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January 9, 2012

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 original and ten (10) copies of the SECOND NOTICE OF APPEAL OF THE OHIO ENERGY GROUP for filing 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,

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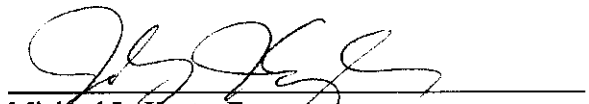
MLKkew
Encl.
Cc: Certificate of Service
Chairman Todd Snitchler (via overnight mail)
Kim Bojko, Hearing Examiner
Greg Price, Hearing Examiner

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 9th day of January, 2012 to the following:



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IN THE SUPREME COURT OF OHIO

In the Matter of the Report of the Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for 3-Year Energy Efficiency & Peak Demand Reduction Plan and Initial Benchmark Report	)	Case No. 2011-2204
	)	Appeal from the Public Utilities Commission of Ohio
	)	Public Utilities Commission of Ohio
	)	Case Nos. 09-1947-EL-POR
	)	09-1948-EL-POR
	)	09-1949-EL-POR
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	)	09-1942-EL-EEC
	)	09-1943-EL-EEC
	)	09-1944-EL-EEC
	)	09-580-EL-EEC
	)	09-581-EL-EEC
	)	09-582-EL-EEC

SECOND NOTICE OF APPEAL OF APPELLANT, THE OHIO ENERGY GROUP

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IN THE SUPREME COURT OF OHIO

In the Matter of the Report of the Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for 3-Year Energy Efficiency & Peak Demand Reduction Plan and Initial Benchmark Report	)	Case No. 2011-2204
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	)	09-580-EL-EEC
	)	09-581-EL-EEC
	)	09-582-EL-EEC

SECOND NOTICE OF APPEAL OF APPELLANT, THE OHIO ENERGY GROUP

Appellant, The Ohio Energy Group ("OEG"), a party of record in the above-styled proceedings, hereby gives notice of its appeal, pursuant to R.C. 4903.11 and 4903.13 and S. Ct. Prac. Rules 2.2(A)(2) and 2.3(B), to the Supreme Court of Ohio and Appellee, from an Entry on Rehearing (Exhibit A) entered September 7, 2011 in PUCO Case Nos. 09-1947-EL-POR, 09-1948-EL-POR, 09-1949-EL-POR, 09-1942-EL-EEC, 09-1943-EL-EEC, 09-1944-EL-EEC, 09-580-EL-EEC, 09-581-EL-EEC, and 09-582-EL-EEC (collectively, "Commission cases").

Appellant was and is a party of record in the Commission cases, and timely filed its Application for Rehearing of the Appellee's September 7, 2011 Entry on Rehearing (Exhibit B)

in accordance with R.C. 4903.10. Appellant's Application for Rehearing was denied by operation of law pursuant to R.C. 4903.10(B) on November 7, 2011.

Appellant complains and alleges that the Appellee's September 7, 2011 Entry on Rehearing in the Commission cases is unlawful, unjust and unreasonable in the following respects, as set forth in Appellant's Application for Rehearing.

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

WHEREFORE, Appellant respectfully submits that Appellee's September 7, 2011 Entry on Rehearing in the Commission cases is unlawful, unjust and unreasonable and should be reversed. This case should be remanded to Appellee with instructions to correct the errors complained of herein.

Respectfully submitted,

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January 9, 2012

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I hereby certify that a copy of the foregoing was served by overnight mail this 9th day of January, 2012 to the parties listed below.

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EXHIBIT A

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2010 through 2012 and Associated Cost Recovery Mechanism.	Case No. 09-1947-EL-POR Case No. 09-1948-EL-POR Case No. 09-1949-EL-POR
In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Initial Benchmark Reports.	Case No. 09-1942-EL-EEC Case No. 09-1943-EL-EEC Case No. 09-1944-EL-EEC
In the Matter of the Energy Efficiency and Peak Demand Reduction Program Portfolio of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company.	Case No. 09-580-EL-EEC Case No. 09-581-EL-EEC Case No. 09-582-EL-EEC

ENTRY ON REHEARING

The Commission finds:

(1) The Cleveland Electric Illuminating Company (CEI), Ohio Edison Company (OE), and The Toledo Edison Company (TE) (collectively, FirstEnergy or the Companies) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.

(2) On December 15, 2009, in the above-captioned cases, FirstEnergy filed an application for approval of the Companies' initial benchmark reports and for approval of the Companies' energy efficiency and peak demand reduction (EE/PDR) program portfolio plans for 2010 through 2012.

