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 )

Edison Company for Authority to Provide ) Case No. 14-1297-EL-SSO

For a Standard Service Offer Pursuant to )

R.C. 4928.143 in the Form of an Electric )

Security Plan. )

**Direct Testimony of Kevin M. Murray**

**on Behalf of Industrial Energy Users-Ohio**

Frank P. Darr (Counsel of Record)

(Reg. No. 0025469)

Matthew R. Pritchard (Reg. No. 0088070)

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

fdarr@mwncmh.com

(willing to accept service by e-mail)

mpritchard@mwncmh.com

(willing to accept service by e-mail)

**December 22, 2014** **Attorneys for Industrial Energy Users-Ohio**

**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 )

Edison Company for Authority to Provide ) Case No. 14-1297-EL-SSO

For a Standard Service Offer Pursuant to )

R.C. 4928.143 in the Form of an Electric )

Security Plan. )

**Direct Testimony of Kevin M. Murray**

**on Behalf of Industrial Energy Users-Ohio**

INDEX

Page No.

I. INTRODUCTION 1

II. HISTORY OF THIS PROCEEDING 3

III. ECONOMIC STABILITY PROGRAM 4

IV. RIDER NMB 13

V. CONCLUSION 14

CERTIFICATE OF SERVICE

EXHIBIT KMM-1

**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 )

Edison Company for Authority to Provide ) Case No. 14-1297-EL-SSO

For a Standard Service Offer Pursuant to )

R.C. 4928.143 in the Form of an Electric )

Security Plan. )

**Direct Testimony of Kevin M. Murray**

**on Behalf of Industrial Energy Users-Ohio**

**I. INTRODUCTION**

**Q1. Please state your name and business address.**

A1. My name is Kevin M. Murray. My business address is 21 East State Street, 17th Floor, Columbus, Ohio 43215-4228.

**Q2. By whom are you employed and in what position?**

A2. I am employed as a Technical Specialist by McNees Wallace & Nurick LLC (“McNees”) and serve as the Executive Director of the Industrial Energy Users‑Ohio (“IEU-Ohio”). I am providing testimony on behalf of IEU-Ohio.

**Q3. Please describe your educational background.**

A3. I graduated from the University of Cincinnati in 1982 with a Bachelor of Science degree in Metallurgical Engineering.

**Q4. Please describe your professional experience.**

A4. I have been employed by McNees for 17 years where I focus on helping IEU‑Ohio members address issues that affect the price and availability of utility services. I have also been actively involved, on behalf of commercial and industrial customers, in the formation of regional transmission organizations (“RTOs”) and the organization of regional electricity markets from both the supply-side and demand-side perspective. I serve as an end-use customer sector representative as well as Vice Chair on the Midcontinent Independent System Operator, Inc. (“MISO”) Advisory Committee and I have been actively involved in MISO working groups that focus on various issues since 1999. Prior to joining McNees, I was employed by the law firm of Kegler, Brown, Hill & Ritter (“KBH&R”) in a similar capacity. Prior to joining KBH&R, I spent 12 years with The Timken Company, a specialty steel and roller bearing manufacturer. While at The Timken Company, I worked within a group that focused on meeting the electricity and natural gas requirements for facilities in the United States. I also spent several years in supervisory positions within The Timken Company’s steelmaking operations.

**Q5. Have you previously testified before the Public Utilities Commission of Ohio (“Commission”)?**

A5. Yes. The proceedings before the Commission in which I have submitted expert testimony are identified in Exhibit KMM-1.

**Q6. What is the purpose of your testimony?**

A6. The purpose of my testimony is to recommend the Commission not accept certain elements of the proposed electric security plan (“ESP IV”). Specifically, I recommend that the Commission: (1) deny Ohio Edison Company’s, The Cleveland Electric Illuminating Company’s and The Toledo Edison Company’s (collectively, “FirstEnergy”) request for approval of the proposed Economic Stability Program and the related Retail Rate Stability Rider (“RRS Rider”); and (2) not approve FirstEnergy’s request to shift additional generation-related costs into the revenues FirstEnergy is permitted to recover through Rider Non-Market-Based (“Rider NMB”).

