

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of Ohio Edison)
Company, The Cleveland Electric Illuminating)
Company, and The Toledo Edison Company for) Case No. 14-1297-EL-SSO
Authority to Provide for a Standard Service)
Offer Pursuant to R.C. 4928.143 in the Form of)
An Electric Security Plan)**

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY’S REPLY IN SUPPORT OF
MOTION TO STRIKE PORTIONS OF THE REPLY BRIEF OF CONSTELLATION
NEWENERGY, INC. AND EXELON GENERATION COMPANY LLC**

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) respectfully moved on March 4, 2016, to strike portions of the Reply Brief of Constellation NewEnergy, Inc. and Exelon Generation Company LLC (“Exelon”) that rely on documents from other pending Commission proceedings that are not in the record in this case. In response, Exelon makes no effort to rebut the Companies’ argument that the referenced documents and the information they contain are not in the evidentiary record in this case. Instead, Exelon invites the Commission to consider this non-record information so as to look at the “big picture.”¹ The Commission should reject Exelon’s invitation.

The documents and information relied on by Exelon are not part of the record in this case. By statute, those documents and information cannot be the basis for the Commission’s findings in this case. *See* R.C. 4903.09. No matter how extensively Exelon pleads to the contrary, there is no “but it’s important” exception to R.C. 4903.09. As a result, the Commission has consistently stricken non-record information improperly included in post-hearing briefs. *See*,

¹ Exelon Memo. Contra, p. 2.

e.g., In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets, Case No. 08-917-EL-SSO, Order on Remand at 9-10 (Oct. 3, 2011); *In the Matter of the Application of Ohio American Water Company to Increase its Rates for Water and Sewer Services Provided to its Entire Service Area*, Case No. 09-391-WS-AIR, Opinion and Order at 8-9 (May 5, 2010); *In the Matter of FAF, Inc., Notice of Apparent Violation and Intent to Assess Forfeiture*, PUCO Case No. 06-786-TR-CVF, Opinion and Order at 3 (Nov. 21, 2006). The Commission should follow its controlling precedent and strike the portions of Exelon's reply brief relying on non-record information and documents.

For the foregoing reasons, the Commission should grant the Companies' motion to strike.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that this Reply in Support of Motion to Strike was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 24th day of March, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. Further, a courtesy copy has been served upon parties via electronic mail.

/s/ James F. Lang
One of Attorneys for the Companies

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Case No(s). 14-1297-EL-SSO

Summary: Reply in Support of Motion to Strike Portions of Exelon Reply Brief electronically filed by Mr. James F Lang on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company