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Via Next Day Delivery

June 28, 2012

Public Utilities Commission of Ohio
PUCO Docketing
180 East Broad Street, 11th Floor
Columbus, Ohio 43215

Greetings:

Re: In re Ohio Edison, Cleveland Electric Illuminating Company, Toledo Edison Company--Case No. 12-1230-EL-SSO

Counsel provides for filing the original and 20 copies of the Reply Brief on behalf of Material Sciences Corporation. Please contact me if any questions.

Regards

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of The Application of The Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. Section 4928.143 in the Form of an Electric Security Plan.	)))))))	Case No. 12-1230-EL-SSO

REPLY BRIEF
MATERIAL SCIENCES CORPORATION

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Statement of the Case

Material Sciences Corporation ("MSC") and other signatory parties support the ESP 3 stipulation, a just and reasonable resolution of the issues meeting the Commission's three-part test for approval: whether the settlement is a product of serious bargaining among capable, knowledgeable parties; whether the settlement, as a package, benefits ratepayers and the public interest; and whether the settlement package violates any important regulatory principles or practices. *Constellation NewEnergy, Inc. v. Pub. Util. Comm.*, 104 Ohio St.3d 530, 2004-Ohio-6767{¶ 8}, *citing Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St.3d 123, 126, 592 N.E.2d 1370. see, also, *AK Steel Corp. v. Pub. Util. Comm.* (2002), 95 Ohio St.3d 81, 82-83, 765 N.E.2d 862.

The evidence supports approval of the ESP 3 stipulation under that three-part test, and as "more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code," [1] for Ohio Edison Company, Cleveland Electric Illuminating Company, and Toledo Edison Company (collectively the "Companies"), to provide standard service ("SSO") under an electric security plan from June 1, 2014 through May 31, 2016[2] ("ESP 3"), after end of the current SSO provided service on May 31, 2014 under ESP 2. ESP 1 service ended May 31, 2011.

ESP 3 continues many current ESP 2 provisions, as paraphrased from the Companies' witness W. R. Ridmann testimony:

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[1] RC 4928.143 (C)(1)

[2] Case No. 12-1230-EL-SSO: The stipulated to ESP 3 provides service at ESP 3 Rates during the ESP 3 Term; Case No. 10-388- EL-SSO: The stipulated to ESP 2 provides service at ESP 2 Rates during the ESP 2 Term; and Case No. 08-935-EL-SSO: The stipulated to ESP 1 provided service at ESP 1 Rates during the ESP 1 Term.

a. ESP 3 continues the descending-clock format Competitive Bid Process ("CBP") to set retail generation rates for June 1, 2013 through May 31, 2016, blends the October 2012 and January 2013 auctions with prior auctions to set the ESP 2 price for June 1, 2013 through May 31, 2014, and extends for 36 months the results of those auctions to blend currently lower and potentially higher generation prices during the ESP 3 period. [3] [W. R. Ridmann, Company Ex. 3, at pg. 3]

b. ESP 3 supports governmental aggregation and customer shopping as in ESP 2; makes customers not subject to minimum default service charges, standby charges, or shopping caps; provides CBP bidders with lower credit requirements and more customer information and data; and continues under certain conditions Rider GCR as an avoidable charge. [W. R. Ridmann, Company Ex. 3, at pg. 4]

c. ESP 3 rate design continues the principle of gradualism for certain customers to market based pricing; under Rider EDR provides bill credits for non-standard residential customers, schools, interruptible customers, and domestic automaker facilities, and caps for lighting and transmission customers their average annual rate increases at one and one-half times the average increase by Company. Rider EDR continues recovery of costs associated with these credits, and for infrastructure investment to support economic development expansion of a large Ohio employer. [W. R. Ridmann, Company Ex. 3, at pg. 4-5]

d. ESP 3 continues the otherwise to expire rate options under ESP 2, such as the Economic Load Response ("ELR") peak demand reduction rider and the time-differentiated pricing riders approved in Case No. 09-541-EL-ATA. [W. R. Ridmann, Company Ex. 3, at pg. 5]

e. Companies' base distribution rates remain at current levels through May 31, 2016, benefiting customers with predictable distribution rates; Rider DCR continues to encourage the Companies investment in their delivery systems to improve reliability by opportunities to recover costs of actual investments to their delivery systems not included at date certain in Case No. 07-551-EL-AIR. WRR-Attachment 1 sets forth the maximum recovery through Rider DCR over the ESP 3 period. [W. R. Ridmann, Company Ex. 3, at pg. 6]

f. ESP 3 contains similar provisions and similar adjustments now used under ESP 2 for the Significantly Excessive Earnings Test ("SEET"), and provides for, on an agreed upon basis, consideration of Rider DCR revenues as part of the SEET. [W. R. Ridmann, Company Ex. 3, at pg. 6]

g. ESP 3 continues in the current form approved ESP 2 riders with some modifications without introducing new riders. [W. R. Ridmann, Company Ex. 3, at pg. 8]

[3] The CBP design continues the process used in the successful, highly competitive, and Commission accepted auctions conducted for ESP 2.

