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**Via E-filing**

October 7, 2011

Public Utilities Commission of Ohio  
PUCO Docketing  
180 E. Broad Street, 10th Floor  
Columbus, Ohio 43215

**In re: Case Nos. 09-1947-EL-POR, 09-1948-EL-POR and 09-1949-EL-POR  
Case Nos. 09-1942-EL-EEC, 09-1943-EL-EEC and 09-1944-EL-EEC  
Case Nos. 09-580-EL-EEC, 09-581-EL-EEC and 09-582-EL-EEC**

Dear Sir/Madam:

Please find attached the APPLICATION FOR REHEARING OF THE OHIO ENERGY GROUP to be filed in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



Michael L. Kurtz, Esq.

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Jody M. Kyler, Esq.

**BOEHM, KURTZ & LOWRY**

MLKkew

Encl.

Cc: Certificate of Service  
Kim Bojko, Hearing Examiner  
Greg Price, Hearing Examiner

**BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO**

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

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**APPLICATION FOR REHEARING  
OF THE OHIO ENERGY GROUP**

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Pursuant to R.C. §4903.10 and Ohio Adm. Code §4901-1-35 , the Ohio Energy Group (“OEG”) hereby submits an application for rehearing of the Public Utilities Commission of Ohio’s (“Commission”) September 7, 2011 Entry on Rehearing (“Entry”) in the above-captioned matter. OEG does not request rehearing of the issues already resolved in this case, but wishes to address a new issue arising from the Commission’s Entry. Specifically, OEG contends that the Commission erred by establishing a new energy efficiency performance standard for electric distribution utilities beyond that established under R.C. 4928.66(A). The reasons in support of OEG’s arguments are set forth in the attached Memorandum in Support.

Respectfully submitted,



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## MEMORANDUM IN SUPPORT

### The Commission erred by establishing a new energy efficiency performance standard for electric distribution utilities beyond that established under R.C. 4928.66(A).

The Commission's Entry provides:

In the absence of any regulatory, economic, or technological reasons beyond the Companies' reasonable control, the Companies should seek to provide to their customers all available cost effective energy efficiency opportunities. In order to maximize customer opportunities, utilities must seek the least cost means to achieve this standard. *This is the performance standard to be expected from Ohio's electric utilities.*<sup>1</sup>

This language appears to establish a new energy efficiency performance standard that could require Ohio utilities to exceed the current benchmarks established in R.C. 4928.66(A). Increasing the utilities' energy efficiency performance standard by requiring utilities to immediately maximize their energy efficiency savings could be very costly to Ohio customers, particularly industrial customers, in the short-term. Rather than gradually phasing-in the costs of new energy efficiency programs, as R.C. 4928.66(A) dictates, the Commission's new standard would appear to require customers to undertake the program costs of all cost-effective energy efficiency programs over a short time period in anticipation of savings over time.

The costs of the programs in the FirstEnergy companies' energy efficiency and peak demand reduction plans for 2010-12 were estimated to be approximately \$214 million.<sup>2</sup> Depending on the existence of additional cost-effective energy efficiency programs outside of what the companies have already proposed, the new performance standard seemingly established in the Commission's Entry may significantly increase those costs over a short period of time. OEG is concerned about the potential for rate shock that could result from the standard described in the Commission's Entry.

The current legal benchmarks for energy efficiency are already very aggressive and lead to substantial costs for customers. The Commission should not, either intentionally or unintentionally, establish even higher

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<sup>1</sup> Entry at 6 (emphasis added).

<sup>2</sup> Cleveland Electric Illuminating Co. Energy Efficiency and Peak Demand Reduction Program Portfolio and Initial Benchmark Report, Docket Nos. 09-1947-EL-POR, 09-1942-EL-EEC, and 09-580-EL-EEC (Dec. 15, 2009) at 3.

performance standards. Further, savings that customers could receive from energy efficiency programs are related to the actual participation of those customers in the energy efficiency programs. For sophisticated industrial customers who already carefully manage their energy consumption, a utility's implementation of every cost-effective energy efficiency program possible may only impose more costs without providing additional savings to those customers. This could have a negative impact on economic development in Ohio since large industrial customers may seek to avoid higher electric rates by relocating. Moreover, forcing customers who are already very energy efficient to pay even more money to subsidize the energy efficiency of other less energy-conscious customers, who may include competitors of those customers, is unreasonable.

OEG recommends against the establishment of a new standard developed by the Commission, which could significantly increase short-term energy costs for customers. Instead, the Commission should abide by the benchmarks outlined in R.C. 4928.66(A).

### **CONCLUSION**

OEG urges the Commission to grant this Application for Rehearing in order to redress this important issue.

Respectfully submitted,



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**COUNSEL FOR THE OHIO ENERGY GROUP**

October 7, 2011

## CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 7<sup>th</sup> day of October, 2011 to the following:



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Summary: App for Rehearing Ohio Energy Group's Application for Rehearing electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group