(3) Intervention in the proceeding was granted to Industrial Energy Users-Ohio, the Ohio Energy Group (OEG), the Ohio Environmental Council (OEC), Ohio Consumers' Counsel (OCC), Citizens Power Inc. (Citizens Power), Natural Resources Defense Counsel (NRDC), the Neighborhood Environmental Coalition, the Empowerment Center of Greater

Cleveland, United Clevelanders Against Poverty, Cleveland Housing Network, and the Consumers for Fair Utility Rates (collectively, Citizens Coalition) (OCC, Citizens Power, NRDC, and Citizens Coalition collectively, OCEA), Ohio Partners for Affordable Energy, Sierra Club, the Association of Independent Colleges and Universities of Ohio, Ohio Hospital Association, the Environmental Law and Policy Center (ELPC), EnerNOC, Inc., Nucor Steel Marion, Inc. (Nucor), Ohio Schools Council, the City of Cleveland, Council of Smaller Enterprises, and the Material Sciences Corporation.

(4) On March 23, 2011, the Commission issued its Opinion and Order (March 23 Opinion and Order) finding that the Companies' initial benchmark reports were supported by the record and should be approved. Additionally, the Commission found that the Companies' energy efficiency and peak demand reduction program portfolio plans were reasonable and should be approved as modified in the March 23 Opinion and Order.

(5) On April 22, 2011, the Companies, OEG, and Nucor filed applications for rehearing regarding the Commission's March 23 Opinion and Order. In its application on rehearing, the Companies contend that the March 23 Opinion and Order is unreasonable and unlawful on seven separate grounds. Additionally, in their respective applications for rehearing, OEG and Nucor argue that the March 23 Opinion and Order is unreasonable on two separate grounds. The Companies filed a memorandum contra to the applications for rehearing filed by OEG and Nucor.

(6) By entry issued May 4, 2011, the Commission granted the applications for rehearing filed by the Companies, OEG, and Nucor, finding that the parties set forth sufficient reasons seeking rehearing to warrant further consideration of the matters specified in the applications for rehearing.

(7) Subsequently, on May 4, 2011, OEG filed a motion withdrawing its application for rehearing. Therefore, we will not address OEG's grounds for rehearing.

(8) In their application for rehearing, the Companies argue that the Commission's March 23 Opinion and Order was unreasonable and unlawful on the following grounds:

(a) The Commission's finding that the Companies' three-year EE/PDR plans were not designed to achieve its 2010 EE/PDR benchmarks is against the manifest weight of the evidence;

(b) The Commission's adoption of a pro rata accounting methodology for determining EE savings violates the Companies' substantive due process rights and ignores the evidence of record;

(c) The Commission's mandate to incorporate a yet-to-be approved template when submitting the Companies' next three-year EE/PDR plans violates the Companies' due process rights, not only by requiring compliance with templates that have yet to be defined and rules that have yet to become effective, but by also failing to provide the Companies with sufficient advance notice as to what is required prior to such mandatory compliance;

(d) The Commission's decision not to approve the Companies' proposed street lighting program and the energy efficient products program as it relates to water heating for customers with access to natural gas has no basis and is against the manifest weight of the evidence;

(e) The Commission's failure to explain its rationale for not approving the Companies' street lighting program and the energy efficient products program as it relates to water heating for customers with access to natural gas violates Section 4903.09, Revised Code;

(f) The Companies request clarification on the intent underlying the Commission's limitations regarding the energy efficient products program as it relates to water heating for customers with access to natural gas; and

(g) The Companies request clarification of the Commission's intent to defer judgment not only on the Companies' 2009 transmission and

distribution (T&D) filing but also on their 2010 T&D filing.

(9) In the Companies' second assignment of error, the Companies argue that the Commission's adoption of a pro rata accounting methodology for determining EE savings violates the Companies' substantive due process rights and ignores the evidence of record.

In the March 23 Opinion and Order, the Commission reaffirmed its prior decision to utilize pro rata, rather than annualized, accounting methodology in calculating energy savings results. See *In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technology, Resources and Climate Regulations, and Review of Chapters 4901:5-1, 4901:5-2, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, Pursuant to Amended Substitute Senate Bill 221*, Case No. 08-888-EL-ORD, Entry on Rehearing (June 17, 2009) at 9 (08-888). In doing so, the Commission found that the Companies "pointed to no evidence in the record of this proceeding that its prior decision was incorrect or impractical" (March 23 Opinion and Order at 21).