**II. HISTORY OF THIS PROCEEDING**

**Q7. What are the significant components of the proposed ESP IV?**

A7. FirstEnergy’s proposed ESP IV has a three-year term from June 1, 2016 through May 31, 2019. It is similar to FirstEnergy’s current electric security plan in that FirstEnergy has proposed to establish the prices for the default standard service offer (“SSO”) through a competitive bidding auction process. However, the proposed ESP IV has notable differences from FirstEnergy’s currently-approved electric security plan that would affect the prices all customers pay for electric service (both SSO customers and shopping customers), including the changes I recommend the Commission not authorize. These proposed changes are anti-competitive and contrary to Ohio’s pro-competitive market policies. Additionally, and based upon discussions with IEU-Ohio counsel, it is my understanding these proposed changes are contrary to Ohio and federal law.

**III. ECONOMIC STABILITY PROGRAM**

**Q8. What is the proposed Economic Stability Program?**

A8. The proposed Economic Stability Program is discussed in the pre-filed written testimony of FirstEnergy witnesses Moul, Strah, Ruberto, Harden, Cunningham, Lisowski, Mikkelsen, Savage, Staub, Rose and Murley. As proposed by FirstEnergy, approval of the Economic Stability Program would result in FirstEnergy entering into a power purchase contract with its non-regulated affiliate, FirstEnergy Solutions (“FES”). The power purchase contract would provide FirstEnergy with entitlement to receive all of the outputs (capacity, energy and ancillary services) associated with FES’s ownership interests in the Davis-Besse Nuclear Power Station (“Davis-Besse”) in Oak Harbor, Ohio and W.H. Sammis Plant (“Sammis”) in Stratton, Ohio, as well as FES’s entitlement to the output of two generating units owned and operated by Ohio Valley Electric Corporation (“OVEC”). FirstEnergy would purchase the output of these generating facilities through a formula-based rate and, in turn, sell all of the output of these facilities into the regional electricity markets operated by PJM Interconnection LLC (“PJM”). The costs charged to FirstEnergy would include any legacy costs associated with operating these facilities, any incremental costs required to keep the facilities operational, and the variable costs of operating the facilities.

FirstEnergy would, in turn, require that any output associated with these generating facilities be sold into the regional energy, capacity and ancillary services markets for electricity markets operated by PJM. The differences between any costs charged to FirstEnergy as a result of its contract with FES and revenues received from sales into the electricity markets operated by PJM would become a revenue requirement either charged to or collected from customers under FirstEnergy’s proposed RRS Rider.

FirstEnergy witness Lisowski has included in his testimony projected revenues and expenses for the Davis-Besse, Sammis and OVEC facilities for each year of the facilities’ remaining lives. Those estimates indicate that the Economic Stability Program would result in a net cost to customers during the term of the ESP IV. However, FirstEnergy witness Fanelli testifies that eventually FirstEnergy’s revenues received by PJM electricity markets due to the sales associated with the Economic Stability Program will exceed the costs associated with its power purchase contract with FES. Witness Fanelli concludes that the Economic Stability Program will provide FirstEnergy’s retail customers with over $2.1 billion in benefits during the remaining lives of the generating facilities subject to the Economic Stability Program and that this is equivalent to $807.6 million in benefits on a net present value basis.

**Q9. Should the Commission approve the Economic Stability Program and the associated RRS Rider?**

A9. No. There are multiple reasons to justify not approving the Economic Stability Program and the associated RRS Rider. First, the proposed contract structure between FirstEnergy and FES guarantees that FES will recover its costs associated with the generating facilities subject to the Economic Stability Program regardless of whether those costs are above market. As such, the contract represents an attempt to collect additional transition revenue when the opportunity to do so has long since passed. Second, the proposed RRS Rider would result in a subsidy flowing to or from FirstEnergy’s non-competitive retail electric service distribution customers to a product or service other than retail service - a result that is both contrary to the state’s policies and, as I understand it, unlawful. Third, the Economic Stability Program and associated RRS Rider would serve to rebundle electric generation service contrary to Ohio’s state policy. With the enactment of SB 3 in 1999, customers were given the ability to independently select their generation providers and in doing so assemble the price and terms of service that provides customers what they believe is the best balance of supply security, pricing and risk. By proposing the Economic Stability Program, FirstEnergy is requesting the Commission to allow FirstEnergy to substitute its decision making for matters that were directly assigned to individual customers through SB 3. Each of these reasons is discussed in more detail in my testimony.

