

AFFIDAVIT OF MICHAEL D. DORTCH

STATE OF OHIO

ss

COUNTY OF FRANKLIN

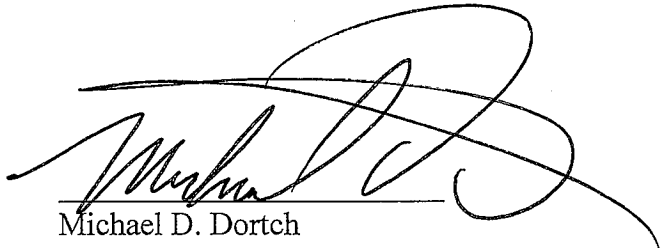
Michael D. Dortch, having first been duly sworn, states the following:

1. My name is Michael D. Dortch. I am more than 18 years of age, and the statements herein are true based upon my personal knowledge.
2. I am an attorney admitted to the bar of the State of Ohio and I am in good standing before the Ohio Supreme Court. I am the managing member of the Columbus, Ohio law firm of Kravitz, Brown, & Dortch, LLC.
3. I represent AEP Retail Energy Partners, LLC (AEP Retail) in the matter of Case No. 12-1230-EL-SSO, currently pending before this Commission.
4. On the morning of May 29, 2012, in consultation with my client, a decision was made to seek to compel responses to AEP Retail's interrogatories no. 88, 146 and 147.
5. At the time this decision was made, I was preparing the Motion to Continue the June 4, 2012 hearing that was subsequently filed with this Commission at approximately 4:40 p.m. on May 29, 2012.
6. Uncertain which of FirstEnergy's numerous attorneys would be responsible for discovery disputes, I searched an email distribution list used for service in this case by another party using the term firstenergy, and sent exhibit 1 to five attorneys employed within FirstEnergy.
7. I received the email attached hereto as exhibit 2 in response to Exhibit 1.
8. I immediately responded to exhibit 2 with the email attached hereto as exhibit 3, in which I indicate a willingness to discuss issues regarding FirstEnergy's responses to interrogatories no. 88, 146 and 147 later than I had proposed.
9. Because I was uncertain whether any discussions would even occur and uncertain whether such discussions would prove successful, I then began drafting a motion to compel responses to interrogatories 88, 146, and 147.
10. At the same time, I continued to prepare AEP Retail's Motion to Continue.

Exhibit A

11. Between 4:40 p.m. and 5:00 p.m., I finalized, filed, and served AEP Retail's Motion to Continue the hearing date of June 4, 2012.
12. After serving the Motion to Continue, I finalized the Motion to Compel. Having still received no call from the attorneys for FirstEnergy, I then called the office of Mr. James Burk in an effort to resolve AEP Retail's concerns regarding FirstEnergy's non-responses to interrogatories No. 88, 146 and 147.
13. I was directed to Mr. Burk's voice mail greeting. I then left a message indicating that due to the extremely short time frame available before the hearing I deemed it necessary to file a motion to compel on behalf of my client regarding interrogatories 88, 146 and 147, that same day.
14. I then performed any final edits to the motion to compel that may have been necessary, and filed that motion with this Commission at 5:32 pm., May 29, 2012.
15. At 9:12 a.m. the next day, May 30, 2012, I invited counsel for FirstEnergy to contact me if they were willing to try to resolve the issues raised by the motion to compel extra-judicially. My email containing this invitation is attached hereto as exhibit 4.
16. I received no response to exhibit 4 until receiving FirstEnergy's response to the Motion to Compel, via email, while at home on the evening of May 31, 2012.

Further, affiant sayeth naught.


Michael D. Dortch

The affiant appeared before me, a notary public for the State of Ohio and after first being duly sworn, affixed his signature hereto in my presence.


Notary Public

My commission expires never, 201



Richard R. Parsons
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

Michael Dortch

From: Michael Dortch
Sent: Tuesday, May 29, 2012 12:05 PM
To: 'burkj@firstenergycorp.com'; mparke@firstenergycorp.com; elmiller@firstenergycorp.com; haydenm@firstenergycorp.com; korkosza@firstenergycorp.com

Gentlemen and Ms. Miller:

AEP Retail is dissatisfied with the companies' response to discovery questions it asked about the typical bills comparison analysis in FirstEnergy's supplemental filing. Accordingly, it will pursue a motion to compel responses unless we are able to resolve our dispute regarding this discovery. In particular, I would like to discuss FirstEnergy's responses to AEPR Int. no. 88, 146 and 147. I am available between 1:00 and 3:00 today for this purpose.

