

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Establishment)
of Electronic Data Exchange) Case No. 00-813-EL-EDI
Standards and Uniform Business)
Practices for the Electric Utility)
Industry)

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REPLY MEMORANDUM OF
THE CINCINNATI GAS & ELECTRIC COMPANY
IN SUPPORT OF APPLICATION FOR RE-HEARING/
REQUEST FOR EXCEPTION

The Cincinnati Gas & Electric Company (CG&E) submits this reply memorandum in response to the Ohio Consumers' Counsel's (OCC) memorandum contra.

The OCC argues that the Commission should deny CG&E's request for exception from the Commission's June 19, 2000 Order on the residential and small commercial minimum stay issue on the ground that this docket is limited to the establishment of uniform operational support rules and CG&E's request requires consideration of facts presented in the record of CG&E's transition case. For the following reasons, the Commission should reject OCC's argument and grant CG&E's request for exception.

CG&E requested that the Commission grant CG&E an exception allowing it to: (1) apply a minimum stay rule for customers of suppliers that default that allows the customer to return to standard offer rate service for one billing cycle, during which the customer can choose another supplier, before the customer is subject to the minimum stay

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rule; (2) apply the same minimum stay rule for customers who opt out of a governmental aggregation program as CG&E seeks to apply to customers of suppliers that default; and (3) apply its minimum stay rule for residential customers beginning January 1, 2002.

The OCC argues that the Commission should decide this matter in CG&E's transition case because the transition case docket contains facts unique to CG&E that the Commission must necessarily consider in order to resolve the issue. This argument is meritless. The only point that the Commission needs to consider is the terms of the settlement that CG&E reached on the residential minimum stay issue in its transition case. CG&E recited those settlement terms in its application for re-hearing and the OCC has not disputed CG&E's recitation of the settlement terms. Further, the stipulation of settlement is a matter of public record. However, to assuage the OCC's quarrelsome and hyper-technical concern, CG&E has attached hereto a copy of the stipulation of settlement.

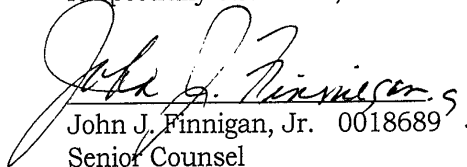
CG&E notes that the present docket is the one in which the Commission noted that it may require uniformity on the rule for residential and small commercial minimum stay, such that the rule could supplant the settlement reached in CG&E's transition case. This is also the docket in which the Commission suggested that CG&E could file an exception to the Commission's ruling, to the extent that the ruling requires uniformity among the utilities' residential and small commercial

minimum stay rules. Finally, this is the docket in which the Commission prohibited the application of minimum stay rules in situations where a customer returns to a utility's standard service offer in cases of supplier default or opt out from a governmental aggregation program. As a result, this is the proper docket for CG&E to file its request for exception. This matter is particularly relevant to this docket where granting the exception would obviate the grounds for a rehearing and prevent an appeal of the EDI order. The OCC's argument that this matter can only be resolved in CG&E's transition case is no more than an empty and meaningless attempt to elevate form over substance, which the Commission should properly disregard.

CONCLUSION

For all of the foregoing reasons, CG&E respectfully requests that the Commission reject the arguments raised in the OCC's memorandum contra, and grant CG&E's Application for Re-hearing/Request for Exception.

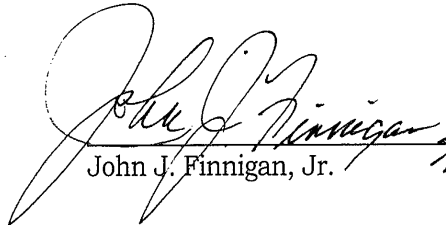
Respectfully submitted,


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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served on all parties
of record in this proceeding by ordinary United States mail, postage prepaid,
this 24th day of August, 2000.


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