**Q10. Is the proposed Economic Stability Program equivalent to a request for additional transition revenue?**

A10. Yes, the proposed Economic Stability Program is equivalent to a request for additional transition revenue. Further, the request for transition revenue has been submitted by FirstEnergy at a point in time when the opportunity to collect transition revenue has long since terminated.

**Q11. What is your understanding of how and when SB 3 permitted collection of transition revenue?**

A11. Like many states that enacted electric restructuring legislation to allow for competition in the generation supply function, Ohio provided an opportunity for electric distribution utilities (“EDUs”) to seek recovery of “stranded costs” or “transition costs” associated with competitive generation supply. SB 3 also provided an opportunity for an EDU to seek transition revenue associated with the electricity generation function for a period of years but not after December 31, 2010. SB 3 contains the criteria that the Commission applied to determine how much, if any, of the transition revenue claim was eligible for recovery. When the Commission approved a transition revenue claim, it also approved transition charges that the EDU could then charge shopping customers for the period specified by the Commission. For non-shopping customers, the transition charges were embedded in the default generation supply price and were equal to the portion of the applicable default generation supply price that was not avoidable by shopping customers.

**Q12. What criteria were applied to determine how much, if any, transition revenue could be approved by the Commission and collected through transition charges?**

A12. It is my understanding that Section 4928.39, Revised Code, specified these criteria. These criteria were applied to determine the total amount of transition revenue that was eligible for collection through transition charges **if** an EDU submitted a claim for transition revenue. SB 3 did not require transition revenue to be addressed unless the EDU submitted a claim for transition revenue.

**Q13. Which EDUs submitted a claim for transition revenue?**

A13. All of the EDUs, including the FirstEnergy EDUs, submitted a claim with their electric transition plan (“ETP”) applications.

**Q14. More specifically, what is your understanding of the criteria that were used to determine how much, if any, of a transition revenue claim was eligible for collection through transition charges?**

A14. As indicated previously, it is my understanding that Section 4928.39, Revised Code, contains the criteria used to determine the total allowable transition revenue claim. A transition revenue claim was eligible for collection through transition charges if the revenue claim was limited to:

(1) Costs that were prudently incurred;

(2) Costs that were legitimate, net verifiable, and directly assignable or allocable to retail electric generation service provided to electric consumers in this state;

(3) Costs that were not recoverable in a competitive market;

(4) Costs that the utility would otherwise have been entitled an opportunity to recover.

Each of these criteria had to be satisfied for the transition revenue claim to be recoverable.

**Q15. Was the amount of a total transition revenue claim potentially separated into different components?**

A15. Yes. The total allowable amount of any transition revenue claim was separated if a portion of that total claim was a claim for regulatory assets. The total transition charge resulting from any allowable transition revenue claim was also separated to show a separate regulatory asset charge. It is my understanding that SB 3 required the regulatory asset portion of a transition charge to end no later than December 31, 2010. It is also my understanding that, under SB 3, the non-regulatory asset portion of any transition charge which was associated with above-market generating plants had to end by no later than December 31, 2005 or the end of the market development period (“MDP”), whichever occurred first.

**Q16. Generally, how was the amount of transition revenue associated with above-market generating plants measured?**

A16. If an EDU wanted to make a claim for transition revenue, it had to include the claim in its proposed ETP. In the case of FirstEnergy, it submitted two studies performed separately by ICF Consulting and Lexicon, Inc. to estimate above-market generation costs.

The studies relied upon a revenue-based approach to project expected revenue streams for the various generating plants and computed a present value of the future estimated revenue streams. The present value of the future estimated revenue streams was then compared to the net book value of the generating plants at December 31, 2000. Generation plant related transition costs were deemed to be positive (and potentially eligible for recovery through transition charges) if the present value of the projected revenue stream was, in the aggregate, less than the net book value of the generating plants at December 31, 2000. Again, the generation plant related transition revenue had to be recovered during the period beginning January 1, 2001 through either the end of the MDP or December 31, 2005, whichever occurred first.

