

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company of a Grid Modernization Business Plan	)	
	)	
	)	Case No. 16-481-EL-UNC
	)	
	)	
In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company Application for Approval of a Distribution Platform Modernization Plan	)	
	)	
	)	Case No. 17-2436-EL-UNC
	)	
	)	
	)	
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017	)	
	)	
	)	Case No. 18-1604-EL-UNC
	)	
	)	
	)	
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Tariff Change	)	
	)	
	)	Case No. 18-1656-EL-ATA

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON COMPANY’S MEMORANDUM CONTRA  
MOTION TO MODIFY PROCEDURAL SCHEDULE**

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) oppose, in part, the Motion to Modify Procedural Schedule (“Motion”) filed by the Environmental Law & Policy Center (“ELPC”) and Natural Resources Defense Council (“NRDC”) on November 19, 2018.<sup>1</sup> Neither ELPC nor NRDC contacted the Companies regarding the Motion or their concerns regarding the timing of

---

<sup>1</sup> ELPC and NRDC seek expedited treatment of their Motion under O.A.C. 4901-1-12(C), which the Companies do not oppose.

discovery responses prior to filing the Motion. Regardless, the Companies are willing to accommodate those concerns in a reasonable manner described below.

The Companies note that the Stipulation at issue resolves grid modernization proceedings that have been pending and subject to review for quite some time. No party can fairly say that Grid Mod I investments, as proposed in the Stipulation, are a surprise. The Companies filed their Grid Modernization Business Plan in Case No. 16-481-EL-UNC on February 29, 2016, and their Distribution Platform Modernization Plan in Case No. 17-2436-EL-UNC on December 4, 2017. ELPC moved to intervene in both proceedings, and the Companies responded in those proceedings to several discovery requests served by multiple parties.<sup>2</sup> Further, between April 2017 and March 2018, the Companies and all interested parties took part in the Commission's PowerForward review of potential grid modernization efforts. Grid Mod I, as proposed in the Stipulation, serves as only the first phase of grid modernization investments, on a much smaller scale than the Companies' proposals in Case Nos. 16-481-EL-UNC and 17-2436-EL-UNC, and sets up a collaborative process to discuss and evaluate future phases of investment.

Given the parties' familiarity with the issues, and the upcoming holidays, ELPC's and NRDC's proposed seven-day response period is unreasonable. However, to address ELPC's and NRDC's concerns, the Companies recommend that the Hearing Examiner shorten to ten (10) days the response time for all discovery requests served after the issuance of the Hearing Examiner's entry, as has been done in other matters involving a partial stipulation.<sup>3</sup> Further, in

---

<sup>2</sup> ELPC was served with several responses to other parties' discovery, but never served its own discovery requests nor requested to receive copies of the Companies' responses to other parties' discovery prior to the filing of the Stipulation.

<sup>3</sup> See, e.g., *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 16-1852-EL-SSO, Entry ¶ 11 (Sept. 5, 2017); *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.*

recognition of the upcoming holidays, the Companies also recommend that the deadline for responding to requests served after 12 p.m. on a Friday or on the last day before a legal holiday be calculated from the first business day after the weekend or legal holiday. Of course, to the extent that any party has difficulty responding to a discovery request within the 10-day period, the parties should discuss the problem and work out a mutually satisfactory solution.

The Companies respectfully request that the Hearing Examiner deny, in part, the Motion and issue an entry shortening the response time for discovery under the terms discussed above.

Respectfully Submitted,

/s/ James F. Lang  
Brian J. Knipe (0090299) (Counsel of Record)  
FirstEnergy Service Company  
76 South Main Street  
Akron, Ohio 44308  
bknipe@firstenergycorp.com  
330-384-5795  
330-384-3875 (fax)

James F. Lang (0059668)  
Mark T. Keaney (0095318)  
CALFEE, HALTER & GRISWOLD LLP  
The Calfee Building  
1405 East Sixth Street  
Cleveland, Ohio 44114  
(216) 622-8200  
(216) 241-0816 (fax)  
jlang@calfee.com  
mkeaney@calfee.com

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

---

4928.143 in the Form of an Electric Security Plan, Case No. 14-1297-EL-SSO, Entry ¶ 8 (Jan. 14, 2015); *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376-EL-UNC *et al.*, Entry ¶ 11 (Sept. 16, 2011).

**CERTIFICATE OF SERVICE**

I certify that the foregoing Memorandum Contra was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 20th day of November, 2018. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/      *James F. Lang*  
One of the Attorneys for Ohio Edison  
Company, The Cleveland Electric  
Illuminating Company, and The Toledo  
Edison Company

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

**Commission of Ohio Docketing Information System on**

**11/20/2018 4:05:26 PM**

**in**

**Case No(s). 16-0481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, 18-1656-EL-ATA**

Summary: Memorandum Contra Motion to Modify Procedural Schedule electronically filed by Mr. James F Lang on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company