billing demand shall be the integrated reactive demand occurring coincident with the Measured Demand.

**CUSTOMER TARIFF OPTION:**

A customer qualifying for service under Rate GS may take distribution service under the terms and conditions of Rate GSU (including the Transformer Charge) if the transformer that directly serves such customer is: 1) located in the immediate vicinity; 2) is owned by the Company; and 3) has been directly fed by a Subtransmission voltage line since May 8, 2007.

**APPLICABLE RIDERS:**

The charges included with the applicable riders as designated on the Summary Rider, Tariff Sheet 80 shall be added to the Rates and charges set forth above.

**ADJUSTMENT FOR PRIMARY METERING:**

Where a transformer installation (regardless of ownership) is utilized solely to furnish service to a single customer, the Company may meter the service on the primary side of the transformers, and in such case all the demand and energy registrations shall each be reduced by 2%.

**SPECIAL METERS:**

Time-Of-Day and Interval Metering is available from the Company. Charges for such service are specified in the Miscellaneous Charges, Tariff Sheet 75.

Meter and time pulse is available upon request.

**UNMETERED SERVICE:**

Unmetered service is available to customers with loads of constant wattage such that the monthly use may be calculated accurately and where the Company and the customer agree to unmetered service. The Billing Load shall be the connected load in kilowatts. The monthly billing kilowatt-hours shall be the product of Hours of Use times connected load. Hours of Use shall be 730 hours for continuous operation mode and 350 hours for all other operation modes.

The customer shall notify the Company of the initial connected load and operation mode and shall provide advance notice of each subsequent change in such load or operation mode. The Company may make an inspection of the customer's equipment at any time to verify connected loads and operation mode. In the event the customer's failure to notify the Company of an increase in load, the Company

**GENERAL SERVICE – SECONDARY (RATE "GS")**

reserves the right to refuse to provide unmetered service at the delivery point thereafter and adjust prior billing amounts accordingly to reflect the increases in load.

**DUPLICATE CIRCUIT SERVICE:**

When service is furnished to provide redundancy to the Company's main service as requested by the customer, a contract demand shall be established by mutual agreement and shall be specified in the service contract. Such installations shall be considered Premium and shall be a separate account from the customer's main service.

**EDUCATIONAL SERVICE OPTION:**

Available to any not-for-profit educational entity on the lines of the Company for service to school buildings being used for primary and secondary education, and having a demand equal to or in excess of 30 kW during the current month or any of the preceding eleven months. Service under this rate option is to be used in connection with classroom and related requirements. Facilities such as parking garages, administrative buildings, maintenance buildings, etc., are to be billed on any Company schedule that the customer selects and for which the facility qualifies.

The Distribution Charges shall be adjusted by multiplying the above Distribution Charges by the following not-for-profit educational demand diversity factors:

<u>Service Charge:</u>	<u>1.00</u>
<u>Capacity Charge:</u>	
<u>Up to 5 kW of billing demand</u>	<u>1.00</u>
<u>For each kW over 5 kW of billing demand</u>	<u>0.73</u>
<u>Reactive Demand Charge applicable to three phase customers only</u>	
<u>For each rkVA of reactive billing demand</u>	<u>1.00</u>

**ELECTRIC SERVICE REGULATIONS:**

The Company's Electric Service Regulations shall apply to the installation and use of electric service.

**CONTRACT:**

Electric service hereunder shall be furnished in accordance with a written contract, at the Company's discretion, which by its term shall be in full force and effect for a minimum period of one year and shall continue in force thereafter from year to year unless either party shall give to the other not less than 60 days notice in writing prior to the expiration date of any said yearly periods that the contract shall be terminated at the expiration date of said yearly period. When a contract is terminated in the manner provided herein, the service will be discontinued.

The Contract Demand shall be specified in the contract for electric service of customers establishing service after December 31, 2008 and of customers requiring or requesting a significant change in service.



**GENERAL SERVICE – SECONDARY (RATE "GS")**

The Contract Demand shall be 60% of the customer's expected, typical, monthly peak load. Customers with a Contract Demand on December 31, 2008 will remain at that existing Contract Demand level, until such time as they request a new Contract Demand, reestablish service or request or require a significant change in service. The Contract Demand shall be 60% of the customer's expected, typical, monthly peak load. The Customer's expected, typical, monthly peak load shall not include peaks set as a result of equipment malfunctions, operational errors, maintenance, non-recurring activities or other unusual events.

If the Customer's capacity or service requirements increase, the Company, at its sole and exclusive judgment, may at any time require the Customer to enter into a new contract for electric service.

