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PUCO

December 22, 2005

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

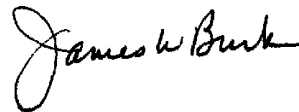
Dear Ms. Jenkins:

**Re: Memorandum of Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The Toledo Edison Company
Contra the Motions of the City of Cleveland
Heights to Intervene
Case Nos. 05-704-EL-ATA
05-1125-EL-ATA
05-1126-EL-AAM
05-1127-EL-UNC**

Enclosed for filing, please find the original and twelve (12) copies of the *Memorandum of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company Contra the Motions of the City of Cleveland Heights to Intervene* regarding the above-referenced case. Please file the enclosed *Memorandum of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company Contra the Motions of the City of Cleveland Heights to Intervene*, time-stamping the two extras and returning them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,



kag
cc: Parties of Record

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician _____ Date Processed 12/27/05

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Joint Application of
Ohio Edison Company, The Cleveland
Electric Illuminating Company and The
Toledo Edison Company for Approval of a
Generation Charge Adjustment Rider**

Case No. 05-704-EL-ATA

**In the Matter of the Application of Ohio
Edison Company, The Cleveland Electric
Illuminating Company, and The Toledo
Edison Company for Authority to Modify
Certain Accounting Practices and for
Tariff Approvals**

**Case Nos. 05-1125-EL-ATA
05-1126-EL-AAM
05-1127-EL-UNC**

**MEMORANDUM OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY CONTRA
THE MOTIONS OF THE CITY OF CLEVELAND HEIGHTS TO INTERVENE**

Pursuant to Rule 4901-1-12(B)(1) of the Ohio Administrative Code ("O.A.C."), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "Operating Companies") file their memorandum contra the motion of the City of Cleveland Heights ("City") to intervene in the above-referenced proceeding.

The Commission should deny the Motion to Intervene file by the City as it is in violation of both the Commission's September 27, 2005 Entry in this proceeding and O.A.C. 4901-1-11(E)(1) and (2).

O.A.C. 4901-1-11 requires that a motion to intervene must be filed no later than five (5) days before the scheduled date of hearing in order to be considered timely. Subsection (E)(1) states "A motion to intervene will not be considered timely if it is filed later than five days prior

to the scheduled date of hearing.” The hearing in this matter was held on November 29, 2005. The City’s motion to intervene was served on the Operating Companies on or about December 12, 2005, almost two weeks following the conclusion of the hearing.¹ Clearly, the motion to intervene must be denied as violating the requirement of O.A.C. 4901-1-11(E)(1).

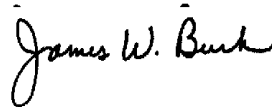
The City’s motion to intervene is also in violation of O.A.C. 4901-1-11(E)(2) and the Commission’s September 27, 2005 Entry. In that Entry, the Attorney Examiner ruled that “Motions to intervene must be filed by November 15, 2005.” *Entry, 05-704-EL-ATA et al.*, page 4. Clearly, the date of the City’s motion of December 12, 2005 is well past the established intervention deadline of November 15, 2005. In addition, O.A.C. 4901-1-11(E)(2) states “A motion to intervene will not be considered timely if it is filed later than any specific deadline established by order of the commission for purposes of a particular proceeding.” Therefore, not only is the City’s motion in violation of the Commission’s Entry, it also violates O.A.C. 4901-1-11(E)(2). For either of the foregoing reasons, the City’s motion to intervene must be denied.

Finally, O.A.C. 4901-1-11(F) requires that an untimely motion to intervene may only be granted under extraordinary circumstances. The City alleges no such extraordinary circumstances in this proceeding.

¹ The PUCO’s Docketing Information System does not indicate that such motion was ever filed with the PUCO, but the Operating Companies are filing their Memorandum Contra in a timely fashion in the event that the PUCO would consider the motion as filed.

Based upon the foregoing, the Companies respectfully request the Commission to deny the City's motion to intervene, and for all other relief just and proper in the premise.

Respectfully submitted,

A handwritten signature in cursive script that reads "James W. Burk".

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company was delivered via regular U.S. Mail to the following this 22nd day of December, 2005:

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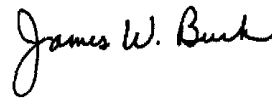
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