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**Via E-File**

August 1, 2016

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

***In re: Case No. 16-1664-EL-AEC***

Dear Sir/Madam:

Please find attached the NATURE FRESH FARMS' APPLICATION FOR APPROVAL OF A REASONABLE ARRANGEMENT for filing in the above-referenced matter.

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

Respectfully yours,

A handwritten signature in blue ink that reads "Michael L. Kurtz". There is a small flourish or mark at the end of the signature.

Michael L. Kurtz, Esq.  
Jody Kyler Cohn, Esq.  
**BOEHM, KURTZ & LOWRY**

MLKkew  
Encl.

Cc: Eileen M. Mikkelsen, Vice President, Rates and Regulatory Affairs, FirstEnergy Service Company (via email)  
Carrie M. Dunn, Esq., FirstEnergy Service Company (via email)

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE APPLICATION OF NATURE FRESH FARMS FOR APPROVAL OF A REASONABLE ARRANGEMENT	: : :	Case No. 16-1664-EL-AEC
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**APPLICATION**

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1. This Application for Approval of a Reasonable Arrangement is submitted by Nature Fresh Farms ("Nature Fresh" or "Customer") to the Public Utilities Commission of Ohio ("Commission") pursuant to R.C. §4905.31 and Ohio Adm. Code §4901:1-38-05. Nature Fresh is a mercantile customer as defined by R.C. §4928.01.
2. Nature Fresh is located at 634 Mersea Road 7, Leamington, Ontario in Canada. Established in 1999, Nature Fresh is now the largest independent greenhouse produce grower in Canada, as well as the largest greenhouse pepper grower in North America.
3. Nature Fresh is planning to expand its operations into the United States by building a new production facility in Delta, Ohio. The 181-acre Ohio facility would be the largest greenhouse facility in North America and would be built in 12 phases over the next 7 years.
4. Nature Fresh's new production facility is located within the certified service area of The Toledo Edison Company ("Toledo Edison" or "Company"). Toledo Edison is an electric distribution utility as defined in R.C. Section §4928.01.
5. Building the new production facility will require substantial capital investment by Nature Fresh. The capital investment required for all 12 phases over 7 years is currently estimated at approximately \$181 million.
6. Nature Fresh's new production facility is expected to employ over 350 full-time direct employees with an annual payroll of \$12 million by 2023. The average wage is expected to be \$17/hour.
7. Once its new production facility is established, Nature Fresh would become a driver of economic activity in the Fulton County region. In addition to its workforce of over 350 employees, Nature Fresh expects to indirectly support an estimated minimum of 150 jobs that are tied to the success of Nature Fresh. Construction of all 12 phases of the Nature Fresh production facility is contingent upon approval of this Reasonable Arrangement and State incentives, at a level acceptable to Nature Fresh.

8. Nature Fresh will receive municipal tax abatement for 15 years. Nature Fresh would pay taxes to the State of Ohio based on produce sales within the State.
9. The total electric demand at the new Ohio production facility is currently estimated to start at 8 MW in 2016 and grow to 93 MW by 2023. Nature Fresh will use electricity primarily for plant growth lighting. Due to the unique nature of its business, almost all of Nature Fresh's energy usage will occur during off-peak evening/nighttime hours. Energy usage for plant growth lighting will begin in September, increasing during the winter months, and decreasing through April. There would be no lighting load during the summer months.
10. Nature Fresh must secure an electric service rate arrangement that recognizes its almost entirely off-peak energy usage. This requires one modification to Toledo Edison's rates - an exemption from the General Service-Transmission (Rate GT) Provision of Toledo Edison's Economic Development Rider such that Nature Fresh neither pays any charges nor receives any revenue under that provision. Exemption from this portion of the Company's rates will create no delta revenue and is revenue neutral to Toledo Edison. Approval of this Application will not adversely affect any other customer or the Company. The requested exemption is a zero cost method to help secure a major new economic development project.
11. R.C. §4905.31 permits the Commission to approve a Reasonable Arrangement between a mercantile customer and an electric distribution utility or a public utility electric light company. By this Application, Nature Fresh is requesting that the Commission approve this Reasonable Arrangement in order to provide Nature Fresh with distribution service necessary to operate its new production facility in Ohio.
12. Nature Fresh submits the structure and content of the Reasonable Arrangement below, as required by Ohio Adm. Code §4901:1-38-05.