**Q17. How was FirstEnergy’s ETP resolved?**

A17. FirstEnergy’s ETP was resolved by a stipulation supported by the majority of parties to the case that was accepted by the Commission. The Commission’s order accepting the stipulation stated that total allowable transition costs were $2,527,579,833 for Ohio Edison Company, $3,017,813,280 for The Cleveland Electric Illuminating Company and $1,366,034,515 for The Toledo Edison Company. As previously stated, all transition revenue was required to be recovered by no later than December 31, 2010.

**Q18. Did the FirstEnergy ETP Stipulation address stranded benefits?**

A18. Yes. At the time of its ETP application, FirstEnergy estimated it would have above-market generation costs and thus require transition revenue. However, a specific provision in the stipulation provided that if FirstEnergy ultimately sold any generation asset to a non-regulated affiliate at a price above the assumed fair market value reflected in the ETP application, then any net after-tax gain would be netted to adjust (reduce) regulatory transition revenue. This provision of the stipulation also provided that FirstEnergy would bear any risk associated with the sale of a generating asset that resulted in a net loss.

**Q19. Would the Economic Stability Program and associated RRS Rider result in a subsidy flowing from FirstEnergy’s non-competitive distribution service to its generation related business?**

A19. Yes. Ohio’s electricity policies require that the Commission “[e]nsure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates.”[[1]](#footnote-1) FirstEnergy’s proposed non-bypassable RRS Rider is structured to provide a direct subsidy flowing to or from FirstEnergy’s retail non-competitive distribution service customers and to or from a product or service other than retail electric service - in this case, wholesale generation supply service available to FirstEnergy pursuant to its proposed contract with FES. The RRS Rider causes such a subsidy payment from FirstEnergy retail distribution customers when it results in a charge (the cost of the FES wholesale supply contract with FirstEnergy is in excess of the revenue resulting from liquidation in the wholesale markets). The RRS Rider is a subsidy to retail distribution customers when it results in a credit (the cost of the FES wholesale supply contract with FirstEnergy is less than the revenue resulting from liquidation in the wholesale markets). In either case, the result runs afoul of Ohio’s pro-competitive policies.

**Q20. Would the Economic Stability Program and associated RRS Rider result in rebundling of generation service?**

A20. Yes. With the enactment of SB 3, Ohio implemented a policy that allows customers to select the unbundled generation service components to meet a customer’s supply, price, terms and conditions that meets the customer’s needs. By entering into the proposed power purchase contract with FES, FirstEnergy is effectively substituting its judgment for the source of generation supply when the Ohio legislature has determined such decisions are to be in the control of customers.

**Q21. Why is the Economic Stability Program equivalent to a request for additional transition revenue?**

A21. In those instances in which the revenue for the output of the generating facilities sold into the markets operated by PJM is less than the costs FirstEnergy incurs for the purchase of the output of those facilities, the shortfall to be collected through the RRS Rider charge are costs that are recoverable in PJM’s competitive electricity markets. This is equivalent to transition revenue.

**Q22. Can you summarize your recommendations on FirstEnergy’s proposed Economic Stability Program and associated RRS Rider?**

A22. Yes. The Commission should deny FirstEnergy’s request for authorization to implement the Economic Stability Program and associated RRS Rider.

**IV. RIDER NMB**

**Q23. Has FirstEnergy proposed any changes to the cost it collects from customers under Rider NMB?**

A23. Yes. As discussed in the testimony of FirstEnergy witness Stein, FirstEnergy currently recovers various charges invoiced by PJM through Rider NMB, which is paid by all customers (both shopping and non-shopping). The majority of costs collected through Rider NMB reflect costs and credits invoiced by PJM for network integration transmission service (“NITS”), transmission expansion charges and some PJM ancillary services.

In its application, FirstEnergy has proposed to expand the costs and credits invoiced by PJM that would be recovered through Rider NMB to include various generation-related costs. Specifically, FirstEnergy has proposed to recover, through Rider NMB, costs and credits associated with planning period congestion uplift, meter error correction, emergency energy, balancing operating reserve, balancing operating reserves for load response and reactive services.

**Q24. Why has FirstEnergy proposed these changes to Rider NMB?**

A24. FirstEnergy witness Stein states in his testimony that including these charges and credits is designed to reduce the risk premium that may be added to SSO generation supply bids or prices offered by competitive retail electric service (“CRES”) providers and ensure customers only pay the actual costs for these items.