The Companies' first argument concerning the accounting methodology is that both the law and the evidentiary record demonstrate that the use of a pro rata methodology is impractical and in violation of the law. More specifically, the Companies contend that the Commission ignored evidence of record that demonstrated the impracticality of using the pro rata accounting methodology when determining annual energy savings. The Companies cite to the testimony of their witness, Mr. Fitzpatrick, that the use of pro rata methodology would increase compliance costs for customers by approximately $51.2 million, and that, in contrast, the annualized approach is a cost-effective way to determine long-term savings. Further, the Companies argue that evidence in the record demonstrated that 22 states out of 27 states with energy efficiency mandates utilize the annualized savings methodology. Finally, the Companies cite to Mr. Fitzpatrick's recommendation that the Commission reconsider its decision requiring pro rata savings for partial year participation (Fitzpatrick testimony at 24). Consequently, the Companies conclude that the evidentiary record supports a finding that use of the pro rata accounting methodology for purposes of determining energy savings is impractical both from an

administrative and financial perspective and that the annualized method should be used instead.

The Companies next argue that the adoption of a pro rata accounting methodology for purposes of determining EE savings violates the Companies' due process rights. Specifically, the Companies contend that they cannot reasonably determine whether their programs will achieve the required level of energy savings in a single year if they cannot control the date on which the Commission will approve the plans and thereby fix the launch date of approved programs. In other words, the Companies are concerned that, in any year in which the Commission does not approve the Companies' application in sufficient advance of the beginning of the year, the Companies can only guess whether their EE/PDR plans will comply with the law.

The Commission finds that the arguments raised by the Companies in their application for rehearing were thoroughly considered by the Commission in the March 23 Opinion and Order. The evidence cited by the Companies was considered by the Commission, and we determined that the evidence did not demonstrate that the Commission's decision in Case No. 08-888 was impractical or incorrect.

Further, the Commission notes that, while advocating for a reversal of prior Commission judgments, the Companies have suggested that if they successfully deliver more than the statutory minimum requirement of energy efficiency in one year, they would adjust downward in subsequent years the energy savings they deliver on behalf of their customers. Any policy by an electric distribution company, such as that announced by the Companies, of preferentially selling energy over energy efficiency is at odds with Ohio's policy of ensuring reasonably priced retail electric service, including both cost-effective supply- and demand-side retail electric service to consumers. Section 4928.02(A) and (D), Revised Code.

When energy efficiency can be delivered for less than the cost of energy, utilities must provide it as a retail electric service option to their customers. The Companies' focus on limiting energy efficiency services to the benchmark indicates the potential that the Companies embrace an underlying rejection of the full range of their responsibilities, including making accessible both cost-effective supply- and demand-side

resources for their customers. Fundamentally, in our retail environment, electric distribution utilities may not preferentially push electrons over energy savings opportunities on their customers. Delivering the benchmark (and no more) does not ensure that customers will receive the full benefit of a healthy, competitive retail electric service market. To ration efficiency is to misconstrue the intent of the law.

With regard to the Companies' argument that customers would pay $51.2 million more than is necessary, the Companies' reasoning is flawed and would actually cost customers more. The Companies' argument is based upon the contention that it would cost $51.2 million to deliver the programs so that the energy savings actually occurred during the year they were to be counted (Co. Ex. 4 at 11-12). However, because these energy savings must be cost-effective, by definition, customers in the aggregate save money when the Companies deliver energy savings opportunities to their customers instead of energy. To the extent the Companies accelerate the delivery of cost-effective energy savings opportunities to their customers, they will also accelerate the net cost savings which customers enjoy. Thus, every kWh of energy that can be displaced through cost-effective energy efficiency programs is a savings, not a cost, to the Companies' customers.

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.

Accordingly, rehearing on this assignment of error should be denied.

(10) In their first assignment of error, the Companies take issue with the Commission's conclusion that "as proposed, the Companies' program portfolio plans were not designed to achieve the statutory benchmarks for 2010" (March 23 Opinion and Order at 9). The Companies argue that the Commission's finding that the Companies' three-year EE/PDR plans were not designed to achieve their 2010 EE/PDR benchmarks is against the manifest weight of the evidence. Specifically, the

Companies argue that a ruling by the Commission in March 2010, as requested by the Companies in their application, would have provided the Companies with a fair opportunity to comply with the 2010 statutory benchmarks using all programs included in their EE/PDR plans. Instead, the Companies contend, the one-year delay in approving the Companies' EE/PDR plans deprived the Companies of that opportunity.

