

**FILE**

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**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Ohio	)	
Edison Company, The Cleveland Electric	)	
Illuminating Company and The Toledo	)	Case No. 09-1820-EL-ATA
Edison Company for Approval of Ohio	)	Case No. 09-1821-EL-GRD
Deployment of the Smart Grid	)	Case No. 09-1822-EL-EEC
Modernization Initiative and Timely	)	Case No. 09-1823-EL-AAM
Recovery of Associated Costs.	)	

**PUCO**

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**MEMORANDUM CONTRA FIRSTENERGY'S  
APPLICATION FOR REHEARING  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**MEMORANDUM CONTRA FIRSTENERGY'S  
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The Office of the Ohio Consumers' Counsel ("OCC") represents approximately 1.9 million residential electric consumers of the Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively "FirstEnergy" or "Companies").

This Memorandum Contra is filed<sup>1</sup> to protect customers against the imprudently incurred SmartGrid charges that may be sought by FirstEnergy based upon demands made by FirstEnergy to the Public Utilities Commission of Ohio ("Commission" or "PUCO") in its application for rehearing filed on July 30, 2010. The Commission should maintain its stance, as set forth in its Finding and Order, that cost recovery issues will be deferred until the PUCO addresses the stipulation filed in Case No. 10-388-EL-SSO and

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<sup>1</sup> Ohio Adm. Code 4901-1-35(B).

that the PUCO not guarantee FirstEnergy cost recovery until the Commission conducts a prudence review.<sup>2</sup>

In its Application for Rehearing, FirstEnergy inaccurately asserts that the Commission's failure to clearly provide that the Companies will "recover the actual costs incurred (and not reimbursed by the Department of Energy) as a result of implementing and maintaining the Ohio Site Deployment" is unreasonable and unlawful.<sup>3</sup> To the contrary, such a guarantee of cost recovery is unreasonable and unlawful under R.C. 4905.22, until the Commission is assured that the costs incurred are prudent. In addition, FirstEnergy has the burden of proof to show that the costs were prudently incurred under R.C. 4928.143(C)(1).

Accordingly, the Commission should not guarantee FirstEnergy recovery of all actual costs incurred without a prudence review of all such costs. Many of the costs included in FirstEnergy's application have not been properly substantiated and raise questions as to reasonableness.

As noted in OCC's comments filed on December 10, 2009, FirstEnergy's application included meter costs that were much higher than the industry average.<sup>4</sup> The industry average at that time was \$250 per meter and FirstEnergy was proposing to recover \$936 per meter, or three times the industry average.<sup>5</sup>

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<sup>2</sup> Finding and Order at 8-9 (June 30, 2010).

<sup>3</sup> Application for Rehearing at 1 (July 30, 2010).

<sup>4</sup> OCC Comments at 3-4 (December 10, 2009).

<sup>5</sup> Id.

Other costs FirstEnergy proposed to collect from customers for the SmartGrid program were likewise excessive. The application proposed collecting feeder costs that were much higher than the feeder costs identified by Dayton Power & Light Company.<sup>6</sup>

There were numerous other problems with the application that must be remedied before FirstEnergy could be permitted to collect costs from customers, including the Companies' failure to identify the operational benefits that should be netted against the costs of the SmartGrid implementation,<sup>7</sup> a lack of clarity about the number of meters that were associated with costs numbers,<sup>8</sup> and a lack of detail regarding categories of costs.<sup>9</sup>

It would be irresponsible to grant a *carte blanche* guarantee of full cost recovery given the breadth of the concerns regarding FirstEnergy's application, which include not only the costs associated with various components of smart grid, but also the appropriate calculation of benefits and the netting of these benefits against the costs. It is a maxim of good regulation that there should be verification that costs are reasonable and prudent prior to charging them to customers and that the regulated utility be held accountable for its decisions for which it seeks to impose costs on customers.

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<sup>6</sup> Id at 4.

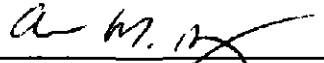
<sup>7</sup> Id at 5.

<sup>8</sup> Id at 6.

<sup>9</sup> Id at 7-8.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



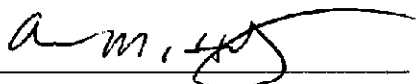
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Memorandum Contra was served on the persons stated below via first class U.S. Mail, postage prepaid, this 9<sup>th</sup> day of August, 2010.



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