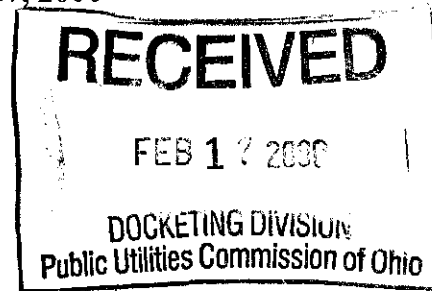


James W. Burk
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February 17, 2000



Ms. Daisy Crockron
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43266-5073

Re: Initial Brief of The Cleveland Electric Illuminating Company and The Toledo Edison Company
Case Nos. 99-1007-EL-EFC and 99-1008-EL-EFC

Dear Ms. Crockron:

Enclosed please find the original and 12 copies of the Initial Brief for the above-referenced cases which was fax filed on Thursday, February 17, 2000. Please return two time-stamped filings in the enclosed envelope. Thank you.

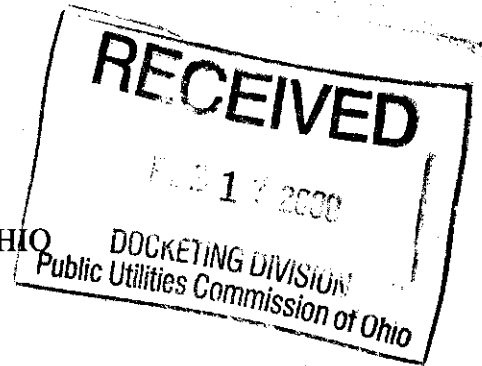
Please contact me if you have any questions concerning this matter.

Very truly yours,

James W. Burk

JWB:lms
Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician *Anna M. H.* Date Processed *Feb 18, 2000*



BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Regulation)
Of the Electric Fuel Component)
Contained Within the Rate Schedules)
Of The Toledo Edison Company)

Case No. 99-1007-EL-EFC

In the Matter of the Regulation)
Of the Electric Fuel Component)
Contained Within the Rate Schedules)
Of The Cleveland Electric)
Illuminating Company)

Case No. 99-1008-EL-EFC

**Initial Brief of The Cleveland Electric Illuminating Company
and The Toledo Edison Company**

Comes now The Cleveland Electric Illuminating Company ("CEI") and The Toledo Edison Company ("TE"), by counsel, and respectfully submits their Initial Brief pursuant to the Order of the Attorney Examiner in this proceeding.

S.B. 3 does not directly address how the EFC rate should be determined for the period from October 5, 1999, the effective date of S. B. 3, to January 1, 2001, the beginning of the market development period. Given certain ambiguities in the legislation and the manner in which unbundled rates are to be determined during this interim period, it is reasonable to continue, through December 31, 2000, the EFC rate now in effect for CEI and TE of 1.3918 cents/kWh and 1.3717cents/kWh, respectively.

While there is nothing in S. B. 3 that addresses the subject of rate changes between October 5, 1999 and January 1, 2001, it seems likely that the General Assembly did not

contemplate that there would be changes in rates during that period. The General Assembly undoubtedly understood that the resources of the Commission, the electric utilities, and other interested parties would be devoted to the transition plans during that period. It is unlikely that the General Assembly intended that there would be proceedings at the Commission during that same period that would require the Commission and other parties to debate the reasonableness of rate changes that would be effective for a matter of only several months.

Moreover, there is some ambiguity in the language of S.B. 3 regarding the intent of the General Assembly with respect to the EFC statutes. Section 2 of S.B. 3 states that a number of statutes, including Sections 4905.301, 4905.69, and 4909.191, the EFC statutes, "are hereby repealed." A reasonable reading of that language is that the statutes were repealed on the effective date of S.B. 3, October 5, 1999. Section 9 of S.B. 3 lists some of the same statutes that were listed in Section 2, and states that those sections, "as repealed by this act, shall take effect on January 1, 2001 . . ." It is unlikely that the General Assembly intended to repeal the statutes as of October 5, 1999 and reenact those statutes on January 1, 2001. Thus, the question is what did the General Assembly intend with respect to this interim period, between October 5, 1999 and January 1, 2001. Given this confusion, and the likely intent of the General Assembly, it is reasonable, and appears to be consistent with the general scheme of S. B. 3, to simply continue the EFC rates in effect on October 5, 1999.

That makes even more sense, given that the EFC rates in effect on October 5, 1999 are the rates that would be included in unbundled rates. S.B. 3 is very clear on that point; Section 4928.34(A)(3) provides that all unbundled rate components other than transmission and distribution shall "equal the costs attributable to the particular service as reflected in the utility's

schedule of rates and charges in effect on the effective date of this section." Given that the fuel costs that will be included in unbundled rates are those that were in effect on October 5, 1999, there seems to be little point in adjusting the EFC rates for a brief period, only to have the October 5, 1999 rates included in unbundled rates.

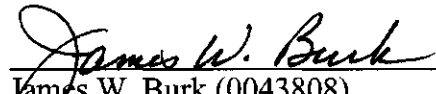
Other rate provisions of S.B. 3 are keyed to the October 5, 1999 date. Section 4928.34(A)(5) provides that unbundled rates are to be adjusted to reflect base rate reductions scheduled to be in effect by December 31, 2005, required by rate settlements in effect on October 5, 1999. It also provides that "all earnings obligations, restrictions, or caps imposed on an electric utility in a Commission order prior to the [October 5, 1999] effective date of this section are void." October 5, 1999 was clearly a cutoff date for the imposition of rate changes and thus it would be consistent with S.B. 3 to maintain the EFC rates in effect on that date.

CEI and TE are cognizant of recently issued EFC orders for Dayton Power & Light and Cincinnati Gas & Electric that permitted those companies to maintain their then-existing EFC rates by stipulation through December 31, 2000, relieving them of the obligation to file further EFC filings. CEI and TE, through this filing, seek the same result, that is, maintaining their existing EFC rates through December 31, 2000 and being relieved of further EFC filings.

Because it is unclear what statute or rule controls EFC filings between October 5, 1999 and January 1, 2001, and because it is reasonable to continue the EFC rates now in effect, FirstEnergy requests, to the extent the Commission deems it necessary, a waiver of any requirement that it make any further EFC filings and that CEI's current EFC rate of 1.3918

cents/kWh and TE's current EFC rate of 1.3717 cents/kWh remain in effect through December 31, 2000.

Respectfully submitted,


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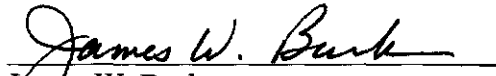
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On behalf of The Cleveland Electric
Illuminating Company and
The Toledo Edison Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Initial Brief of The Cleveland Electric Illuminating Company and The Toledo Edison Company was served via facsimile transmission upon the persons listed below, this 17th day of February, 2000.


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