h. ESP 3 potentially enables the Companies bidding of demand response resources (adding low cost capacity supply) into the PJM 2015-2016 Base Residual Auction. [W. R. Ridmann, Company Ex. 3, at pg. 8]

i. ESP 3 modifies the ESP 2 by making October 2012 and January 2013 bids for a three year period, rather than one, to capture historically lower generation prices for a longer period of time. [W. R. Ridmann, Company Ex. 3, at pg. 8]

j. ESP 3 extends the renewable energy credit costs recovery period over the life of the plan to mitigate impacts on customer rates for compliance with statutory benchmarks for renewable energy resources. [W.R. Ridmann, Company Ex. 3, at pg. 8]

k. ESP 3, under a new provision for Economic Development and Job Retention, authorizes Toledo Edison to bill and collect a charge of $6.00 per kVa of billing demand under Rider EDR Sheet 116, subpart (d), General Service-Transmission (Rate GT) under the current ESP 2 ending May 31,2014, and then under ESP 3 ending May 31, 2016, for rendered services to Material Sciences Corporation to promote economic development in the Toledo, Ohio region and support MSC retention of existing manufacturing jobs in this state. [ESP 3 Stipulation, Company Ex. 1, FN 11, pg. 37, H. Other Issues, provision 9, pg. 42-43; Supplemental Information Filing, Company Ex. 2, pgs. 11-12]

The ESP 3 settlement is broadly supported by customer groups as a product of serious bargaining among capable, knowledgeable parties,[4] to benefits ratepayers and the public interest without violating any important regulatory principle or practice.

Further, the ESP 3 stipulation, as more favorable in the aggregate than the results expected from a MRO, provides over its duration minimum present value benefits to customers of $200.6 million. [W. R. Ridmann, Company Ex. 3, at pgs. 16, 17, 19] [5] There are substantial qualitative benefits as well compared to a MRO. [W R Ridmann, Company Ex. 3, at pgs. 15-16]

[4] Signatory Parties besides the Companies include the Staff, Ohio Manufacturers' Association, Ohio Partners for Affordable Energy, Ohio Hospital Association, Industrial Energy Users of Ohio, Ohio Energy Group, The Association of Independent Colleges and Universities of Ohio, Council of Smaller Enterprises, Nucor Steel Marion Inc., the City of Akron, the Empowerment Center of Greater Cleveland, Cleveland Housing Network, Consumer Protection Association, Material Sciences Corporation, Morgan Stanley Capital Group Inc., FirstEnergy Solutions Corp., and parties not opposing the Stipulation include Kroger Company, GEXA-Energy Ohio, LLC, EnerNoc, Duke Energy Retail Sales, LLC and Duke Energy Commercial Asset Management.

[5] W.R. Ridmann's supplemental testimony demonstrated by excluding an adjustment for DCR related regulatory lag that ESP 3 benefits compared to a MRO increased from $200.6 million to $226.5 million upon which to

Argument

No factual or legal basis exists for Consumers' Counsel to argue the ESP 3 stipulation fails to meet the product of serious bargaining test because it opted to litigate rather than sign the stipulation although sought out by the Companies as a party most interested in agreeing from its involvement in past ESP and MRO cases. [see W R Ridmann, Tr. I, pgs. 35, 41] Consumers' Counsel lacks the factual basis upon which to rely on the intentional exclusion of an entire class of customers addressed in *Time Warner AxS v. Pub. Util. Comm.* (1996), 75 Ohio St.3d 229 at 233, [661 N.E.2d 1097] Footnote 2. *Constellation NewEnergy, Inc. v. Pub. Util. Comm., 104 Ohio St.3d 530, 2004-Ohio-6767. {¶ 16}{¶ 17} {¶ 21} {¶ 22}*

AEP Retail arguments (AEP Retail Br. pgs. 2-4) ignore that RC 4928.143 (B)(2)(i) intends for the Companies to implement economic development, job retention, and energy efficiency programs, with program costs allocated across all classes of the Companies' (OE, CEI, and TE) customers as part of the same holding company system, to, in part, further the statutory guidelines of state policies under RC 4928.02 (A), (B), and (N).[6] AEP Retail also ignores those programs need Commission approval to become part of the Companies' ESP. Further, AEP Retail in its box presentation of programs shown on page 3 of the brief erroneously listed MSC service characteristic as GS instead of GT, a big difference; under Rider EDR, subpart (d), for GT service, Toledo Edison becomes revenue neutral by recovering reasonably small amounts

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conclude under either analysis the Commission should approve the ESP 3 stipulation.[W. R. Ridmann, Company Ex. 4, at pgs. 7, 8]

[6] RC 4928.02 operates as guidelines for providing (A) adequate, reliable safe, efficient, nondiscriminatory, and reasonably priced electric service; (B) unbundled and comparable retail electric service options, and a choice of supplier, price, terms, conditions, and quality to meet their respective needs; and (N) retail electric service that facilitates the State's effectiveness in the global economy.

from only the GT class customers of the Companies for the MSC load factor adjustment. [W R Ridmann, Tr. I, pgs. 44-45]

Conclusion

The ESP 3 stipulation meets the three prong test and the required showing under RC 4928.143 (C) (1), for Commission approval, including approval of the load factor adjustment for Toledo Edison service to MSC under Rider EDR, subpart (d), upon which to dismiss the pending complaint case between the parties in Case No. 12-919-EL-CSS.[7]

Respectfully submitted,

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[7] Refer to FN 11, page 37, and H-9 at pages 42-43 of the ESP 3 stipulation.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served this 29nd day of June, 2012, by electronic mail upon the persons listed below.

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