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Via E-File

June 22, 2012

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

In re: Case No. 12-1230-EL-SSO

Dear Sir/Madam:

Please find attached the BRIEF 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,

A handwritten signature in blue ink, appearing to read "Michael L. Kurtz".

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MLKkew
Encl.
Cc: Certificate of Service

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

| | | | |
|---|---|-----------------|-----------------------|
| In The Matter Of The Application Of The Ohio Edison | : | | |
| Company, The Cleveland Electric Illuminating | : | Case No. | 12-1230-EL-SSO |
| Company, and The Toledo Edison Company For | : | | |
| Authority To Establish A Standard Service Offer | : | | |
| Pursuant To R.C. § 4928.143 In The Form Of An | : | | |
| Electric Security Plan | : | | |

BRIEF OF THE OHIO ENERGY GROUP

I. INTRODUCTION

The Ohio Energy Group (“OEG”) submits this Brief in support of its recommendations in this proceeding. OEG is a non-profit entity organized to represent the interests of large industrial customers in electric and gas regulatory proceedings before the Public Utilities Commission of Ohio (“PUCO” or “Commission”). OEG’s members who are participating in this intervention are: Air Products and Chemicals, Inc., AK Steel Corporation, Aleris International, Inc., Alcoa Inc., ArcelorMittal USA, BP-Husky Refining, LLC, Cargill, Incorporated, Materion Brush Inc., Charter Steel, Chrysler LLC, E.I. DuPont deNemours & Company, Ford Motor Company, General Motors LLC, Johns Manville, Linde, LLC, North Star BlueScope Steel, LLC, O-I aka Owens Brockway Glass Container, Inc., Praxair Inc., Warren Steel Holdings, LLC and Worthington Industries. These companies take electric service from Toledo Edison, Ohio Edison and Cleveland Electric Illuminating Company (collectively, “FirstEnergy” or “the Companies”). For the reasons discussed below, the Commission should approve the proposed Stipulation and Recommendation filed April 13, 2012 in this docket (“Stipulation”).

This Stipulation essentially seeks to extend for two years the ESP and its associated rate design which is currently in place and which has worked well since its inception. Extending a good plan was an

easy decision for us. This Commission is well aware of the importance of stability and predictability in electric pricing for economic development and job retention and growth. That is why it is in the public interest to approve the continuation of a proven ESP and its associated rate design.

II. ARGUMENT

Ohio Adm. Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight.¹ The Commission determines the reasonableness of a proposed Stipulation using three criteria:

- 1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- 2) Does the settlement, as a package, benefit ratepayers and the public interest?
- 3) Does the settlement package violate any important regulatory principle or practice?²

The proposed Stipulation satisfies the Commission's three criteria for reasonableness and should be approved by the Commission.

A. The Stipulation Is The Product Of Serious Bargaining Among Capable, Knowledgeable Parties.

The Stipulation meets the Commission's first criterion. As discussed by FirstEnergy witness William R. Ridmann, the Signatory Parties reflect a wide range of interests and each was represented by experienced and competent counsel.³ Many provisions in the Stipulation were subject to negotiation as

¹ See PUCO Case Nos. 11-3549-EL-SSO et al., Opinion & Order (Nov. 22, 2011) ("Duke ESP Order") at 41 (citing *Consumers' Counsel v. Pub. Util. Comm.* (1992) 64 Ohio St.3d 123,125).

² Duke ESP Order at 41.

³ Signatory Parties include FirstEnergy, Commission Staff, Ohio Energy Group, Ohio Manufacturer's Association, Ohio Partners for Affordable Energy, Ohio Hospital Association, Industrial Energy Users-Ohio, the Association of Independent Colleges and Universities of Ohio, Council of Smaller Enterprises, Nucor Steel Marion Inc., the City of Akron, the

well as significant litigation in Case No. 10-388-EL-SSO.⁴ As a result, Signatory Parties have familiarity with the carefully negotiated provisions contained in the Stipulation. The Commission should find that the Stipulation is the product of serious bargaining among capable, knowledgeable parties.

B. The Stipulation, As A Package, Benefits Ratepayers And The Public Interest.

The Stipulation meets the Commission's second criterion. The Stipulation supports competition both at the wholesale and retail level, which can result in savings benefits for customers.⁵ Another benefit of the Stipulation is the assurance that there will be no increases to base distribution rates during the ESP period, except in the case of emergencies.⁶ The Stipulation also provides benefits to multiple customer groups, including low-income customers, non-standard residential customers, schools, local governments, and large industrial customers.⁷ In particular, OEG supports: 1) continuation of FirstEnergy's \$10/kW-month interruptible credit under Riders OLR and ELR, which provides peak demand reduction benefits, can reduce capacity costs to all customers, and facilitates economic development in Ohio; 2) continuation of the load factor provision which encourages high load factor consumption by industrial manufacturers; and 3) continuation of the incentive for domestic auto makers to increase production in Ohio.⁸ The Commission should find that the Stipulation, as a package, benefits ratepayers and the public interest.

C. The Stipulation Does Not Violate Any Important Regulatory Principles Or Practices.

Empowerment Center of Greater Cleveland, Cleveland Housing Network, Consumer Protection Association, Material Sciences Corporation, Morgan Stanley Capital Group Inc., and FirstEnergy Solutions Corp.

⁴ Direct Testimony of William R. Ridmann (April 13, 2012)("Ridmann Testimony") at 11:6-9.

⁵ Ridmann Testimony at 12:12-22.

⁶ Ridmann Testimony at 12:23-13:1; Stipulation at 18, Section (B)(1).

⁷ Ridmann Testimony at 13:1-7.

⁸ Stipulation at 28-29.

The Stipulation meets the Commission's third criterion. Witness Ridmann testified that, based upon his experience with the regulatory process and review, the Stipulation is consistent with regulatory principles and practices in Ohio.⁹ And the Stipulation promotes a number of Ohio regulatory policies, including supporting retail competition, allowing large industrial customers to better compete in the global marketplace, and ensuring the provision of adequate, safe, reliable, and reasonably priced electric service.¹⁰ The Commission should find that the Stipulation does not violate any important regulatory principles or practices.

III. CONCLUSION

The proposed Stipulation satisfies the Commission's three criteria for reasonableness. Therefore, the Commission should approve the Stipulation.

Respectfully submitted,



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June 22, 2012

⁹ Ridmann Testimony at 11:17-19.

¹⁰ Ridmann Testimony at 11:19-12:9; See R.C. 4928.02 (A), (C), (G), (H) and (N).

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 22nd day of June, 2012 to the following:



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