**GENERAL SERVICE – PRIMARY (RATE "GP")****AVAILABILITY:**

Available to general service installations requiring Primary Service, Primary Service is defined in the Company's Electric Service Regulations. Choice of voltage shall be at the option of the Company.

**SERVICE:**

All service under this rate schedule will be served through one meter for each installation.

The customer will be responsible for all transforming, controlling, regulating and protective equipment and its operation and maintenance.

**RATE:**

All charges under this rate schedule shall be applied as described below and charged on a monthly basis.

**Distribution Charges:**

Service Charge: \$150.00

Capacity Charge:

For each kW of billing demand \$3.052

Reactive Demand Charge applicable to three phase customers only

For each rkVA of reactive billing demand \$0.36

**BILLING DEMAND:**

The billing demand for the month shall be the greatest of:

1. Measured Demand, being the highest thirty (30) minute integrated kW
2. 30.0 kW
3. The Contract Demand

**REACTIVE BILLING DEMAND:**

For installations metered with reactive energy metering, the reactive billing demand in rkVA for the month shall be determined by multiplying the Measured Demand by the ratio of the measured lagging reactive kilovoltampere hours to the measured kilowatthours by the following formula:  $\text{rkVA} = \text{Measured Demand} \times (\text{measured lagging reactive kilovoltampere hours} \div \text{measured kilowatthours})$ . For all other installations, the reactive billing demand shall be the integrated reactive demand occurring coincident with the Measured Demand.

**GENERAL SERVICE – PRIMARY (RATE "GP")**

**APPLICABLE RIDERS:**

The charges included with the applicable riders as designated on the Summary Rider, Tariff Sheet 80 shall be added to the Rates and charges set forth above.

**ADJUSTMENT FOR SECONDARY METERING:**

The Company reserves the right to install the metering equipment on either the primary or secondary side of the transformers serving the customer, and when installed on the secondary side, at the Company's option, the Company shall correct for transformer losses by one of the two following methods: 1.) by using compensating-metering equipment or 2.) by increasing all demand and energy registrations by 2% each.

**SPECIAL METERS:**

Time-Of-Day and Interval Metering is available from the Company. Charges for such service are specified in the Miscellaneous Charges, Tariff Sheet 75.

Meter and time pulse is available upon request.

**DUPLICATE CIRCUIT SERVICE:**

When service is furnished to provide redundancy to the Company's main service as requested by the customer, a contract demand shall be established by mutual agreement and shall be specified in the service contract. Such installations shall be considered Premium and shall be a separate account from the customer's main service.

**EDUCATIONAL SERVICE OPTION:**

Available to any not-for-profit educational entity on the lines of the Company for service to school buildings being used for primary and secondary education, and having a demand equal to or in excess of 30 kW during the current month or any of the preceding eleven months. Service under this rate option is to be used in connection with classroom and related requirements. Facilities such as parking garages, administrative buildings, maintenance buildings, etc., are to be billed on any Company schedule that the customer selects and for which the facility qualifies.

The Distribution Charges shall be adjusted by multiplying the above Distribution Charges by the following not-for-profit educational demand diversity factors:

<u>Service Charge:</u>	<u>1.00</u>
<u>Capacity Charge:</u>	
<u>For each kW over 5 kW of billing demand</u>	<u>0.73</u>
<u>Reactive Demand Charge applicable to three phase customers only</u>	
<u>For each rkVA of reactive billing demand</u>	<u>1.00</u>

**GENERAL SERVICE – PRIMARY (RATE "GP")**

**ELECTRIC SERVICE REGULATIONS:**

The Company's Electric Service Regulations shall apply to the installation and use of electric service.

**CONTRACT:**

Electric service hereunder shall be furnished in accordance with a written contract, which by its term shall be in full force and effect for a minimum period of two years and shall continue in force thereafter from year to year unless either party shall give to the other not less than 60 days notice in writing prior to the expiration date of any said yearly periods that the contract shall be terminated at the expiration date of said yearly period. When a contract is terminated in the manner provided herein, the service will be discontinued.

The Contract Demand shall be specified in the contract for electric service of customers establishing service after December 31, 2008 and of customers requiring or requesting a significant change in service. The Contract Demand shall be 60% of the customer's expected, typical, monthly peak load. Customers with a Contract Demand on December 31, 2008 will remain at that existing Contract Demand level, until such time as they request a new Contract Demand, reestablish service or request or require a significant change in service. The Contract Demand shall be 60% of the customer's expected, typical, monthly peak load. The Customer's expected, typical, monthly peak load shall not include peaks set as a result of equipment malfunctions, operational errors, maintenance, non-recurring activities or other unusual events.