In the March 23 Opinion and Order, the Commission concluded that "the record is clear that the Companies' program portfolio plans were only designed to achieve the statutory benchmarks if the Companies were granted extraordinary relief by the Commission in the form of Commission approval of the fast track proposal or the reversal of our previous decision regarding the use of annualized savings (Co. Ex. 1 at 13; Tr. I at 110)" (March 23 Opinion and Order at 9). At the hearing, the Companies' witness Paganie acknowledged that, without fast-track approval or annualized accounting, the Companies' plan did not meet the statutory requirements for 2010 (Tr. I at 110, 143-145). In its application for rehearing, FirstEnergy has cited to no evidence that contradicts this testimony. Accordingly, the Commission finds that there is no basis for the Companies' claim that the Commission's conclusion that "as proposed, the Companies' program portfolio plans were not designed to achieve the statutory benchmarks for 2010" was against the manifest weight of the evidence. Rehearing on this assignment of error should be denied.

(11) Nonetheless, the Commission is aware of the impact of this lengthy proceeding on the Companies' ability to meet their energy efficiency benchmarks for 2010. The Commission already has amended the 2010 energy efficiency benchmark for OE. *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 and Peak Demand Reduction Benchmarks*, Case No. 11-126-EL-EEC, Finding and Order (May 19, 2011) at 5. Pursuant to Section 4928.66, Revised Code, the Commission finds that the Companies are unable to meet their energy efficiency savings due to reasons beyond their control, and the Commission will amend the 2010 energy efficiency benchmarks for CEI and TE to the total energy savings actually achieved by each company. This amendment is contingent upon the Companies filing a report in this docket

within 30 days which details, by company, the total energy savings required for 2010, the total energy savings for 2010 which would have been achieved according to annualized accounting, and the total energy savings achieved according to pro rata accounting. This amendment is also contingent upon CEI and TE meeting the cumulative energy savings mandated by statute by 2012. This will ensure that customers receive the full benefit of the energy savings mandated by law.

(12) In its third assignment of error, FirstEnergy challenges the Commission's directive that the Companies take necessary steps to implement the portfolio plan template approved in the forthcoming order in Case No. 09-714-EL-UNC (09-714) in its next portfolio plan. Specifically, the Companies contend that, because the template has not been approved yet, the Commission's mandate violates the Companies' due process rights, not only by requiring compliance with templates that have yet to be defined and rules that have yet to become effective but also by failing to provide the Companies with sufficient advance notice as to what is required prior to such mandatory compliance.

In the application filed in this proceeding, the Companies requested a waiver to the extent the sectors utilized in the 2009 EE/PDR plans conflicted with the Commission's forthcoming order approving a portfolio plan template in Case No. 09-714 (Co. Ex. 10, Vol. 1 at 7). In the March 23 Opinion and Order, the Commission granted the waiver requested by the Companies. However, the Commission emphasized that the waiver only applied to the 2009 portfolio plan and directed the Companies to take the necessary steps to implement the template in its next portfolio plan (March 23 Opinion and Order at 21-22).

The Commission clarifies that we intended only to specify that the requested waiver would be granted as to the 2009 portfolio plan and that the Commission intends to require implementation of the template in future portfolio plans. If FirstEnergy wishes to challenge the forthcoming template in Case No. 09-714, it may do so in that docket as it applies to future portfolio plans.

(13) In its fourth assignment of error, FirstEnergy argues that the Commission's decision not to approve the Companies' proposed street lighting program and the energy efficient

products program as it relates to water heating for customers with access to natural gas has no basis and is against the manifest weight of the evidence. Similarly, in their fifth assignment of error, the Companies claim that the Commission's failure to explain its rationale for not approving the Companies' street lighting program and the energy efficient products program as it relates to water heating for customers with access to natural gas violates Section 4903.09, Revised Code. Further, in their sixth assignment of error, the Companies request clarification on the intent underlying the Commission's limitations regarding the energy efficient products program as it relates to water heating for customers with access to natural gas.