**Q25. Should the Commission approve these changes to Rider NMB?**

A25. No. These additional costs are generation-related costs and it is contrary to Ohio’s policies to rebundle these generation-related charges and recover them through a non-bypassable rider. SSO bidders and CRES providers are in the best position to manage their exposure to these generation-related costs. Further, for customers currently served by CRES providers, the costs and credits associated with these PJM line items should already be reflected in their offer prices. Shifting these line items into a non-bypassable charge recovered through Rider NMB would simply result in a windfall for CRES providers with any remaining term contracts, unless the contract was structured to include a direct pass-through of any PJM related costs.

**V. CONCLUSION**

**Q26. What are your overall recommendations on the proposed ESP IV?**

A26. If the Commission chooses to approve the ESP IV, it should modify the proposal and direct FirstEnergy to eliminate the Economic Stability Program and the associated RRS Rider. The Commission should also modify the ESP IV to eliminate FirstEnergy’s proposal to shift additional generation-related costs and credits to be recovered through Rider NMB.

**Q27**. **Does this conclude your testimony?**

A27. Yes.

**Certificate of Service**

In accordance with Rule 4901-1-05, Ohio Administrative Code, “The PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties.” In addition, I hereby certify that a service copy of the foregoing *Direct Testimony of Kevin M. Murray on Behalf of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 22nd day of December 2014, *via* electronic transmission.