If the customer's capacity or service requirements increase, the Company, at its sole and exclusive judgment, may at any time require the customer to enter into a new contract for electric service.

**GENERAL SERVICE – SUBTRANSMISSION (RATE "GSU")**

**AVAILABILITY:**

Available to general service installations requiring Subtransmission Service. Subtransmission Service is defined in the Company's Electric Service Regulations. Choice of voltage shall be at the option of the Company.

A customer qualifying for service under Rate GS may take distribution service under the terms and conditions of Rate GSU (including the Transformer Charge) if the transformer that directly serves such customer is: 1) located in the immediate vicinity; 2) is owned by the Company; and 3) has been directly fed by a Subtransmission voltage line since May 8, 2007.

A customer qualifying for service under Rate GP may take distribution service under the terms and conditions of Rate GSU (including the Transformer Charge) if the transformer that directly serves such customer is: 1) located in the immediate vicinity; 2) is owned by the Company; and 3) has been directly fed by a Subtransmission voltage line since May 8, 2007.

**SERVICE:**

All service under this rate schedule will be served through one meter for each installation.

The customer will be responsible for all transforming, controlling, regulating and protective equipment and its operation and maintenance unless the Transformer Charge applies to the customer.

The Transformer Charge is applicable to a customer premise with existing transformation in the immediate vicinity having been provided by the Company for the customer's use since May 8, 2007, in addition to all other applicable tariff charges.

If an increase in capacity of existing transformation owned by the Company is necessary or if the customer requires a change in service voltage on or after January 1, 2009, all necessary transforming, controlling, regulating and protective equipment shall be provided by the customer.

**RATE:**

All charges under this rate schedule shall be calculated as described below and charged on a monthly basis.

**Distribution Charges:**

Service Charge: \$180.00

Capacity Charge:  
For each kW of billing demand \$1,875

Reactive Demand Charge applicable to three phase customers only  
For each rkVA of reactive billing demand \$0.36

**GENERAL SERVICE – SUBTRANSMISSION (RATE "GSU")**

**Regulatory Transition Charge:\***

Energy Charge  
All kWh, per kWh

\*Charges are estimated and will be calculated consistent with Commission Order, Case No. 05-1125-EL-ATA, et seq.

**BILLING DEMAND:**

The billing demand for the months shall be the greatest of:

1. Measured Demand, being the highest thirty (30) minute integrated kW
2. 30.0 kW
3. The Contract Demand

The Contract Demand shall be specified in the Contract for electric service, which shall reflect the customer's expected, typical monthly peak load.

**REACTIVE BILLING DEMAND:**

For installations metered with reactive energy metering, the reactive billing demand in rkVA for the month shall be determined by multiplying the Measured Demand by the ratio of the measured lagging reactive kilovolt ampere hours to the measured kilowatt hours by the following formula:  $\text{rkVA} = \text{Measured Demand} \times (\text{measured lagging reactive kilovolt ampere hours} + \text{measured kilowatt hours})$ . For all other installations, the reactive billing demand shall be the integrated reactive demand occurring coincident with the Measured Demand.

**TRANSFORMER CHARGE:**

A monthly Transformer Charge of 57 cents per kW of Measured Demand shall be charged for existing transformation, and the Company will continue to own, operate and maintain all such necessary transforming, controlling, regulating and protective equipment.

**APPLICABLE RIDERS:**

The charges included with the applicable riders as designated on the Summary Rider, Tariff Sheet 80 shall be added to the Rates and charges set forth above.

**ADJUSTMENT FOR SECONDARY METERING:**

The Company reserves the right to install the metering equipment on either the primary or secondary side of the transformers serving the customer, and when installed on the secondary side, at the Company's option, the Company shall correct for transformer losses by one of the two following methods: 1) by using compensating metering equipment or 2) by increasing all demand and energy registrations by 2% each.

**GENERAL SERVICE – SUBTRANSMISSION (RATE "GSU")**

**SPECIAL METERS:**

Time-Of-Day and Interval Metering is available from the Company. Charges for such service are specified in the Miscellaneous Charges, Tariff Sheet 75.

Meter and time pulse is available upon request.

**DUPLICATE CIRCUIT SERVICE:**

When service is furnished to provide redundancy to the Company's main service as requested by the customer, a contract demand shall be established by mutual agreement and shall be specified in the service contract. Such installations shall be considered Premium and shall be a separate account from the customer's main service.

