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BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanisms.	)	Case Nos. 09-1947-EL-POR
	)	09-1948-EL-POR
	)	09-1949-EL-POR
	)	
	)	
	)	
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of Their Initial Benchmark Reports.	)	Case Nos. 09-1942-EL-BEC
	)	09-1943-EL-BEC
	)	09-1944-EL-BEC
	)	
	)	
In the Matter of the Energy Efficiency and Peak Demand Reduction Program Portfolio of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.	)	Case Nos. 09-580-EL-BEC
	)	09-581-EL-BEC
	)	09-582-EL-BEC
	)	

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JOINT MOTION FOR APPROVAL OF FAST TRACK PROGRAMS  
AND AN EXPEDITED RULING

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Pursuant to Section 4901-1-12(A) of the Ohio Administrative Code and for the reasons more fully discussed in the attached memorandum in support, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "the Companies"), together with the undersigned parties, (collectively with the Companies, "the Parties"), respectfully ask this Commission to (i) approve, consistent with the terms set forth

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herein, the "Fast Track Programs"<sup>1</sup>; and (ii) authorize the recovery of all reasonably incurred costs of said programs consistent with the cost recovery mechanism and cost recovery methodology ultimately approved in this proceeding, with such approval being consistent with the Stipulation and Recommendation (as supplemented) that was approved in Case No. 08-935-EL-SSO ("ESP Stipulation").<sup>2</sup>

As more fully discussed in the attached memorandum in support, the Parties agree that the proposed rebates to be offered through the Appliance Turn-In Program should be modified as described in the attached memorandum in support. Further the Parties agree that the Fast Track Programs (as modified herein) should be launched as quickly as possible so as to (i) allow customers to start reaping the benefits of these programs sooner than otherwise permitted by the procedural schedule established in this proceeding; and (ii) increase the probability that the Companies will successfully meet their required 2010 benchmarks. And finally, the Parties agree that this Joint Motion for Approval of Fast Track Programs ("Joint Motion") will be considered withdrawn if the Commission makes any substantive changes to the terms and conditions set forth herein and any of the Parties file written notice in the above-stated dockets within ten days of the Commission's Entry on the Joint Motion based on such changes.

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<sup>1</sup> The Companies' Plans include the following Fast Track Programs: Appliance Turn-In Program (which is being modified herein); Residential CFL Program (including Low Income); Commercial and Industrial Equipment Program (Lighting); and Commercial and Industrial Equipment Program (Motors) See the Direct Testimony of George M. Fitzpatrick, Cos. Exh. 4, p. 9

<sup>2</sup> The following parties to this proceeding have agreed not to oppose this Joint Motion, provided that no substantive changes to the terms set forth above are made by the Commission: Industrial Energy Users-Ohio, Ohio Environmental Council, Natural Resources Defense Council, The Environmental Law & Policy Center, Citizen Power, Staff of the Public Utilities Commission of Ohio, The Association of Independent Colleges and Universities of Ohio, City of Cleveland, Ohio Energy Group, Inc., Material Science Corporation, EnerNOC, Inc. and Citizens Coalition.

The Parties ask the Commission to grant this Joint Motion expressly finding that (a) the Fast Track Programs, as modified herein, are approved; (b) the Companies are authorized to collect all reasonably incurred costs of the Fast Track Programs consistent with the cost recovery mechanism and cost recovery methodology ultimately approved in this proceeding, with such approval being consistent with the ESP Stipulation<sup>3</sup>; (c) any modifications to any of the Fast Track Programs found to be necessary by the Commission in its final order in this proceeding will be made on a prospective basis only with any such modifications having no effect on the recovery of (i) reasonably incurred costs associated with the Fast Track Programs that have been committed to be spent or actually spent by the Companies in reliance upon the granting of this Joint Motion, provided that the Companies take all reasonable steps to mitigate any such costs; or (ii) any incremental costs reasonably incurred in order to comply with said modifications; and (d) the provisions set forth in Findings 9 and 10 of the Commission's Order in Case No. 09-1004-EL-EEC *et al* are not affected by the granting of the Motion.

In an effort to increase the Companies' probabilities of successfully meeting their 2010 statutory benchmarks, the Companies must initiate the launch of the Fast Track Programs no

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<sup>3</sup> Nothing in this pleading dictates how the ESP Stipulation should be interpreted.

