

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

**MOTION OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY TO STRIKE
A PORTION OF THE INITIAL POST-REHEARING BRIEF OF THE INDEPENDENT
MARKET MONITOR FOR PJM**

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) respectfully move to strike the following portion of the Initial Post-Rehearing Brief of the Independent Market Monitor for PJM (the “IMM”), to wit: page 2, the second sentence of the third full paragraph, beginning with the word “Although” and ending with the words “charge/credit” and footnote 5.

The Commission should strike this sentence from the IMM’s brief because it relies upon material that is not in the evidentiary record. For this reason and those set forth in the attached memorandum in support, which is incorporated herein, the Commission should grant this motion to strike.

Date: August 29, 2016

Respectfully submitted,

/s/ David A. Kutik

Carrie M. Dunn (0076952)
Counsel of Record
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
Telephone: (330) 384-5861
Fax: (330) 384-8375
cdunn@firstenergycorp.com

David A. Kutik (0006418)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Fax: (216) 579-0212
dakutik@jonesday.com

James F. Lang (0059668)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
Telephone: (216) 622-8200
Fax: (216) 241-0816
jlang@calfee.com
talexander@calfee.com

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

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

**MEMORANDUM IN SUPPORT OF MOTION OF OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON
COMPANY TO STRIKE A PORTION OF THE POST-HEARING BRIEF OF THE
INDEPENDENT MARKET MONITOR**

I. INTRODUCTION

In the third full paragraph on the second page of its brief, the IMM relies upon information that is not in the evidentiary record in this case. Specifically, the IMM cites and discusses a portion of Company witness Mikkelsen’s Rehearing Testimony that was stricken by Ms. Mikkelsen on the stand at the evidentiary hearing. (Rehearing Tr. Vol. I, p. 46.) Because this information is not part of the record before the Commission, it should have no bearing on the Commission’s consideration of the parties’ positions in this case. Accordingly, the Commission should grant this motion to strike.

II. EXCLUDED INFORMATION OR EVIDENCE NOT IN THE RECORD MAY NOT BE RELIED UPON ON BRIEF.

In its March 31, 2016 Opinion and Order in this proceeding, the Commission granted the Companies’ motions to strike portions of several intervenors’ briefs due to their reliance on information outside of the evidentiary record. (March 31, 2016 Opinion and Order (“March 31 Order”), p. 37.) In so ruling, the Commission noted that “parties should not rely upon evidence which has been stricken from the record.” (*Id.*)

On page 2 of its brief, the IMM cites and discusses a portion of Ms. Mikkelsen's Rehearing Testimony that Ms. Mikkelsen struck on the stand during her direct testimony at rehearing. (IMM Br., p. 2, n. 5 (citing Mikkelsen Rehearing Testimony, p. 15:8-14); Rehearing Tr. Vol. I, p. 46 (striking Mikkelsen Rehearing Testimony beginning at p. 15:3 and continuing through p. 16:12).) Accordingly, the IMM may not rely upon stricken testimony in its brief.

For this reason, the Commission should grant the Companies' motion to strike the second sentence of the third full paragraph on page 2 of the IMM's brief, beginning with the word "Although" and ending with the words "charge/credit" and footnote 5.

III. CONCLUSION

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

Date: August 29, 2016

Respectfully submitted,

/s/ David A. Kutik

Carrie M. Dunn (0076952)
Counsel of Record
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
Telephone: (330) 384-5861
Fax: (330) 384-8375
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

David A. Kutik (0006418)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Fax: (216) 579-0212
dakutik@jonesday.com

James F. Lang (0059668)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
Telephone: (216) 622-8200
Fax: (216) 241-0816
jlang@calfee.com
talexander@calfee.com

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing motion was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 29th day of August, 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/ David A. Kutik
David A. Kutik

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/29/2016 4:33:45 PM

in

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

Summary: Motion Motion to Strike a Portion of the Initial Post-Rehearing Brief of the IMM electronically filed by MR. DAVID A KUTIK on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company