**EDUCATIONAL SERVICE OPTION:**

Available to any not-for-profit educational entity on the lines of the Company for service to school buildings being used for primary and secondary education, and having a demand equal to or in excess of 30 kW during the current month or any of the preceding eleven months. Service under this rate option is to be used in connection with classroom and related requirements. Facilities such as parking garages, administrative buildings, maintenance buildings, etc., are to be billed on any Company schedule that the customer selects and for which the facility qualifies.

The Distribution Charges shall be adjusted by multiplying the above Distribution Charges by the following not-for-profit educational demand diversity factors:

<u>Service Charge:</u>	<u>1.00</u>
<u>Capacity Charge:</u>	
<u>For each kW over 5 kW of billing demand</u>	<u>0.73</u>
<u>Reactive Demand Charge applicable to three phase customers only</u>	
<u>For each rkVA of reactive billing demand</u>	<u>1.00</u>

**ELECTRIC SERVICE REGULATIONS:**

The Company's Electric Service Regulations shall apply to the installation and use of electric service. The Company's general policy of supplying regulated voltages does not apply to this rate schedule.

**CONTRACT:**

Electric service hereunder shall be furnished in accordance with a written contract, at the Company's discretion, which by its term shall be in full force and effect for a minimum period of one year and shall continue in force thereafter from year to year unless either party shall give to the other not less than 60 days notice in writing prior to the expiration date of any said yearly periods that the contract shall be

terminated at the expiration date of said yearly period. When a contract is terminated in the manner provided herein, the service will be discontinued.

The Contract Demand shall be specified in the contract for electric service of customers establishing service after December 31, 2008 and of customers requiring or requesting a significant change in service. The Contract Demand shall be 60% of the customer's expected, typical, monthly peak load. Customers with a Contract Demand on December 31, 2008 will remain at that existing Contract Demand level, until such time as they request a new Contract Demand, reestablish service or request or require a significant change in service. The Contract Demand shall be 60% of the customer's expected, typical, monthly peak load. The Customer's expected, typical, monthly peak load shall not include peaks set as a result of equipment malfunctions, operational errors, maintenance, non-recurring activities or other unusual events.

If the Customer's capacity or service requirements increase, the Company, at its sole and exclusive judgment, may at any time require the Customer to enter into a new contract for electric service.



## **ATTACHMENT B**

**RIDER SDC**  
**School Demand Credit**

**APPLICABILITY:**

Available to any not-for-profit educational entity on the lines of the Company for service to school buildings being used for primary and secondary education, ~~and having a demand equal to or in excess of 30 kW during the current month or any of the preceding eleven months.~~ Service under this rate option is to be used in connection with classroom and related requirements. Facilities such as parking garages, administrative buildings, maintenance buildings, etc., are to be billed on any Company schedule that the customer selects and for which the facility qualifies.

**RATE:**

A customer's Capacity Charges as set forth in Rate Schedule GS shall be reduced by 27% for each kW over 5 kW of billing demand .

A customer's Capacity Charges as set forth at Schedule GP shall be reduced by 27% for each kW of billing demand.

A customer's Capacity Charges as set forth at Schedule GSU shall be reduced by 27% for each kVA of billing demand.

## **ATTACHMENT C**

**First Energy Rate Case: School Sponsored Testimony at Local Public Hearings**

<b>Transcript/ Page</b>	<b>Witness</b>	<b>Testimony</b>
<b>TR. 3/13/3008 Cleveland,</b>  p. 15 - 17	Mr. Edward Favre: VP of Lakewood Board of Ed	Mr. Favre estimated that the Lakewood district anticipated its electricity costs to increase from \$922,000 (2006-2007) to as much as \$1,291 million based on the Companies proposal. This would have a substantial negative impact on the ability of schools to provide educational services to children. This would be combined with additional burdening factors including the phasing in of deregulation which is expected to cost Lakewood an additional \$676,000 and OSFC's building requirements which are causing newly constructed schools to use more electricity.
p. 17 - 20	Ms. Courtney Kronk: Director of the Business Manager's Group of the Northeast Ohio Association of School Business Officials	Ms. Kronk presented rate impact information from 22 northeast Ohio school districts. She noted that, unlike businesses, schools cannot pass on their costs by increasing the price of their product. Increased costs must result in either increased taxes or cost reduction primarily through reduction of teaching staff. Ms. Kronk's analysis of these 22 school districts alone resulted in an annual increase upwards of \$4.5 million in increased annual electric costs, equating to about 100 entry level teachers that could not be hired in the future.
p. 20 - 22	Mr. Robert Morton: Strongsville City Schools	Mr. Morton stated that a rate increase to the Strongsville City schools would debilitate the district's ability to provide a satisfactory education to the children of the Strongsville community.
p. 22 - 24	Mr. Ken Clickenger: Business Manager of Euclid City School District	Mr. Clickenger testified that he could never remember a 40% increase in any utility rate in his 40 years as a school business official. The \$280,000 annual rate increase would result in cutting programs for children, cutting staff, and reducing services that are badly needed.
p. 24 - 25	Mr. Tom Adams: Business Manager for Stow-Munroe Falls City School District	Mr. Adams testified that a recent ballot levy had been defeated, and the district would be required to cut \$1 million in 2009 and \$2.4 million in 2010. Both the federal and state governments have established unfunded mandates, and these increased costs and required budget cuts will place the district's excellent school rating in jeopardy. Increasing rates are decreasing the education of our children.
p. 25 - 27	Mr. Mike Lenzo: Assistant to the	Mr. Lenzo testified that the proposed rate increase would result in a \$300,000 increase for the district. The district has increasing enrollment and will have to cut teachers

