

FILE



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*Via Federal Express
and Facsimile (614-466-0313)*

February 2, 2009

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

FAX

PUCO

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RECEIVED-DOCKETING DIV

Dear Ms. Jenkins:

Re: *Reply Memorandum of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company Case No. 09-1299-EL-UNC*

Enclosed for filing, please find the original and fifteen (15) copies of the Reply Memorandum regarding the above-referenced case. Please file the enclosed Reply Memorandum, time-stamping the two extras and returning them to the undersigned in the enclosed envelope.

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

Very truly yours,

kag
Enclosures

cc: Parties of Record

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BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Commission)	
Investigation Into the Reliability of the)	
Electric Distribution Service Provided)	Case No. 08-1299-EL-UNC
by Ohio's Investor-Owned)	
Electric Companies)	
)	

**REPLY MEMORANDUM OF OHIO EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON
COMPANY**

Pursuant to Section 4901-1-12(B)(2) of the Ohio Administrative Code, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, "FE Companies") submit their reply memorandum to the Memorandum Contra the FE Companies' Motion to Dismiss submitted by Consumers for Reliable Electricity in Ohio ("CREO").

In its Memorandum Contra, CREO again tries to justify the opening of an investigation into the reliability and quality of service provided by the FE Companies stating, "Th[e] magnitude of [the perceived reliability problem] is significant and justifies the call for some formal review of [the FE Companies'] reliability and the reasons underlying the problems experienced by customers." (CREO Memo contra, p. 3.) The Commission clearly disagrees. In its recent Order in the Companies' distribution rate case (Case No. 07-551-EL-AIR, hereinafter "*Distribution Case*"), the Commission addressed the FE Companies' reliability performance stating:

With respect to [Office of the Ohio Consumers' Counsel's]¹ recommendation for a separate proceeding to investigate the Companies' service quality and reliability, *the Commission finds that such proceeding is unnecessary*. In preparation of the Staff Reports for this proceeding,

¹ OCC is a member of CREO.

Staff thoroughly investigated the service quality and reliability of the Companies. A considerable portion of the Staff Report for each operating Company is devoted to that investigation [citations omitted]. Each intervenor had the opportunity to file objections to the conclusions contained in the Staff Report, and OCC filed multiple objections to the Staff Report related to service quality and reliability. The UMS Report was addressed in the Staff Report for CEI and the UMS Report was received into the record of this proceeding. A substantial amount of testimony was received related to service quality and reliability, and the parties had the opportunity to make arguments related to service quality and reliability in their briefs. Although OCC may not agree with Staff's conclusions and recommendations in the Staff Report, OCC has not identified any factual issues which have not been thoroughly investigated and litigated in this proceeding. Therefore, *the Commission finds that further litigation on this issue is not necessary.* [*Distribution Case, Jan. 21, 2009 Order, pp. 35-36 (Italics added.)*]

Further, in the FE Companies' memorandum in support of their motion to dismiss this matter, they noted, "If CREO has *facts* to substantiate a claim of unreliable service or related violations, the state legislature provided a process through which such complaints can be heard." (FE Cos. Memo in Support, p. 3) (italics in original.) In its *Distribution Case Order* the Commission agreed, saying, "Nonetheless, the Commission notes that OCC retains the right to file a complaint under Section 4905.26, Revised Code, raising any issues it has with respect to the Companies' service quality and reliability." (*Distribution Case, Jan. 21, 2009 Order, p. 36.*)

In sum, rather than submitting generic replies to pleadings² and wasting budget dollars duplicating the efforts of the Commission, it may behoove CREO to review the actual measures taken to date by the FE Companies to improve reliability and service quality,³ as well as the work performed by Commission Staff in this area. Had CREO

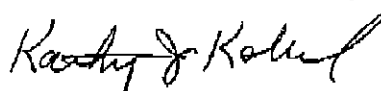
² Compare CREO Memorandum Contra FE Companies' Motion to Dismiss with CREO's January 20, 2009 Reply Memorandum to the AEP Companies' Memorandum Contra.

³ Rather than reiterate them herein, the FE Companies incorporate by reference pages 5 and 6 of their Memorandum in Support of their Motion to Dismiss this proceeding.

done this, perhaps it would have seen that, contrary to their claims, the FE Companies have swept nothing "under the rug" nor have they failed to properly address this matter (as claimed in CREO's Memorandum Contra on page 2.)

CREO raises nothing not already addressed by the Commission in the *Distribution Case* and, accordingly, the FE Companies again urge the Commission to dismiss this matter in its entirety or, alternatively, at a minimum, dismiss the FE Companies as parties.

Respectfully submitted,



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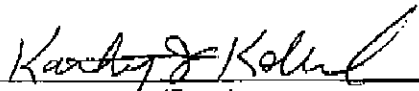
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On behalf of Ohio Edison Company,
The Cleveland Electric Illuminating
Company and The Toledo Edison Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of The FE Companies' Motion to Dismiss CREO's Request for an Investigation was served upon the parties set forth below by regular U.S. Mail, postage prepaid, this 2nd day of February, 2009.



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