

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's  
Review of Chapters 4901:1-17 and  
4901:1-18 and Rules 4901:1-5-07,  
4901:1-10-22, 4901:1-13-11, 4901:1-15-  
17, 4901:1-21-14, and 4901:1-29-12 of  
the Ohio Administrative Code.

Case No. 08-723-AU-ORD

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MEMORANDUM CONTRA OF  
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON COMPANY, FOR A COMMISSION-  
ORDERED INVESTIGATION INTO AMENDMENTS TO THE  
COMMISSION'S CREDIT AND DISCONNECTION RULES

James W. Burk, Counsel of Record  
Ebony L. Miller

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

76 South Main Street  
Akron, OH 44308  
Tel: (330) 384-5861  
Fax: (330) 384-3875  
[burkj@firstenergycorp.com](mailto:burkj@firstenergycorp.com)  
[elmiller@firstenergycorp.com](mailto:elmiller@firstenergycorp.com)

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TO THE COMMISSION'S CREDIT AND DISCONNECTION RULES**

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On September 10, 2008, The Consumer Groups<sup>1</sup> filed its Motion for a Commission-ordered investigation into amendments to the Commission's credit and disconnection rules ("Motion for Commission Investigation"). In its Motion for Commission Investigation, The Consumer Groups requests that the Commission commence a Commission-Ordered Investigation to develop a record and find facts, pursuant to R.C. 4903.09, with regard to the promulgation of the credit and disconnection rules and offering of low-income assistance programs. Specifically, The Consumer Groups seeks to convert this rulemaking proceeding into a formal investigation which would include a period for discovery, public hearings, filing of testimony and evidentiary hearings.

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<sup>1</sup> "The Consumer Groups" are The Office of the Ohio Consumers' Counsel, the Appalachian People's Action Coalition, Cleveland Housing Network, Empowerment Center of Greater Cleveland, the Neighborhood Environmental Coalition, Consumers for Fair Utility Rates, May Dugan Center, United Clevelanders Against Poverty, Supports To Encourage Low-Income Families, Cleveland Tenants' Association, Citizens United for Action, Pro-Seniors, HARCATUS Tri-County Community Action Organization, Interfaith Power and Light, the Ohio Farm Bureau Federation, Ohio Farmer's Union, and Edgemont Neighborhood Coalition.

For the reasons that follow, Ohio Edison Company, The Toledo Edison Company and The Cleveland Electric Illuminating Company (the "Companies") respectfully submit that The Consumer Groups' Motion for Commission Investigation should be denied.

The Companies recognize the Commission's authority to order an investigation, provide for a discovery period, hold public hearings, and schedule evidentiary hearings. However, the Companies submit that such a process is not necessary and would convert this collaborative rulemaking process (which included a technical conference for parties to discuss Staff's proposed changes, ask questions and provide feedback) to an arms-length litigated process. The Companies find that a commission ordered investigation is not needed for the following reasons: 1) This rulemaking is pursuant to the Commission's regularly scheduled 5-year review and thus parties had sufficient time to review existing rules and document any and all changes that would need to be made; 2) A technical conference was held on July 8, 2008 to review and discuss Staff's proposed changes and at that time no party expressed a need for a commission ordered investigation; 3) parties were then afforded approximately 60 days before filing initial comments and are given approximately 30 additional days before filing reply comments; and 4) the "restructuring" of the natural gas PIPP rules is the only change that The Consumer Groups can credibly argue represents a significant change. For each of the foregoing reasons the Companies contend that a Commission ordered investigation is not necessary for this rulemaking proceeding.

However, if the Commission is persuaded that this rulemaking merits a commission ordered investigation, the Companies urge that the Commission limit such investigation to the "restructuring" of the natural gas PIPP rules.

Respectfully submitted

*EBONY L. MILLER / JTS*

James W. Burk, Counsel of Record

Ebony L. Miller

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

Tel: (330) 384-5849

Fax: (330) 384-3875

[burkj@firstenergycorp.com](mailto:burkj@firstenergycorp.com)

[elmiller@firstenergycorp.com](mailto:elmiller@firstenergycorp.com)

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

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served by U.S. Mail upon counsel identified below this 25th day of September, 2008.

EBONY L. MILLER/JD  
Ebony L. Miller

Richard C. Reese  
David C. Bergmann  
Office of the Ohio Consumer's Counsel  
10 West Broad Street, Ste. 1800  
Columbus, Ohio 43215-3485

Mike Piepsny  
3631 Perkins Avenue, Ste. 3A4  
Cleveland, Ohio 44114

Michelle Lucas  
108 North 2<sup>nd</sup> Street  
Dennison, Ohio 44521

Mike Walters  
Pro Seniors, Inc.  
7162 Reading Road, Ste. 1150  
Cincinnati, Ohio 45237

Joe Meissner  
3030 Euclid, Ste. 100  
Cleveland, Ohio 44115

Dale Arnold  
Director, Energy Services  
Ohio Farm Bureau Federation  
P.O. Box 182383  
Columbus, Ohio 43218

Duane W. Luckey  
Assistant Attorney General  
Chief, Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

Marvin I. Resnik, Esq.  
American Electric Power  
1 Riverside Plaza  
Columbus, Ohio 43215

Tim Walters  
4115 Bridge Street  
Cleveland, Ohio 44113

Noel Morgan  
215 East Ninth Street, Ste. 5200  
Cincinnati, Ohio 45202

Ellis Jacobs  
Legal Aid Society of Dayton  
333 West First St., Ste. 500  
Dayton, Ohio 45402

Jeffrey A. Diver  
Executive Director  
P.O. Box 1322  
Hamilton, Ohio 45012

Michael Smalz  
Ohio State Legal Service Association  
555 Buttles Avenue  
Columbus, Ohio 43215-1137

Greg Hitzhusen, Director  
P.O. Box 26671  
Columbus, Ohio 43226

Joe Logan  
Government Affairs Director  
20 South High Street, Ste. 130  
Columbus, Ohio 43215

Elizabeth L. Anstaett  
Dreher Langer & Tomkies, LLP  
2250 Huntington Center  
41 South High Street  
Columbus, Ohio 43215