	Superintendent of Twinsburg City Schools	and will be unable to maintain its excellent school rating.
p. 32 - 34	Mr. Richard Wagner: Superintendent of the Newbury Local School District	Mr. Wagner testified that the 725 students in the Newbury district would be negatively impacted by the proposed rate increase, which will compound the disapproval of increased funding from both the state and taxpayers. This will result in a 6% cut in teachers next year and the need to trim an additional \$300,000 in expenditures.
p. 34 - 37	Mr. William Wisniewski: Director of Business Operations Ravenna School District	Mr. Wisniewski testified that his district is economically depressed based on the closure of 2 industrial plants, and the proposed rate increase will severely impact both the schools in his community and the community itself.
p. 37 - 39	Mr. Mark Daniels: Business Manager of the Parma City School District	The Parma School District is the ninth largest district in the State, and will be severely impacted by a proposed rate increase. The discontinuation of the Energy for Education II program will result in an automatic 13.5% increase in overall rates, and any additional proposed increase to distribution rates will directly impact the educational process and opportunities for students in the Parma district.
p. 51 - 52	Mr. John Burkhart: Director of Business Affairs for Medina City Schools	Mr. Burkhart testified that their recent levy to raise funds for schools had failed and that a substantial increase in electric rates would create a huge burden on the already limited resources of the district and negatively impact the education of the 7,500 students it educates.
p. 52 - 54	Mr. Perry Nicholas: Superintendent of Maplewood Local School District	Mr. Nicholas testified that the Ohio Department of Education has reduced funding to Ohio's schools, and combined with the closure of industry and loss of jobs in the Maplewood district, an increase in electric rates will force the district to cut staff and effectually reduce the quality of instruction provided to its students. Schools should be viewed as a distinct group with the rates that have currently been in effect because this is a financial burden that the schools cannot absorb.
p. 65 - 70	Dr. Roger Goudy: Director of Business Affairs for the South Euclid-Lyndhurst School District	Dr. Goudy testified that when the Energy for Education program ends at the end of 2008, school districts' rates will automatically increase 13.4%, which will result in an \$11.7 million per year increase on school rates for the Ohio Schools Councils' 249 districts. Under our current situation, our budget is already very tight as the school levy failed requiring us to lay off 37 teachers and 19 bus

		drivers. The impact of this rate increase will be devastating on our district and it also seems unfair to the taxpayers who will be hit with both rate increases to their bills and the tax increase to pay for the increased costs for the schools. Mr. Goudy suggested that First Energy enter into Energy for Education agreement.
p. 71 - 73	Mr. Pete Basil: Superintendent of Alliance City Schools	Mr. Basil testified that 79 percent of the school children in his district were living in poverty in a city where 66 percent of the overall community is living in poverty. The district has had two levies fail in the past two years, and will be forced to cut quality teachers due to this increase. These types of increases are dooming Ohio's children's ability to compete in the globalized economy.
p. 74 - 79	Mr. Thomas Ash: Buckeye Assn. of School Administrators; Mr. Fred Pausch: Ohio School Boards Assn; Ms. Barbara Shaner: Ohio Assn of School Business Officials	State funding is decreasing, and the costs of supporting schools is falling on local taxpayers whose own electric bills are proposed to rise. Taxpayers will be paying the increase twice. The discontinuation of the Energy for Education program will result in approximately a 13% increase in overall rates, and the proposed increase will result in distribution rate increases between the single and triple digits. Increases will impact elementary and junior high schools that are on the GS-Secondary rate schedule most severely. Generally schools do not operate their facilities during the summer months when power is in highest demand, and schools dismiss by mid-afternoon each day creating a favorable load profile, which should be taken into account in this case. School districts and their tax payers simply cannot afford to pay more for their electricity.
p. 80 - 84	Mr. Philip Dickenson, Director of Business and Operations for Orange City Schools	Mr. Dickenson testified that the Energy for Education program, which applies only to school, classroom-related buildings, has provided advantages to both the schools and the Companies. The Orange City District's service quality has also been poor with seemingly continuous surges and outages, and should not warrant a rate increase. On three occasions during the past two years, these outages have forced the closure of the schools resulting in a loss of education. Combined, the loss of the Energy for Education program and the proposed increase will have a catastrophic effect on the district's ability to provide a quality education. This decrease in customer service, record profits for the utility, possible loss of a discount program, and a disproportionately huge rate increase for the public schools should be taken into consideration by the Commission.
p. 86 -	Mr. Steve	Mr. Thompson testified that over the past 3 years, 80

