

**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 )  
Authority to Provide for a Standard Service )  
Offer Pursuant to R.C. 4928.143 in the Form of )  
an Electric Security Plan )  
)

Case No. 14-1297-EL-SSO

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**MEMORANDA CONTRA JOINT MOTION TO STRIKE CORRESPONDENCE OF  
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON COMPANY**

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The Companies Application for Rehearing (the “Application”) was filed on May 2, 2016. The Application addressed not only the Commission’s Order (including Assignments of Error 6 and 7),<sup>1</sup> but also the Federal Energy Regulatory Commission (“FERC”) Order issued on April 27, 2016. The FERC Order was issued only three business days before the Application was due. During those three days, the Companies analyzed the FERC Order, determined how the FERC Order impacted their Assignments of Error 6 and 7, determined the appropriate way to proceed, and drafted the necessary filings. However, the Companies were not able in that short time to contact each Signatory Party and obtain consent to the modifications to the Rider RRS calculation. Accordingly, the Companies’ Application made clear that not every Signatory Party

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<sup>1</sup> Assignment of Error 6 addressed the Commission’s modification requiring the Companies to bear the burden for any capacity performance penalties. Assignment of Error 7 addressed the Commission prohibition of cost recovery for Plant outages greater than 90 days.

consented to the revised proposal, but instead some had requested additional time to review the filing.<sup>2</sup>

On May 4, 2016, only two days after filing the Application, the Companies filed correspondence (the “Correspondence”) notifying the Commission of the positions of the Signatory Parties. “The Signatory Parties fully support the filing and the proposed schedule for review.”<sup>3</sup> That Correspondence did not provide any new factual support or change the Companies’ proposal in any way. It simply notified the Commission of the position of the Signatory Parties.

PJM Power Providers Group and the Electric Power Supply Association (“EPSA”) have moved to strike this Correspondence on the grounds that it is an unauthorized supplement to the Companies’ Application and such supplementation is not authorized by statute or rule. However, EPSA never explains what improper “supplementation” was done in the Correspondence. There is good reason for this silence, as the Correspondence did not provide any improper supplementation. The Correspondence merely reiterated certain information from the Application to acclimate the reader and then explained that the Signatory Parties agreed with the Companies’ position. The only new information is the confirmed position of the Signatory Parties who had needed additional time to review the proposal. There is nothing in any statute or rule which prohibits the Commission from being informed that parties do not oppose a position. Accordingly, EPSA’s motion to strike should be denied.

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<sup>2</sup> Application, p. 22 (“The Companies have discussed this proposal with the Signatory Parties to the last stipulation, including Commission Staff, and many have already expressed support for the proposal and remain supportive of Stipulated ESP IV. Others expressed no concerns but have requested time to review the filing.”)

<sup>3</sup> May 4, 2016 correspondence from Carrie Dunn. The Correspondence also provided more detail about the positions of Staff and Kroger.

Moreover, EPSA was not prejudiced by the Correspondence. EPSA had the ability to respond to the Correspondence in its response to the Companies' Application. EPSA would not have had that opportunity if the other Signatory Parties had waited until the due date for responses to the Companies' Application and filed their own supporting briefs at that time. Therefore, rather than being prejudiced, EPSA actually had the opportunity to respond solely because of the decision by the Companies to notify the Commission at the earliest possible date. Accordingly, EPSA was not prejudiced by the Correspondence.

As the Correspondence was made necessary by the timing of the FERC Order and was not inappropriate in any way, the EPSA motion to strike should be denied.

Respectfully submitted,

/s/ James W. Burk

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ATTORNEYS FOR OHIO EDISON  
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TOLEDO EDISON COMPANY

**CERTIFICATE OF SERVICE**

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 19th day of May, 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/ N. Trevor Alexander  
One of the Attorneys for the Companies

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

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

Summary: Memorandum contra joint motion to strike correspondence. electronically filed by Mr. Nathaniel Trevor Alexander on behalf of Ohio Edison Company and The Cleveland Illuminating Company and The Toledo Edison Company