The Commission finds that rehearing on these three assignments of error should be denied. Regarding the street lighting program, the evidence in the record showed that, as to CEI and OE, the Companies' total resource cost (TRC) analysis indicated that the total resource cost benefit from this program was less than 1; in other words, the costs of the program exceeded the benefits of the program (Co. Ex. 10, Vol. 2, Appendix C-3 at 18; Co. Ex. 10, Vol. 3, Appendix C-3 at 18). Therefore, based upon this evidence, the Commission noted in our March 23 Opinion and Order that the TRC for the government street lighting program was less than one and needed to be remodeled by the Companies (March 23 Opinion and Order at 10). Likewise, with respect to the residential energy efficient products program as it relates to water heaters, the evidence demonstrated that the TRC analysis for residential water heaters was only 0.72 (Co. Ex. 10, Vol. 1, Appendix D at 140). Further, there was no evidence demonstrating that electric hot water heaters are more efficient than natural gas hot water heaters or that electric water heating was an appropriate energy efficiency measure for customers with access to natural gas. Therefore, the Commission determined that the evidence in the record did not support the adoption of either the government street lighting program or the residential water heating program and ordered that an additional hearing be held with respect to these two programs (March 23 Opinion and Order at 22). With respect to the Companies' request for clarification, the Commission will clarify that the Companies should offer electric water heaters only to those customers who do not have access to natural gas and that the Companies should undertake reasonable, good faith efforts to ensure that

customers who are offered electric water heaters do not have access to natural gas.

(14) In their seventh assignment of error, the Companies request clarification of the Commission's intent to defer judgment on the Companies' proposed T&D projects to the Companies' 2009 T&D filing in Case No. 09-951-EL-EEC, et al., and also on their 2010 T&D filing in Case No. 10-3023-EL-EEC, et al.

In the March 23 Opinion and Order, the Commission stated that, "with respect to the transmission and distribution programs, the Commission will address FirstEnergy's proposed programs in Case Nos. 09-951-EL-EEC, et al." (March 23 Opinion and Order at 23). By entry issued June 8, 2011, the Commission issued its finding and order in Case No. 09-951-EL-EEC, which addressed the Companies' 2009 T&D filing and, further, provided direction as to the Companies' 2010 T&D filing. Consequently, we find the Companies' seventh assignment of error to be moot.

(15) In its application for rehearing, Nucor argues that the March 23 Opinion and Order was unjust and unreasonable because it failed to address Nucor's recommendation that the Commission require modifications to the Companies' proposed rate design to recover EE/PDR costs, such as establishment of a cap on Rider DSE2 charges for class GT customers.

In the March 23 Opinion and Order, the Commission noted that both OEG and Nucor raised concerns about the Companies' proposed rate design as to the GP, GSU, and GT classes of customers. Specifically, the Commission acknowledged Nucor's argument that the Companies' proposed rate design would result in the GT class of customers paying for program portfolio costs in excess of the benefits received by that class (March 23 Opinion and Order at 15). However, having considered OEG's and Nucor's arguments, the Commission concluded that it was not persuaded that the evidence in the proceeding demonstrated that the allocation of the EE/PDR costs would disproportionately impact the large commercial and industrial customers. Consequently, the Commission "declined to modify the proposed allocation of the EE/PDR program costs as proposed by OEG" (March 23 Opinion and Order at 15). Based on its aforementioned findings and conclusions, the Commission clarifies that it also declines to modify the proposed allocation of EE/PDR

program costs as proposed by Nucor, including Nucor's specific proposal to modify the EE/PDR program costs by use of a cap on Rider DSE2 charges for class GT customers.

It is, therefore,

ORDERED, That the application for rehearing filed by the Companies be denied. It is, further,

ORDERED, That the application for rehearing filed by Nucor be denied. It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon all interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Paul A. Centolella

Steven D. Lesser

Andre T. Porter

Cheryl L. Roberto

MLW/sc

Entered in the Journal

SEP - 7 2011

Betty McCauley

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Secretary

EXHIBIT B

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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.
Kurt J. Boehm, Esq.
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 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-EEC 09-1943-EL-EEC 09-1944-BL-EEC
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-EEC 09-581-EL-EEC 09-582-EL-EEC

APPLICATION FOR REHEARING OF THE OHIO ENERGY GROUP

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.*[1]

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.[2] 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

[1] Entry at 6 (emphasis added).
[2] 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.

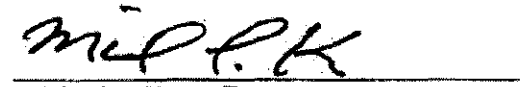
performance standards. Further, savings that customers could receive from energy efficiency programs are related to the actual participation of those customers in the energy efficiency programs. For sophisticated industrial customers who already carefully manage their energy consumption, a utility's 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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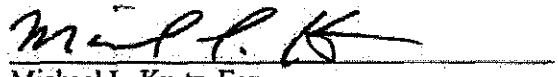
CERTIFICATE OF SERVICE

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



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in

Case No(s). 09-0580-EL-EEC, 09-0581-EL-EEC, 09-0582-EL-EEC, 09-1942-EL-EEC, 09-1943-EL-EEC,

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