	Thompson: Superintendent of Chagrin Falls Exempted Village School District	percent of school levies in Ohio have failed, and May of 2007 was the first time the Chagrin Falls district had failed to pass a school levy since 1971. The result of a 30 – 40 % rate increase is that school districts will have to cut staff, and this will negatively impact their ability to provide education to the students in the districts.
Tr. 3/12/2008 Austintown p. 7-10	Mr. Douglas Heuer: Superintendent of Austintown Local School District	Mr. Heuer testified that Austintown already has a projected revenue shortfall of \$5 million in FY 2009. Increased operating costs resulting from First Energy rate increases will further reduce the revenue available for educational programs. Termination of the Energy for Education program will cost the 249 local school districts participating in the program a total savings of about \$11.7 million. First Energy's rate distribution increases will simply add to these costs. With the average rate distribution increase expected to be 25-30%, Austintown expects to see its energy costs increase from \$400,000 to \$500,000 – the cost of three new teachers' salaries.
p.19-21	Mr. Tom Davis: Superintendent of United Local Schools (Columbiana County)	Mr. Davis testified that the ending of the Energy for Education program and accompanying distribution rate increase will cause electricity costs to increase by 30-40%. The result in this small district would eliminate three teaching positions, increase class sizes, and eliminate elective classes.
p.30- 32	Mr. Rich Archer: Business Manager for Canfield Local Schools	Mr. Archer testified that the ending of the Energy for Education program will increase Canfield's electric bill by \$52,000 (a 13% increase). The proposed distribution rate increase is anticipated to further increase electric costs by \$120,000/year. Because the schools provide a personnel-based business, increases in operating expenses (i.e. electricity) reduce the number of educational services provided to kids in the schools.
p. 37-45	Mr. Dennis Woods: Executive Director of Greater Cleveland School Superintendents' Association and Assistant Executive Director of Ohio Schools Council	Mr. Woods testified as a representative of the Ohio Schools Council and provided a brief explanation of the Energy for Education program. The program currently is used by 249 school districts and includes all but five districts in First Energy's footprint. As this program is scheduled to end December 13, 2008, school districts are expected to see an immediate increase in their electric costs of 13.4% (a total loss in savings to the schools an additional revenue to the Companies of \$11.7 million/year for all 249 districts). Furthermore, the proposed distribution rate increase by FirstEnergy will cause an average cost increase of 40-50%. Some schools could see as high as a 207% increase. The Akron schools alone will lose \$477,000 in savings when the Energy for Education