#### **I. Term and Effective Date**

The term of this Reasonable Arrangement shall commence when the Commission approves this Application and commercial operations using plant growth lighting have begun at Nature Fresh's new Ohio production facility. The term of this Reasonable Arrangement shall end on the later of May 31, 2019 or when the General Service-Transmission (Rate GT) Provision of Toledo Edison's Economic Development Rider expires. Beginning on the effective date of the Reasonable Arrangement, Toledo Edison and Nature Fresh will enter into a written contract ("Agreement") that is consistent with the Application approved by the Commission in this proceeding.

#### **II. Distribution and Transmission Service Pricing**

##### **A. General Terms and Conditions.**

- i. Customer will take distribution service, including all current and future nonbypassable riders, from the Company under Rate GT or another applicable rate.

- ii. Customer shall be exempt from the General Service–Transmission (Rate GT) Provision of Toledo Edison’s Economic Development Rider for the term of this Reasonable Arrangement.
  - iii. Customer commits to pay its account(s) with Toledo Edison in full and to remain in good standing prior to commencement of the Reasonable Arrangement and Agreement. If Customer’s account(s) with Toledo Edison are not paid in full and in good standing at any time during the term of the Agreement, the Agreement will be suspended until the account(s) are paid in full and returned to good standing.
- B. Assignment. The Agreement, including all rights and obligations hereunder, shall be fully assignable by Nature Fresh to any new owner or operator of the Ohio production facility with the prior written consent of Toledo Edison, which consent shall not be unreasonably withheld, and with the prior approval of the Commission. Except as provided herein, all standard terms and conditions of service of Toledo Edison will be applicable.
- C. Termination Rights. Any time during the term of the Agreement, Nature Fresh can elect to terminate the Agreement with prior written notice to Toledo Edison. Such termination may not take effect at the earliest until the first day of the billing period following written notice to Toledo Edison.
13. Approval of this Application will advance state policy as set forth in R.C. §4928.02. Specifically, approval of the Reasonable Arrangement will facilitate Ohio’s effectiveness in the global economy by facilitating the construction and operation of a new \$181 million production facility in Ohio, bringing over 350 direct new jobs and at least 150 support jobs to the state. At full production, the total annual impact of the Nature Fresh operations in Ohio will be over 500 jobs, an annual payroll just for the direct jobs of \$12 million, and tax revenues, charitable contributions, and purchases from Ohio vendors.<sup>1</sup>
14. Approval of this Application will not prejudice other customers since no delta revenue will be created as a result of Nature Fresh’s requested exemption. Approval of this Application is revenue neutral to Toledo Edison. The minor modification to the Company’s rates sought herein is a zero cost method to help secure a major new economic development project.
15. Ohio Adm. Code §4901:1-38-05 requires a demonstration that a proposed Reasonable Arrangement does not violate R.C. §§4905.33 and 4905.35. Nature Fresh represents that the proposed Reasonable Arrangement is not anti-competitive, discriminatory, or unduly preferential and does not disadvantage any CRES provider. Under the Reasonable Arrangement, Nature Fresh is free to purchase electric generation service from a CRES provider. Nature Fresh proposes this Reasonable Arrangement solely for purposes of facilitating the construction and operation of a new production facility in Ohio.

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<sup>1</sup> Nature Fresh respectfully submits that this information satisfies the requirements of Ohio Adm. Code §4901:1-38-05(C).

## REQUEST FOR EXPEDITED TREATMENT

15. Nature Fresh requests that the Commission approve this Application on an expedited basis, i.e. within thirty (30) days of filing this Application.
16. Through the attached affidavit, Nature Fresh submits that it has met its burden of proof to demonstrate that the proposed Reasonable Arrangement is just and reasonable.

## CONCLUSION

17. For the foregoing reasons, Nature Fresh urges the Commission to find that the arrangement described herein is just and reasonable and promptly act to approve this Reasonable Arrangement on the terms and conditions described herein.

Respectfully submitted,



Michael L. Kurtz

Jody Kyler Cohn

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**COUNSEL FOR NATURE FRESH FARMS**

August 1, 2016

**AFFIDAVIT**

PROVINCE OF ONTARIO  
~~STATE OF OHIO~~

COUNTY OF ESSEX.

CANADA

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I, PETER QUIRING, being first duly sworn, verify that I have reviewed the foregoing Application and that the allegations contained in the Application are true and accurate to the best of my knowledge and belief.



PETER QUIRING

Sworn to and subscribed before me, a Notary Public, this 25 day of July, 2016



Notary Public

JENNIFER MCKIM

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

**Commission of Ohio Docketing Information System on**

**8/1/2016 12:51:14 PM**

**in**

**Case No(s). 16-1664-EL-AEC**

Summary: Application Nature Fresh Farms' Application for Approval of Reasonable Arrangement electronically filed by Mr. Michael L. Kurtz on behalf of Nature Fresh Farms