*/s/Frank P. Darr*

Frank P. Darr

James W. Burk

Counsel of Record

Carrie M. Dunn

FIRSTENERGY SERVICE COMPANY 76 South Main Street

Akron, Ohio 44308

burkj@firstenergycorp.com

cdunn@firstenergycorp.com

James F. Lang

N. Trevor Alexander

CALFEE, HALTER & GRISWOLD LLP

The Calfee Building

1405 East Sixth Street

Cleveland, Ohio 44114

jlang@calfee.com

talexander@calfee.com

David A. Kutik

JONES DAY

901 Lakeside Avenue

Cleveland, Ohio 44114

dakutik@jonesday.com

**COUNSEL FOR OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

**THE TOLEDO EDISON COMPANY**

Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

mkurtz@BKLlawfirm.com

kboehm@BKLlawfirm.com

jkylercohn@BKLlawfirm.com

**COUNSEL FOR OHIO ENERGY GROUP**

Steven T. Nourse

Matthew J. Satterwhite

Yazen Alami

American Electric Power Service Corporation

1 Riverside Plaza 29th Floor

Columbus, Ohio 43215

stnourse@aep.com

mjsatterwhite@aep.com

yalami@aep.com

**COUNSEL FOR OHIO POWER COMPANY**

Bruce J. Weston

 Ohio Consumers' Counsel

Larry S. Sauer

 Counsel of Record

Michael Schuler

Kevin F. Moore

 Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street – Suite 1800

Columbus, Ohio 43215

Larry.sauer@occ.ohio.gov

Michael.schuler@occ.ohio.gov

Kevin.moore@occ.ohio.gov

**COUNSEL FOR THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Christopher J. Allwein

 Counsel of Record

Nolan M. Moser

Williams Allwein and Moser, LLC

1500 West Third Ave., Suite 330

Columbus, Ohio 43212

callwein@wamenergylaw.com

nmoser@wamenergylaw.com

Michael Soules

Earthjustice

1625 Massachusetts Ave. NW #702

Washington, DC 20036

msoules@earthjustice.org

Shannon Fisk

Earthjustice

1617 John F. Kennedy Blvd., #1675

Philadelphia, PA 19103

sfisk@earthjustice.org

Tony G. Mendoza

Sierra Club

Environmental Law Program

85 Second Street, Second Floor

San Francisco, CA 94105-3459

Tony.mendoza@sierraclub.org

**COUNSEL FOR THE SIERRA CLUB**

Barth E. Royer

Bell & Royer Co., LPA

33 South Grant Avenue

Columbus, Ohio 43215-3927

barthroyer@aol.com

Adrian Thompson

Taft Stettinius & Hollister LLP

200 Public Square, Suite 3500

Cleveland, Ohio 44114

athompson@taftlaw.com

**COUNSEL FOR CLEVELAND MUNICIPAL SCHOOL DISTRICT**

Joseph M. Clark

 Counsel of Record

Direct Energy

21 East State Street, 19th Floor

Columbus, Ohio 43215

Joseph.clark@directenergy.com

Gerit F. Hall

Eckert Seamans Cherin & Mellott, LLC

1717 Pennsylvania Ave., N.W., 12th Fl.

Washington, D.C. 20006

ghull@eckertseamans.com

**COUNSEL FOR DIRECT ENERGY SERVICES, LLC, DIRECT ENERGY BUSINESS, LLC AND DIRECT ENERGY BUSINESS MARKETING, LLC**

Colleen L. Mooney

 Counsel of Record

Ohio Partners for Affordable Energy

231 West Lima Street

Findlay, Ohio 45839-1793

cmooney@ohiopartners.org

**COUNSEL FOR OHIO PARTNERS FOR AFFORDABLE ENERGY**

Joseph E. Oliker

 Counsel of Record

IGS Energy

6100 Emerald Parkway

Dublin, Ohio 43016

joliker@igsenergy.com

**COUNSEL FOR IGS ENERGY**

Mark S. Yurick

Devin D. Parram

Taft Stettinius & Hollister LLP

65 East State Street, Suite 1000

Columbus, Ohio 43215

myurick@taftlaw.com

dparram@taftlaw.com

**COUNSEL FOR THE KROGER CO.**

Richard L. Sites

Ohio Hospital Association

155 East Broad Street, 15th

Columbus, Ohio 43215

ricks@ohanet.org

Thomas J. O'Brien

Bricker & Eckler

100 South Third Street

Columbus, Ohio 43215

tobrien@bricker.com

**COUNSEL FOR OHIO HOSPITAL ASSOCIATION**

Marilyn L. Widman

Widman & Franklin, LLC

405 Madison Ave., Suite 1550

Toledo, Ohio 43604

Marilyn@wflawfirm.com

**COUNSEL FOR IBEW LOCAL 245**

Michael K. Lavanga

Garrett A. Stone

Owen J. Kopon

Brickfield, Burchette, Ritts & Stone, P.C.

1025 Thomas Jefferson Street, N.W.

8th Floor, West Tower

Washington, D.C. 20007

mkl@bbrslaw.com

gas@bbrslaw.com

ojk@bbrslaw.com

**COUNSEL FOR NUCOR STEEL MARION, INC.**

Barbara A. Langhenry

Harold A. Madorsky

Kate E. Ryan

City of Cleveland

601 Lakeside Avenue – Room 106

Cleveland, Ohio 44114

blanghenry@city.cleveland.oh.us

hmadorsky@city.cleveland.oh.us

kryan@city.cleveland.oh.us

**COUNSEL FOR THE CITY OF CLEVELAND**

Kimberly W. Bojko

Jonathon A. Allison

Rebecca Hussey

Carpenter Lipps & Leland LLP

280 Plaza, Suite 1300

280 North High Street

Columbus, Ohio 43215

Bojko@carpenterlipps.com

allison@carpenterlipps.com

hussey@carpenterlipps.com

**COUNSEL FOR OMAEG**

Lisa M. Hawrot

Spilman Thomas & Battle, PLLC

Century Centre Building

1233 Main Street, Suite 4000

Wheeling, West Virginia 26003

lhawrot@spilmanlaw.com

Derrick Price Williamson

Spilman Thomas & Battle, PLLC

1100 Bent Creek Blvd., Suite 101

Mechanicsburg, Pennsylvania 17050

dwilliamson@spilmanlaw.com

**COUNSEL FOR WAL-MART STORES EAST, LP AND SAM’S EAST, INC.**

Joseph P. Meissner

Attorney at Law

1223 W. 6th Street – 4th Floor

Cleveland, Ohio 44113

meissnerjoseph@yahoo.com

**COUNSEL FOR CITIZENS COALITION, CONSUMER PROTECTION ASSOCIATION, CLEVELAND HOUSING NETWORK, AND THE COUNCIL FOR ECONOMIC OPPORTUNITIES IN GREATER CLEVELAND**

