

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255

TELECOPIER (513) 421-2764

Via E-FILE

June 10, 2016

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 14-1297-EL-SSO

Dear Sir/Madam:

Please find attached the MEMORANDUM CONTRA APPLICATION FOR REHEARING OF THE OHIO ENERGY GROUP e-filed today in the above-referenced matters.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

MLKkew

Encl.

Cc: Certificate of Service

**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 : **Case No. 14-1297-EL-SSO**
Establish A Standard Service Offer Pursuant To R.C. :
§4928.143 In The Form Of An Electric Security Plan. :

**MEMORANDUM CONTRA APPLICATION FOR REHEARING
OF THE OHIO ENERGY GROUP**

The Ohio Energy Group (“OEG”) submits this Memorandum Contra the Application for Rehearing filed by The Office of the Ohio Consumers’ Counsel and Northwest Ohio Aggregation Coalition (“OCC/NOAC”) on May 31, 2016. In its Application for Rehearing, OCC/NOAC claims that the Retail Rate Stability Rider (“Rider RRS”) tariff filed by FirstEnergy on May 13, 2016 is inconsistent with the Commission’s March 31, 2016 Opinion and Order in this case. OCC/NOAC therefore alleges that the Commission erred when it approved the FirstEnergy’s filed tariffs on May 25, 2016.

The Commission should deny OCC/NOAC’s request for rehearing. OCC/NOAC’s argument has already been raised and rejected in this proceeding.¹ Staff found that the tariffs filed by FirstEnergy, including the Rider RRS tariff, “*appear to be in compliance with the Commission’s Opinion and Order.*”² And the Commission expressly held that FirstEnergy’s tariff filing “*is consistent with the Opinion and Order, does not appear to be unjust and unreasonable, and should be approved for rates effective June 1, 2016.*”³ Further, because the Commission has found the Rider RRS tariff to be consistent with its March 31, 2016 Opinion and Order, OCC/NOAC’s claims that approval of the tariff violated R.C. 4928.141(B) and R.C. 4928.143(B)(2)(d) are without merit.

¹ OCC/NOAC Comments (May 16, 2016) at 8.

² Staff Review and Recommendations (May 20, 2016).

³ Finding and Order (May 25, 2016) at ¶13.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: mkurtz@BKLawfirm.com

kboehm@BKLawfirm.com

jkylercohn@BKLawfirm.com

COUNSEL FOR THE OHIO ENERGY GROUP

June 7, 2016

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 10th day of June, 2016 to the following:



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

James W. Burk, Counsel of Record
Carrie M. Dunn
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, Ohio 44308
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

James F. Lang
N. Trevor Alexander
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building, 1405 East Sixth Street
Cleveland, Ohio 44114
jlang@calfee.com
talexander@calfee.com

David A. Kutik
JONES DAY
901 Lakeside Avenue
Cleveland, Ohio 44114
dakutik@jonesday.com

COUNSEL FOR OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY THE TOLEDO EDISON COMPANY

Steven T. Nourse
Matthew J. Satterwhite
Yazen Alami
American Electric Power Service Corporation
1 Riverside Plaza 29th Floor
Columbus, Ohio 43215
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com

COUNSEL FOR OHIO POWER COMPANY

Bruce J. Weston
Ohio Consumers' Counsel
Larry S. Sauer, Counsel of Record
Michael Schuler
Kevin F. Moore, Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street – Suite 1800
Columbus, Ohio 43215
Larry.sauer@occ.ohio.gov
Michael.schuler@occ.ohio.gov
Kevin.moore@occ.ohio.gov

COUNSEL FOR THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

Christopher J. Allwein, Counsel of Record
Nolan M. Moser
Williams Allwein and Moser, LLC
1500 West Third Ave., Suite 330
Columbus, Ohio 43212
callwein@wamenergylaw.com
nmoser@wamenergylaw.com

Michael Soules
Earthjustice
1625 Massachusetts Ave. NW #702
Washington, DC 20036
msoules@earthjustice.org

Shannon Fisk
Earthjustice
1617 John F. Kennedy Blvd., #1675
Philadelphia, PA 19103
sfisk@earthjustice.org

Tony G. Mendoza
Sierra Club
Environmental Law Program
85 Second Street, Second Floor
San Francisco, CA 94105-3459
Tony.mendoza@sierraclub.org

COUNSEL FOR THE SIERRA CLUB

Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927
barthroyer@aol.com

Adrian Thompson
Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114
athompson@taftlaw.com

COUNSEL FOR CLEVELAND MUNICIPAL SCHOOL DISTRICT

Joseph M. Clark, Counsel of Record
Direct Energy
21 East State Street, 19th Floor
Columbus, Ohio 43215
Joseph.clark@directenergy.com

Gerit F. Hall
Eckert Seamans Cherin & Mellott, LLC
1717 Pennsylvania Ave., N.W., 12th Fl.
Washington, D.C. 20006
ghull@eckertseamans.com

**COUNSEL FOR DIRECT ENERGY SERVICES,
LLC, DIRECT ENERGY BUSINESS, LLC AND
DIRECT ENERGY BUSINESS MARKETING, LLC**

Colleen L. Mooney, Counsel of Record
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45839-1793
cmooney@ohiopartners.org

**COUNSEL FOR OHIO PARTNERS FOR
AFFORDABLE ENERGY**

Joseph E. Olier, Counsel of Record
IGS Energy
6100 Emerald Parkway
Dublin, Ohio 43016
joliker@igsenergy.com

COUNSEL FOR IGS ENERGY

Mark S. Yurick
Devin D. Parram
Taft Stettinius & Hollister LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
myurick@taftlaw.com
dparram@taftlaw.com

COUNSEL FOR THE KROGER CO.