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## Memorandum in Support

### I. Introduction

On December 15, 2009, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, "Companies") filed an Application for approval of their respective three year Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanisms ("Plans").<sup>4</sup> As the Application indicates, because of the Commission's requirement to prorate savings in the initial year in which a program is launched, the Companies requested either an accelerated procedural schedule that would allow for approval of the Plans by mid-March, 2010 or, alternatively, approval before April 1, 2010 of four specific programs -- the Appliance Turn-In Program, the Residential CFL Program (including low income), the C/I Equipment Program (Lighting component), and the C/I Equipment Program (Industrial Motors) -- which are referred to in the Plans as the "Fast Track" Programs. (Application, p. 12.) The Companies indicated that absent either of these actions, they "may be required to file a request for amendment of their benchmarks for 2010, as provided for in R.C. § 4928.66(A)(2)(b)." Id.

On January 14, 2010, the Attorney Examiner in this proceeding established the procedural schedule that sets the matter for hearing on March 2, 2010. In light of this, as well as all parties' desire to launch the Fast Track Programs as quickly as possible, the parties to this proceeding, as well as other members of the Companies' collaborative group, met either in person or via telephone on several occasions to review the Fast Track Programs. Based on this review, the Parties agree that the Fast Track Programs, with a slight modification to the

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<sup>4</sup> Also included in the Application was a request for approval of the Companies' Market Potential Study and Initial Benchmark Report, neither of which is relevant to the issues addressed in this memorandum.

Appliance Turn-In Program that is discussed below, should be approved. Further the Parties agree that all reasonably incurred costs associated with each of the Fast Track Programs should be recovered through the cost recovery mechanism and cost recovery methodology ultimately approved in this proceeding, with such approval being consistent with the Stipulation and Recommendation (as supplemented) that was approved in Case No. 08-935-BL-SSO ("ESP Stipulation").<sup>5</sup> Accordingly, for the reasons more fully discussed below, the Parties (without opposition from any party in this proceeding other than OCC<sup>6</sup> (collectively "Non-opposing Parties")) respectfully ask the Commission to grant the Joint Motion consistent with the terms and conditions set forth therein.

## II. Argument

### A. Modification to the Appliance Turn In Program

As proposed in the Companies' Plans, the Appliance Turn-In Program includes an initial rebate of \$75 during the first six months after launch. The Parties have agreed that the rebates for this program should be reduced to \$50 initially, with a further reduction to \$35 six months after the launch of the program. The Parties also agree that the Companies can increase the rebates should the results under the modified version of this program be less than projected, provided that the Companies discuss the results and the proposed increase in the rebate level with the collaborative group before making any request to the Commission for any such increase. Because neither the Parties nor the Non-opposing Parties (which represent all but one of all parties to this proceeding) object to the modifications and conditions described above, the Parties

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<sup>5</sup> Nothing in this pleading dictates how the ESP Stipulation should be interpreted.

<sup>6</sup> Rather than be included as either a signatory or non-opposing party, the Office of the Ohio Consumers' Council has elected to set forth its position in response to the Joint Motion.

(without opposition from the Non-opposing Parties) respectfully ask that the Commission approve the Appliance Turn-In Program set forth in the Companies' Plans as modified above.

**B. The Commission should approve the Fast Track Programs and authorize the launch of said programs no later than Mid- March, 2010.**

R.C. § 4928.66 requires the Companies in 2010 to reduce energy consumption and peak demand by 0.8 % and 1.75%, respectively. This is in addition to any lawful incremental requirements imposed on the Companies as a result of the Commission's January 7, 2010 Finding and Order in Case No. 09-1004-BL-EBC.<sup>7</sup> An early approval of the Fast Track Programs (as modified herein) will allow customers to start reaping the benefits of these programs sooner than would otherwise be permitted under the current procedural schedule and will increase the Companies' probability of successfully achieving their benchmark requirements. Further the early launch of these programs will not negate the Commission's ability to review any of these programs in detail during the evidentiary proceeding should it so desire because the Joint Motion provides for modifications to any of the Fast Track Programs by the Commission. However, any such modifications must be made on a prospective basis, given that the Companies will commence the launch of each of these Fast Track Programs prior to such modifications being made known. As a result, the Parties (without opposition from the Non-opposing Parties) further request that should the Commission require modifications to any of the Fast Track Programs in its final order, that the Commission also allow the Companies to recover (i) all reasonably incurred costs associated with the Fast Track Programs that have been

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<sup>7</sup> See *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Amend Their Energy Efficiency Benchmarks*, (Jan 7, 2010 Finding and Order, paras 9, 10.)

committed to be spent or actually spent by the Companies in reliance upon the granting of the Joint Motion, provided that the Companies take all reasonable steps to mitigate any such costs; and (ii) any incremental costs reasonably incurred in order to comply with said modifications.