		<p>program ends. Increasing distribution rates will result in additional costs of \$500,000. Combined, these two cost increases are expected to result in the equivalent cost of the layoff of 23 teachers. FirstEnergy also ignored requests to conduct financial breakdowns of the impact of the proposed rate increase on local school districts. A Cost of Service Study has not been completed. It was also noted that the only way to offset such cost increases would be to ask for increases in the property tax. FirstEnergy made profits of \$1.31 billion last year.</p>
p.56-57	Mr. Mark Donnelly: Business Manager for Warren City Schools	<p>Mr. Donnelly testified that the increased electric rates will require the Warren schools to cut the equivalent of 3-5 teaching positions. The rate increase will require increased property taxes and it was not understood why they were needed because FirstEnergy had profits of \$1.31 billion last year. The focus was on corporate greed at the expense of education.</p>
Tr. 3/5/2008 Barberton p. 16 - 18	Mr. Todd Puster: Streetsboro School District	<p>Mr. Puster testified that the Streetsboro School District has benefited from the Energy for Education program which has historically created stable and predictable electricity costs, but this will soon be lost. A 40% rate increase impact will be severe, and would increase electricity costs from 1% to almost 2% of the district's operating budget. This approximately \$100,000 increase is equivalent to 2 entry level teachers, a new set of books for kindergarten through fifth grade, or a new school bus.</p>
p. 20 - 23	Mr. Fred Fries: Southeast Local School District Business Manager	<p>Mr. Fries testified that the 2100 children in his school district would be negatively impacted by the increase in electric rates as all three schools use electric heat and air conditioning. He also mentioned that school had to be cancelled on the day of the hearing because of a power outage at the schools. It has been a blessing to pay a flat rate for electricity under the Energy for Education program, which will end. Now the district has to ask taxpayers for more money, and virtually all recent tax levies were defeated in the election.</p>
Correspondence	Mr. Daniel Wilson: Chief Financial Officer Mentor Public Schools	<p>Mr. Wilson's letter explains that it has benefited from the Energy for Education programs, but the end of that program will result in a 13.4% increase in electricity costs—in addition to any rate increases stemming from this case. The impact of this proposed rate increase combined with a future rate increase for generation will have a severe impact on our ability to provide a good education to the school children of this district. Mentor Public Schools respectfully requests the Commission recognize that schools operate on a different cycle with</p>



		different energy needs from a typical consumer. Schools do not need additional electricity during the Companies peak three-month summer period.
Tr. 3/12/2008 Geneva p. 22 – 24	Ms. Nora Anderson: VP of Buckeye Local School District	Ms. Anderson testified that the Energy for Education programs have been very helpful in keeping costs down, but that the Energy for Education II program is slated to end on December 31, 2008, which will cost the 249 school districts that participate in the program an additional \$11.7 million annually. Any distribution and future generation rate increase will be in addition to this \$11.7 million. The proposed distribution increase will add an additional \$31,500 in electric costs to the district, which will severely impact a school system already facing a number of financial deficit issues in the coming years.
p. 25 - 28	Ms. Mary Zappitelli: Superintendent Conneaut Area City Schools; Mr. Michael Kennedy: School Board President; Mrs. Linda Bryan: Treasurer	Ms. Zappitelli testified that since she became superintendent in 2006, the district has been forced to cut expenditures by \$1.2 million dollars including cutting teachers, administrators, support staff, and programs, while instituting wage freeze on all their base salaries. All three levies for operating funds have failed in the last two years. An additional \$700,000 will have to be cut from the budget this coming year resulting in deeper cuts to teachers, staff, sports, and other programs. Four varsity and three middle school teams will be cut this year and busing is at its lowest State allowable levels. Discontinuation of the Energy for Education program will cost the school districts an additional \$74,000 dollars and a 30 to 40% increase in rates will require the district to absorb an additional \$166,000 to \$220,000 which, in total, equates to approximately four additional teachers lost.
p. 34 -	Mr. Kevin Lillie: Geneva Area City Schools	Mr. Lillie testified that an increase in distribution rates, the ending of the Energy for Education program, and possible increases in generation rates beginning in 2009 will result in having to cut teachers and special-needs aides, and will force the district into an even greater deficit by 2011.
Tr. 3/11/2008 Wauseon p. 7 – 10	Mr. Marc Robinson: Superintendent of the Wauseon School District	Mr. Robinson testified that the elimination of the Energy for Education II program and the distribution rate increases will have a significant impact on the Wauseon District. This combined rate increase will be approximately \$90,000 annually, which would equate to the salary of three classroom teachers; the purchase of an entire set of books and classroom supplies for two grades; equivalent of one and one quarter new school buses; and replacement costs of 100 computers; the cost of 36 projectors and smart boards for class rooms; and the need