Richard L. Sites
Ohio Hospital Association
155 East Broad Street, 15th
Columbus, Ohio 43215
ricks@ohanet.org

Thomas J. O'Brien
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215
tobrien@bricker.com

COUNSEL FOR OHIO HOSPITAL ASSOCIATION

Marilyn L. Widman
Widman & Franklin, LLC
405 Madison Ave., Suite 1550
Toledo, Ohio 43604
Marilyn@wflawfirm.com

COUNSEL FOR IBEW LOCAL 245

Michael K. Lavanga
Garrett A. Stone
Owen J. Kopon
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
8th Floor, West Tower
Washington, D.C. 20007
mkl@bbrslaw.com
gas@bbrslaw.com
ojk@bbrslaw.com

COUNSEL FOR NUCOR STEEL MARION, INC.

Barbara A. Langhenry
Harold A. Madorsky
Kate E. Ryan
City of Cleveland
601 Lakeside Avenue – Room 106
Cleveland, Ohio 44114
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us

COUNSEL FOR THE CITY OF CLEVELAND

Kimberly W. Bojko
Jonathon A. Allison
Rebecca Hussey
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Bojko@carpenterlipps.com
allison@carpenterlipps.com
hussey@carpenterlipps.com

COUNSEL FOR OMAEG

Lisa M. Hawrot
Spilman Thomas & Battle, PLLC
Century Centre Building
1233 Main Street, Suite 4000
Wheeling, West Virginia 26003
lhawrot@spilmanlaw.com

Derrick Price Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, Pennsylvania 17050
dwilliamson@spilmanlaw.com

**COUNSEL FOR WAL-MART STORES EAST, LP
AND SAM'S EAST, INC.**

Joseph P. Meissner, Esq.
1223 W. 6th Street – 4th Floor
Cleveland, Ohio 44113
meissnerjoseph@yahoo.com

**COUNSEL FOR CITIZENS COALITION,
CONSUMER PROTECTION ASSOCIATION,
CLEVELAND HOUSING NETWORK, AND THE
COUNCIL FOR ECONOMIC OPPORTUNITIES IN
GREATER CLEVELAND**

Thomas R. Hays
8355 Island Lane
Maineville, Ohio 45039
trhayslaw@gmail.com

COUNSEL FOR LUCAS COUNTY

Leslie Kovacik
Counsel for the City of Toledo
420 Madison Avenue
Toledo, Ohio 43604
lesliekovacik@toledo.oh.gov

COUNSEL FOR THE CITY OF TOLEDO

Glenn S. Krassen, Counsel of Record
Bricker & Eckler LLP
1001 Lakeside Ave., Suite 1350
Cleveland, Ohio 44114
gkrassen@bricker.com

Dane Stinson
Dylan Borchers
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215
dstinson@bricker.com
dborchers@bricker.com

**COUNSEL FOR NORTHEAST OHIO PUBLIC
ENERGY COUNCIL; OHIO SCHOOLS COUNCIL;
AND, POWER4SCHOOLS**

Michael D. Dortch
Richard R. Parsons
Kravitz, Brown & Dortch, LLC
65 East State Street – Suite 200
Columbus, Ohio 43215
mdortch@kravitzllc.com
rparsons@kravitzllc.com

COUNSEL FOR DYNEGY INC.

Matthew R. Cox
Matthew Cox Law, Ltd.
88 East Broad Street, Suite 1560
Columbus, Ohio 43215
matt@matthewcoxlaw.com

**COUNSEL FOR THE COUNCIL OF SMALLER
ENTERPRISES**

Trent Dougherty, Counsel of Record
Madeline Fleisher
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
tdougherty@theOEC.org
mfleisher@elpc.org

John Finnigan
128 Winding Brook Lane
Terrace Park, Ohio 45174
jfinnigan@edf.org

**COUNSEL FOR THE OHIO ENVIRONMENTAL
COUNCIL AND ENVIRONMENTAL DEFENSE
FUND**

M. Howard Petricoff
Michael J. Settineri
Gretchen L. Petrucci
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43216-1008
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com

**COUNSEL FOR EXELON GENERATION
COMPANY, LLC AND CONSTELLATION
NEWENERGY, INC.; PJM POWER PROVIDERS
GROUP; THE ELECTRIC POWER SUPPLY
ASSOCIATION; AND, RETAIL ENERGY SUPPLY
ASSOCIATION**