Thomas R. Hays

8355 Island Lane

Maineville, Ohio 45039

trhayslaw@gmail.com

**COUNSEL FOR LUCAS COUNTY**

Leslie Kovacik

Counsel for the City of Toledo

420 Madison Avenue

Toledo, Ohio 43604

lesliekovacik@toledo.oh.gov

**COUNSEL FOR THE CITY OF TOLEDO**

Glenn S. Krassen

 Counsel of Record

Bricker & Eckler LLP
1001 Lakeside Ave., Suite 1350

Cleveland, Ohio 44114

gkrassen@bricker.com

Dane Stinson

Dylan Borchers

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215

dstinson@bricker.com

dborchers@bricker.com

**COUNSEL FOR NORTHEAST OHIO PUBLIC ENERGY COUNCIL; OHIO SCHOOLS COUNCIL; AND, POWER4SCHOOLS**

Michael D. Dortch

Richard R. Parsons

Kravitz, Brown & Dortch, LLC

65 East State Street – Suite 200

Columbus, Ohio 43215

mdortch@kravitzllc.com

rparsons@kravitzllc.com

**COUNSEL FOR DYNEGY INC.**

Matthew R. Cox

Matthew Cox Law, Ltd.

88 East Broad Street, Suite 1560

Columbus, Ohio 43215

matt@matthewcoxlaw.com

**COUNSEL FOR THE COUNCIL OF SMALLER ENTERPRISES**

Trent Dougherty

 Counsel of Record

Madeline Fleisher

1207 Grandview Avenue, Suite 201

Columbus, Ohio 43212-3449

tdougherty@theOEC.org

mfleisher@elpc.org

John Finnigan

128 Winding Brook Lane

Terrace Park, Ohio 45174

jfinnigan@edf.org

**COUNSEL FOR THE OHIO ENVIRONMENTAL COUNCIL AND ENVIRONMENTAL DEFENSE FUND**

M. Howard Petricoff

Michael J. Settineri

Gretchen L. Petrucci

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, Ohio 43216-1008

mhpetricoff@vorys.com

mjsettineri@vorys.com

glpetrucci@vorys.com

**COUNSEL FOR EXELON GENERATION COMPANY, LLC AND CONSTELLATION NEWENERGY, INC.; PJM POWER PROVIDERS GROUP; THE ELECTRIC POWER SUPPLY ASSOCIATION; AND, RETAIL ENERGY SUPPLY ASSOCIATION**