		to ask the taxpayers in the community to pay for an additional one half million dollars in taxes to fund the schools. This is not a gradual increase and would hit school disproportionately hard.
p. 11 - 14	Ms. Carla Rice: Treasurer of Liberty Center Schools	Ms. Rice testified that this drastic increase will force her district to make budget cuts to fund the increase in areas including staff, textbooks, and much needed technology. Taxpayers are consistently saying no to school funding levies. Schools' usage are more favorable than other commercial customers so they should be granted special consideration in the form of school rates. This is not a gradual increase but a tidal wave.
p. 26 - 31	Mr. Ken Jones: Superintendent of the Evergreen School District	Mr. Jones expressed appreciation for the Companies' past cooperation through the Energy for Education program. Mr. Jones also testified that the proposed increase will cost the district an additional \$100,000, which will force the district to cut either teachers or the equivalent in supplemental contracts for all varsity sports in the district. These increases and forced cuts by the schools come at the time when First Energy is making record profits already.
p. 42 - 44	Cheryl Swisher: Treasurer Swanton Local School District	Ms. Swisher testified that the proposed distribution rate increase will severely impact her district requiring teaching positions to be cut and bus routes to be shortened. The district is still working its way back from past financial struggles due to the failure of school levies which resulted in 23 teaching positions being cut. Also, as a taxpayer, these rate increases will cost the community a great deal.
Tr. 3/5/2008 Akron p. 10 - 12	Mr. Robert Boxler; Akron Public Schools Program Manager for Energy, Environmental Health and Safety	Mr. Boxler testified that Akron Public Schools have been forced to make budget cuts in each of the past six years, and increases in electricity costs will result directly in cuts in the classroom. The loss of the Energy for Education program will result in a \$509,000 increase, and a distribution rate increase of 40 to 50% would result in an approximately \$1 million dollar increase which equates to the loss of 20 teachers. The Akron School District cannot absorb this rate increase and requests that the Commission judge the schools as a distinct class worthy of school rates or some other consideration.
p. 12 - 14	Mr. Christopher Adams, Treasurer Mogadore Public Schools System	Mr. Adams testified that Mogadore, as the smallest school district in Summit County with only 900 students, would be hit very hard by the rate increase. 85% of school budgets represent wages and benefits, so treasurers can control approximately 15% to pay for all other costs including electricity. This rate increase will have a

		dramatic impact on the Mogadore budget.
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## **ATTACHMENT D**



# THE PLAIN DEALER

## FirstEnergy generates record profits for 2007

Tuesday, February 26, 2008

**John Funk**  
Plain Dealer Reporter

Though its fourth-quarter profits were down slightly, FirstEnergy Corp. finished last year with record profits - \$1.31 billion, the highest in the 10-year history of the Akron-based utility.

In 2006, the company earned net profits of \$1.25 billion, or \$3.81 per share, on total revenues of \$11.5 billion. Earnings for 2007 totaled \$4.22 per share, with total revenues of \$12.8 billion. Results for the fourth quarter were down 2.2 percent from the fourth quarter of 2006. Profits were \$268 million, or 87 cents a share, on sales of \$3.1 billion.

In 2006, profits were \$274 million, or 84 cents a share, on total revenues of \$2.7 billion.

Still, the company's stock price, plus reinvestment of dividends, produced a total return for shareholders in 2007 of 23 percent, Anthony Alexander, chief executive officer, said Monday. FirstEnergy is traded on the New York Stock Exchange and ended the day at \$71.23 per share, up 83 cents.

Top corporate officers called 2007 "a solid year" and predicted even better results this year: earnings of up to \$4.43 per share. Drivers of the growing profitability: increasing the generation capacity of the company's power plants, running them more efficiently and improving system reliability.

In the longer run, 2009 and beyond, FirstEnergy hopes to win its battle with the state to escape regulation and base its retail rates on more lucrative wholesale markets.

"In 2008 we will continue pursuing cost-effective strategies for building our competitive generation business, which we believe will be the primary driver of our future growth," Alexander said in prepared remarks.

During a teleconference after the release of the company's consolidated financial report, Alexander took a number of questions from analysts wondering when the deregulation debate in Columbus would end.

Under current utility law, Ohio utilities claim they can walk away from regulated rates at the end of the year and base rates on what it would cost to buy the power on wholesale markets. Gov. Ted Strickland set out to stop that last September with a bill designed to beef up the authority of state regulators. The Ohio Senate amended the bill in October. The Ohio House has had it since.

"This is going on and on," said analyst Paul Patterson of Glenrock Associates in New York City. "How would you handicap a successful passage?"

Alexander refused to do that but had high praise for the House's Republican leadership, which has held panel-style hearings on Strickland's bill since November, forcing debate among regulation and deregulation advocates.

Alexander said House Speaker Jon Husted's release last week of a separate bill that would require utilities and other electricity suppliers to begin generating power with renewable energy technologies was an "indication of the thoughtfulness" the House has used and probably would continue to use.

"It was handled in a much more comprehensive way and was pretty well-thought-out," he said.

The new House bill says nothing about Strickland's main issue - stopping utilities from using wholesale markets until they are proven competitive.

That will be addressed later, when the green bill is folded back into Strickland's legislation, Husted says.

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