Michael Dortch

From: burkj@firstenergycorp.com
Sent: Tuesday, May 29, 2012 12:22 PM
To: Michael Dortch
Cc: elmiller@firstenergycorp.com; haydenm@firstenergycorp.com; korkosza@firstenergycorp.com; mparke@firstenergycorp.com; dakutik@jonesday.com
Subject: Re:

Mike,

I am not available today between 1 and 3, but could possibly talk more toward the end of the day today or tomorrow morning.

In the future, you don't need to copy "elmiller@firstenergycorp.com" <elmiller@firstenergycorp.com>, "haydenm@firstenergycorp.com" <haydenm@firstenergycorp.com>, and "mparke@firstenergycorp.com" <mparke@firstenergycorp.com> on emails related to the FirstEnergy Utilities. But please add dakutik@jonesday.com to your distribution list. Thanks.

James W. Burk
Managing Counsel
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
330-384-5861 (voice)
330-384-3875 (office fax)
Email: burkj@firstenergycorp.com

From: Michael Dortch <mdortch@kravitzllc.com>
To: "burkj@firstenergycorp.com" <burkj@firstenergycorp.com>, "mparke@firstenergycorp.com" <mparke@firstenergycorp.com>, "elmiller@firstenergycorp.com" <elmiller@firstenergycorp.com>, "haydenm@firstenergycorp.com" <haydenm@firstenergycorp.com>, "korkosza@firstenergycorp.com" <korkosza@firstenergycorp.com>
Date: 05/29/2012 12:05 PM
Subject:

Gentlemen and Ms. Miller:

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Michael Dortch

From: Michael Dortch
Sent: Tuesday, May 29, 2012 12:24 PM
To: 'burkj@firstenergycorp.com'
Cc: dakutik@jonesday.com
Subject: RE:

Jim: Let's aim for later today. Wasn't sure who might be tasked with this one. My apologies to Dave for leaving him out.

From: burkj@firstenergycorp.com [<mailto:burkj@firstenergycorp.com>]
Sent: Tuesday, May 29, 2012 12:22 PM
To: Michael Dortch
Cc: elmiller@firstenergycorp.com; haydenm@firstenergycorp.com; korkosza@firstenergycorp.com; mparke@firstenergycorp.com; dakutik@jonesday.com
Subject: Re:

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James W. Burk
Managing Counsel
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
330-384-5861 (voice)
330-384-3875 (office fax)
Email: burkj@firstenergycorp.com

From: Michael Dortch <mdortch@kravitzllc.com>
To: "burkj@firstenergycorp.com" <burkj@firstenergycorp.com>, "mparke@firstenergycorp.com" <mparke@firstenergycorp.com>, "elmiller@firstenergycorp.com" <elmiller@firstenergycorp.com>, "haydenm@firstenergycorp.com" <haydenm@firstenergycorp.com>, "korkosza@firstenergycorp.com" <korkosza@firstenergycorp.com>
Date: 05/29/2012 12:05 PM
Subject:

Gentlemen and Ms. Miller:

Michael Dortch

From: Michael Dortch
Sent: Wednesday, May 30, 2012 9:12 AM
To: 'burkj@firstenergycorp.com'; 'dakutik@JonesDay.com'
Subject: Motion to Compel

Jim, Dave:

Although we weren't able to discuss the motion to compel before I had to file, I am available if you think we can work the issues out.

Mike

Michael D. Dortch
Kravitz, Brown & Dortch, LLC
65 East State Street
Suite 200
Columbus, OH 43215
614.464.2000
614.464.2002
mdortch@kravitzllc.com

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in

Case No(s). 12-1230-EL-SSO

Summary: Affidavit of Michael D. Dortch in support of Reply to FirstEnergy's Memo Contra Motions to Continue and Compel electronically filed by Mr. Michael D. Dortch on behalf of AEP Retail Energy Partners, LLC