Cynthia Brady

Exelon Business Services

4300 Winfield Rd.

Warrenville, Illinois 60555

Cynthia.brady@exeloncorp.com

David I. Fein

Exelon Corporation

10 South Dearborn Street – 47th Fl.

Chicago, Illinois 60603

David.fein@exeloncorp.com

Lael E. Campbell

Constellation NewEnergy, Inc. and Exelon Corporation

101 Constitution Ave., NW

Washington, DC 20001

Lael.campbell@exeloncorp.com

**ON BEHALF OF EXELON GENERATION COMPANY, LLC AND CONSTELLATION NEWENERGY, INC.**

Glen Thomas

1060 First Avenue, Suite 400

King of Prussia, Pennsylvania 19406

gthomas@gtpowergroup.com

Laura Chappelle

201 North Washington Square - #910

Lansing, Michigan 48933

laurac@chappeleconsulting.net

**ON BEHALF OF PJM POWER PROVIDERS GROUP**

Andrew J. Sonderman

Kegler Brown Hill and Ritter LPA

65 East State Street – 1800

Columbus, Ohio 43215

asonderman@keglerbrown.com

**COUNSEL FOR HARDIN WIND LLC, CHAMPAIGN WIND LLC AND BUCKEYE WIND LLC**

Todd M. Williams

Williams Allwein & Moser, LLC

Two Maritime Plaza, 3rd Fl

Toledo, Ohio 43604

toddm@wamenergylaw.com

Jeffrey W. Mayes

Monitoring Analytics, LLC

2621 Van Buren Avenue, Suite 160

Valley Forge Corporate Center

Eagleville, Pennsylvania 19403

Jeffrey.mayes@monitoringanalytics.com

**COUNSEL FOR INDEPENDENT MARKET MONITOR FOR PJM**

Sharon Theodore

Electric Power Supply Association

1401 New York Ave. NW 11th fl.

Washington, DC 20001

stheodore@epsa.org

**ON BEHALF OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

F. Mitchell Dutton

NextEra Energy Power Marketing, LLC

700 Universe Blvd.

Juno Beach, Florida 33408-2657

Mitch.dutton@fpl.com

**COUNSEL FOR NEXTERA ENERGY POWER MARKETING, LLC**

Andrew J. Sonderman

Kegler Brown Hill and Ritter LPA

65 East State Street – 1800

Columbus, Ohio 43215

asonderman@keglerbrown.com

**COUNSEL FOR HARDIN WIND LLC, CHAMPAIGN WIND LLC AND BUCKEYE WIND LLC**

Kevin R. Schmidt

Energy Professionals of Ohio

88 East Broad Street, Suite 1770

Columbus, Ohio 43215

Schmidt@sppgrp.com

**COUNSEL FOR THE ENERGY PROFESSIONALS OF OHIO**

C. Todd Jones

Christopher L. Miller

Gregory H. Dunn

Jeremy M. Grayem

Ice Miller LLP

250 West Street

Columbus, Ohio 43215

Christopher.miller@icemiller.com

Gregory.dunn@icemiller.com

Jeremy.grayem@icemiller.com

**COUNSEL FOR THE ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES OF OHIO**

Craig I. Smith

Material Sciences Corporation

15700 Van Aken Blvd. – Suite 26

Shaker Heights, Ohio 44120

wttpmlc@aol.com

**COUNSEL FOR Material Sciences Corporation**

Joel E. Sechler

Carpenter Lipps & Leland

280 N. High Street, Suite 1300

Columbus, Ohio 43215

sechler@carpenterlipps.com

Gregory J. Poulos

EnerNOC, Inc.

471 E. Broad Street – Suite 1520

Columbus, Ohio 43054

gpoulos@enernoc.com

**COUNSEL FOR ENERNOC, INC.**

Cheri B. Cunningham

Director of Law

161 S. High Street

Suite 202

Akron, OH 44308

Ccunningham@Akronohio.Gov

Scott Elisar

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

selisar@mwncmh.com

**COUNSEL FOR THE CITY OF AKRON**

Thomas McNamee

Thomas Lindgren

Ryan O'Rourke

Attorney General's Office

Public Utilities Commission of Ohio

180 E. Broad Street

Columbus, Ohio 43215

thomas.mcnamee@puc.state.oh.us

thomas.lindgren@puc.state.oh.us

ryan.o'rourke@puc.state.oh.us

Gregory Price

Mandy Willey Chiles

Attorney Examiners

Public Utilities Commission of Ohio

180 E. Broad Street

Columbus, Ohio 43215

Gregory.price@puc.state.oh.us

Mandy.willey@puc.state.oh.us

**Exhibit KMM-1**

*In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Recover Costs Associated with the Construction and Operation of an Integrated Gasification Combined Cycle Electric Generating Facility,* PUCO Case No. 05-376-EL-UNC.

*In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Revised Code, in the Form of an Electric Security Plan, et al.,* PUCO Case Nos. 13-2385-EL-SSO, *et al.*

*In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Market Rate Offer*, *et al.,* PUCO Case Nos. 12-426-EL-SSO, *et al.*

*In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company,* PUCO Case No. 10-2929-EL-UNC.

*In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan*, PUCO Case Nos. 11-346-EL-SSO and 11-348-EL-SSO, *et al.*

*In the Matter of the Application of Columbus Southern Power Company for Approval of its Electric Security Plan; an Amendment to its Corporate Separation Plan, and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO and *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan*, PUCO Case No. 08-918-EL-SSO (remand phase).

*In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, PUCO Case No. 09-1089-EL-POR.

*In the Matter of the Application of Ohio Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, PUCO Case No. 09-1090-EL-POR.

*In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, PUCO Case No. 09-906-EL-SSO.

*In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, PUCO Case No. 08-935-EL-SSO.

*In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, PUCO Case No. 08-936-EL-SSO.

*In the Matter of the Application of Columbus Southern Power Company for Approval of its Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, PUCO Case No. 08-917-EL-SSO.

*In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan*, PUCO Case No. 08-918-EL-SSO.

*In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan*, PUCO Case No. 08-920-EL-SSO.

*In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, PUCO Case No. 08-1094-EL-SSO.

1. Section 4928.02(H), Revised Code. [↑](#footnote-ref-1)