

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Review of the )  
Alternative Energy Rider Contained in the )  
Tariffs of Ohio Edison Company, The ) Case No. 11-5201-EL-RDR  
Cleveland Electric Illuminating Company, )  
and The Toledo Edison Company )  
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**MEMORANDUM OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY  
IN OPPOSITION TO THE APPLICATION FOR REHEARING  
OF INTERSTATE GAS SUPPLY, INC.**

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ATTORNEYS FOR OHIO EDISON  
COMPANY, THE CLEVELAND ELECTRIC  
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TOLEDO EDISON COMPANY

The Application for Rehearing filed by Interstate Gas Supply, Inc. (“IGS”) seeks relief which is, to some degree, unlawful or unrealistic. For example, in its “final note,” IGS apparently wishes to have the Commission do away with generation service provided through electric distribution utilities (“EDUs”). (IGS Memo in Support at 8.) Yet, Ohio Revised Code Sections 4928.141 to 4928.143 mandate that EDUs provide for such service. The Commission is utterly without authority to grant IGS’ wish that EDUs get out of the “merchant function.”

The remainder of IGS’ Application deals with who gets the benefit of any refund that may be ordered by the Commission. As Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, the “Companies”) demonstrated at the hearing, in their post-hearing briefs and in their Application for Rehearing, the Commission was wrong to order that there should be any refund. Simply put, the Companies acted prudently in purchasing the renewable energy resources required by Ohio Revised Code Section 4928.64. Thus, to the extent that the manner of refunds is discussed by IGS, that issue should be moot.

In any event, and not conceding in any way that a refund is appropriate, IGS’ concerns about the method of refund are also unlawful or unreasonable. To begin, IGS is off target by complaining about the potential mismatch between customers who may have paid Rider AER rates from 2009 through the present and customers who may receive the benefit of a discount. Mismatches of this type are inherent in the statute and ratemaking generally. For example, as discussed by Company witness Eileen Mikkelsen, “the Companies’ rapid change in shopping levels created a disconnect – or mismatch – between the baseline used for compliance with the renewable mandates which is based upon three previous calendar years non-shopping load and the non-shopping sales used for rate recovery.” (Rebuttal Testimony of Eileen Mikkelsen at 12.)

Further, one of IGS' suggestions to "cure" any mismatch between those customers who paid Rider AER rates previously and those who might get a refund is fraught with problems. Specifically, IGS proposes that all distribution customers receive a part of any refund. But this runs afoul of Ohio Revised Code Section 4928.64(E). That section provides that the costs incurred by an EDU for complying with Section 4928.64 shall be paid by nonshopping customers. If the costs that get recovered under Rider AER are required to be paid by nonshopping customers, then refunds of monies collected to recover those costs should be received by the same type of customer. In addition, IGS' proposal to have any refund shared by all customers dilutes the amount of any refund that might be received by any customer – especially those customers who paid Rider AER rates previously and who are nonshopping customers now.

At bottom, while IGS' concerns related to competition may be valid, they are also premature. The Commission should first determine other issues, i.e., whether there should be any refund and, if so, how to calculate that refund properly. Given that the manner of how any refund would be distributed touches on a number of concerns of a variety of parties, the Commission should not feel compelled to resolve the refund distribution issue until a refund of a definite amount has been finally established. If that occurs, then the Commission should direct the Companies to prepare a proposed refund distribution plan that best accommodates the policies affected by such a refund, including the effect of the refund on competition, nonshopping customers and the Companies.

For the foregoing reasons, the Application for Rehearing filed by IGS should be denied.

Dated: September 9, 2013

Respectfully submitted,

/s/ David A. Kutik

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was delivered to the following persons by e-mail this 9th day of September, 2013:

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**9/9/2013 4:13:06 PM**

**in**

**Case No(s). 11-5201-EL-RDR**

Summary: Memorandum in Opposition to the Application for Rehearing of Interstate Gas Supply, Inc. electronically filed by MR. DAVID A KUTIK on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company