The Parties (without opposition from the Non-Opposing Parties) urge the Commission to approve all four Fast Track Programs (as modified herein), consistent with the terms and conditions set forth in the Joint Motion because: (i) customers will reap benefits from these programs several months earlier than would otherwise be possible; (ii) the Companies' chances of complying with 2010 benchmarks increases; and (iii) there are safeguards in place that allow the Commission to modify the programs on a going forward basis.

In order to increase the Companies' probability of successfully achieving their respective 2010 benchmark requirements, the launch of the Fast Track Programs must start no later than April 1, 2010. Therefore, the Parties (without opposition from the Non-Opposing Parties) ask that an Entry granting the Joint Motion be issued by the Commission no later than mid-March, 2010.

**C. The Commission should authorize the recovery of all costs of the Fast Track Programs reasonably incurred by the Companies.**

The ESP Stipulation provides that the Companies "will recover costs reasonably incurred ... including program administration costs and recovery of lost distribution revenues as permitted by the Commission rules...."<sup>8</sup> The Commission's Rule 4901:1-39-07(A) permits an electric utility to submit in its portfolio plan "a request for recovery of an approved rate adjustment mechanism, ... of costs due to electric utility peak-demand reduction, demand response, energy

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<sup>8</sup> Case No. 08-935-EL-SSO, ESP Stipulation; approved in Opinion and Order, p. 14 (Mar. 25, 2009).



efficiency program costs, appropriate lost distribution revenues, and shared savings.” The Companies proposed such a mechanism in their respective Plans.<sup>9</sup> As approved energy efficiency programs, the Parties (without opposition from the Non-Opposing Parties) ask the Commission to authorize the recovery of all Fast Track program costs reasonably incurred, with such recovery being made consistent with the cost recovery mechanism and cost recovery methodology ultimately approved in this proceeding.<sup>10</sup> Such a ruling would be consistent with both the law and the Commission’s rules.

### III. Summary

In sum, the Parties believe that the approval of the four Fast Track programs as modified herein is a reasonable solution that benefits both the customers and the Companies. Inasmuch as the Parties, as well as all parties to this proceeding except one, have agreed not to oppose the Joint Motion, it is extremely unlikely that these programs would not be approved when the Plans as a whole are approved. Therefore, the Parties (without opposition from the Non-opposing Parties) respectfully ask the Commission to grant the Joint Motion by mid-March:

- Approving the Fast Track Programs as modified herein and authorizing the early launch of said programs, contingent on potential further modifications consistent with the provisions set forth above;

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<sup>9</sup> See Section 7 of the Companies’ respective Plans.

<sup>10</sup> This request is limited to the program costs associated with each of the Fast Track Programs, and not any other costs contemplated in Rule 4901:1-39-07(A), all of which remain subject to litigation in this proceeding, consistent with the ESP Stipulation. Further, the Parties acknowledge that nothing in this request precludes a party from challenging the costs already incurred by the Companies through their prior CFL Program that is the subject of Case No. 09-580-EL-EEC.

- Authorizing the recovery of all reasonably incurred program costs associated with the Fast Track Programs consistent with both the terms and conditions set forth above, and the recovery mechanism and recovery methodology ultimately approved by the Commission in this proceeding; and
- Noting that the provisions set forth in Finding Nos. 9 and 10 in Case No. 09-1004-EL-EEC *et al* are not affected by the granting of the Joint Motion.

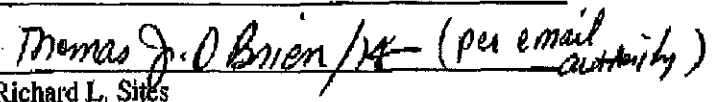
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Joint Motion for Approval of Fast Track Programs and an Expedited Ruling was served this 22<sup>nd</sup> day of February 2010 by first-class United States mail, postage prepaid (with copies provided electronically), upon the persons listed below.

  
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