Cynthia Brady
Exelon Business Services
4300 Winfield Rd.
Warrenville, Illinois 60555
Cynthia.brady@exeloncorp.com

David I. Fein
Exelon Corporation
10 South Dearborn Street – 47th Fl.
Chicago, Illinois 60603
David.fein@exeloncorp.com

Lael E. Campbell
Constellation NewEnergy, Inc. and Exelon Corporation
101 Constitution Ave., NW
Washington, DC 20001
Lael.campbell@exeloncorp.com

**ON BEHALF OF EXELON GENERATION
COMPANY, LLC AND CONSTELLATION
NEWENERGY, INC.**

Glen Thomas
1060 First Avenue, Suite 400
King of Prussia, Pennsylvania 19406
gthomas@gtpowergroup.com

Laura Chappelle
201 North Washington Square - #910
Lansing, Michigan 48933
laurac@chappeleconsulting.net

**ON BEHALF OF PJM POWER PROVIDERS
GROUP**

Andrew J. Sonderman
Kegler Brown Hill and Ritter LPA
65 East State Street – 1800
Columbus, Ohio 43215
asonderman@keglerbrown.com

**COUNSEL FOR HARDIN WIND LLC,
CHAMPAIGN WIND LLC AND BUCKEYE WIND
LLC**

Todd M. Williams
Williams Allwein & Moser, LLC
Two Maritime Plaza, 3rd Fl
Toledo, Ohio 43604
toddm@wamenergylaw.com

Jeffrey W. Mayes
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
Eagleview, Pennsylvania 19403
Jeffrey.mayes@monitoringanalytics.com

**COUNSEL FOR INDEPENDENT MARKET
MONITOR FOR PJM**

Sharon Theodore
Electric Power Supply Association
1401 New York Ave. NW 11th fl.
Washington, DC 20001
stheodore@epsa.org

**ON BEHALF OF THE ELECTRIC POWER
SUPPLY ASSOCIATION**

F. Mitchell Dutton
NextEra Energy Power Marketing, LLC
700 Universe Blvd.
Juno Beach, Florida 33408-2657
Mitch.dutton@fpl.com

**COUNSEL FOR NEXTERA ENERGY POWER
MARKETING, LLC**

Andrew J. Sonderman
Kegler Brown Hill and Ritter LPA
65 East State Street – 1800
Columbus, Ohio 43215
asonderman@keglerbrown.com

**COUNSEL FOR HARDIN WIND LLC,
CHAMPAIGN WIND LLC AND BUCKEYE WIND
LLC**

Kevin R. Schmidt
Energy Professionals of Ohio
88 East Broad Street, Suite 1770
Columbus, Ohio 43215
Schmidt@sppgrp.com

**COUNSEL FOR THE ENERGY PROFESSIONALS
OF OHIO**

C. Todd Jones
Christopher L. Miller
Gregory H. Dunn
Jeremy M. Grayem
Ice Miller LLP
250 West Street
Columbus, Ohio 43215
Christopher.miller@icemiller.com
Gregory.dunn@icemiller.com
Jeremy.grayem@icemiller.com

**COUNSEL FOR THE ASSOCIATION OF
INDEPENDENT COLLEGES AND UNIVERSITIES
OF OHIO**

Craig I. Smith
Material Sciences Corporation
15700 Van Aken Blvd. – Suite 26
Shaker Heights, Ohio 44120
wtppmlc@aol.com

**COUNSEL FOR MATERIAL SCIENCES
CORPORATION**

Joel E. Sechler
Carpenter Lipps & Leland
280 N. High Street, Suite 1300
Columbus, Ohio 43215
sechler@carpenterlipps.com

Gregory J. Poulos
EnerNOC, Inc.
471 E. Broad Street – Suite 1520
Columbus, Ohio 43054
gpoulos@enernoc.com

COUNSEL FOR ENERNOC, INC.

Cheri B. Cunningham
Director of Law
161 South High Street, Suite 202
Akron, OH 44308
CCunningham@Akronohio.gov

COUNSEL FOR THE CITY OF AKRON

Thomas McNamee
Thomas Lindgren
Ryan O'Rourke
Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, Ohio 43215
thomas.mcnamee@ohioattorneygeneral.com
thomas.lindgren@ohioattorneygeneral.com
ryan.o'rourke@ohioattorneygeneral.com

**COUNSEL FOR THE STAFF OF THE PUBLIC
UTILITIES COMMISSION OF OHIO**

Samuel C. Randazzo
Frank P. Darr (Reg. No. 0025469)
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
sam@mwncmh.com
fdarr@mwncmh.com
mpritichard@mwncmh.com

**COUNSEL FOR INDUSTRIAL ENERGY USERS-
OHIO**

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/10/2016 1:54:23 PM

in

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

Summary: Memorandum Ohio Energy Group (OEG's) Memorandum Contra Application for Rehearing electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group