

FILE

**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)	Case No. 08-935-EL-SSO
Establish a Standard Service Offer)	
Pursuant to R.C. 4928.143 in the Form of)	
an Electric Security Plan.)	

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**DIRECT TESTIMONY
of
ANTHONY J. YANKEL**

**ON BEHALF OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**
*10 West Broad Street, 18th Floor
Columbus, Ohio 43215-3485
(614) 466-8574*

September 29, 2008

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1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, ADDRESS, AND EMPLOYMENT.***

4 ***A1. I am Anthony J. Yankel. I am President of Yankel and Associates, Inc. My address is***
5 29814 Lake Road, Bay Village, Ohio, 44140.

6

7 ***Q2. WOULD YOU BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND***
8 ***PROFESSIONAL EXPERIENCE?***

9 ***A2. I received a Bachelor of Science Degree in Electrical Engineering from Carnegie Institute***
10 ***of Technology in 1969 and a Master of Science Degree in Chemical Engineering from***
11 ***the University of Idaho in 1972. From 1969 through 1972, I was employed by the Air***
12 ***Correction Division of Universal Oil Products as a product design engineer. My chief***
13 ***responsibilities were in the areas of design, start-up, and repair of new and existing***
14 ***product lines for coal-fired power plants. From 1973 through 1977, I was employed by***
15 ***the Bureau of Air Quality for the Idaho Department of Health & Welfare, Division of***
16 ***Environment. As Chief Engineer of the Bureau, my responsibilities covered a wide range***
17 ***of investigative functions. From 1978 through June 1979, I was employed as the Director***
18 ***of the Idaho Electrical Consumers Office. In that capacity, I was responsible for all***
19 ***organizational and technical aspects of advocating a variety of positions before various***
20 ***governmental bodies that represented the interests of the consumers in the State of Idaho.***
21 ***From July 1979 through October 1980, I was a partner in the firm of Yankel, Eddy, and***
22 ***Associates. Since that time, I have been in business for myself. I am a registered***
23 ***Professional Engineer in Ohio. I have presented testimony before the Federal Energy***

1 Regulatory Commission ("FERC"), as well as the State Public Utility Commissions of
2 Idaho, Montana, Ohio, Pennsylvania, Utah, and West Virginia.

3
4 ***Q3. ON WHOSE BEHALF ARE YOU TESTIFYING?***

5 ***A3.*** I am testifying on behalf of the Ohio Consumers' Counsel ("OCC").
6

7 ***Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?***

8 ***A4.*** The purpose of my testimony is to address the Electric Security Plan ("ESP") filed on
9 behalf of Ohio Edison ("OE"), The Cleveland Electric Illuminating Company ("CEI"),
10 and The Toledo Edison Company ("TE") (collectively, "Companies" or "FirstEnergy
11 EDUs").
12

13 ***Q5. PLEASE SUMMARIZE THE FINDINGS IN YOUR TESTIMONY?***

14 ***A5.*** According to the Companies, the ESP has been filed pursuant to Section 4928.143 of the
15 Revised Code and is projected to provide a minimum level of quantitative benefits to
16 customers of more than \$1.3 billion in present value dollars compare to a Market Rate
17 Offer ("MRO") filing that could be made under section 4928.142 of the Revised Code.
18 My testimony will address how the FirstEnergy EDU's proposed benefit of at least \$1.3
19 billion is not only highly inflated, but in fact the prices proposed by the Companies in
20 their ESP filing are excessive. Additionally, many of the proposals put forth by the
21 FirstEnergy EDUs in this case should not be adopted by the Commission.

II. GENERATION RATE

Generation Prices Offered by the FirstEnergy EDU's

Q6. WHAT GENERATION RATES ARE THE FIRSTENERGY EDUs OFFERING FOR EACH OF THE THREE YEARS OF THEIR ESP?

A6. The FirstEnergy EDUs propose generation rates¹ of 7.5 cents/kWh for 2009, 8.0 cents/kWh for 2010, and 8.5 cents/kWh for 2011. This is the generation rate that the Companies offer customers at the sales (retail) level, not the generation level. The FirstEnergy EDUs propose to defer approximately 10% of these costs (with interest). Thus, with the deferrals, the FirstEnergy EDUs propose generation rates of 6.75 cents/kWh for 2009, 7.15 cents/kWh for 2010, and 7.55 cents/kWh for 2011. The amount of the generation rate that is deferred is to be recovered over ten years, with interest. I will address these deferrals later in my testimony.

According to FirstEnergy witness Blank, these rates are substantially below the average market rates for each year of the Plan as determined by FirstEnergy witnesses Jones and Graves. A comparison of the generation rates being offered by the Companies and the average of those "forecast" by Dr. Jones and Mr. Graves is as follows on a "Dollars per mWh" basis:

	Forecast ²	ESP	"Savings"
2009	\$82.57	\$75.00	\$7.57
2010	\$85.27	\$80.00	\$5.27
2011	\$88.19	\$85.00	\$3.19

¹ See Application at page 10.

² See Blank's direct testimony at page 18, line 15.

1 **Q7. ARE THESE FORECAST RATES AS DEVELOPED BY THE COMPANIES AN**
2 **APPROPRIATE BASIS FOR ESTABLISHING AN APPROPRIATE COMPARISON**
3 **FOR THE GENERATION RATES FOR EACH OF THE YEARS OF THE PLAN**
4 **AND AS A BASIS FOR ASSESSING THE VALUE OF THE COMPANIES' ESP?**

5 **A7.** No. The Market Rate figures developed by Jones and Graves are highly inflated and thus
6 give a false impression of the value of the rates being offered in the Companies' ESP.
7 Both Jones and Graves used a "constructed cost" method for determining their proposed
8 market price benchmarks. Between these two witnesses, Dr. Jones generally presents
9 more detail regarding how he developed his forecasted rates. Thus, for purposes of this
10 discussion, I will focus my comments to the testimony and calculations of Dr. Jones, with
11 some attention given to Mr. Graves.

12

13 **Dr. Jones' Market Rate Calculations**

14 **Q8. WHAT DOES DR. JONES USE AS A STARTING POINT FOR HIS**
15 **CALCULATIONS OF FORECAST MARKET RATES?**

16 **A8.** Dr. Jones uses the "Round-the-Clock" energy prices for the Cinergy Hub that he obtained
17 from Platts Megawatt Daily based upon information available on July 15, 2008. This is
18 the price that would be paid for buying an equal amount of energy in every hour of the
19 day over each of the years of the Plan. The Round-the-Clock energy prices he used as his
20 basis were:

21	2009	\$55.71
22	2010	\$54.85
23	2011	\$53.94

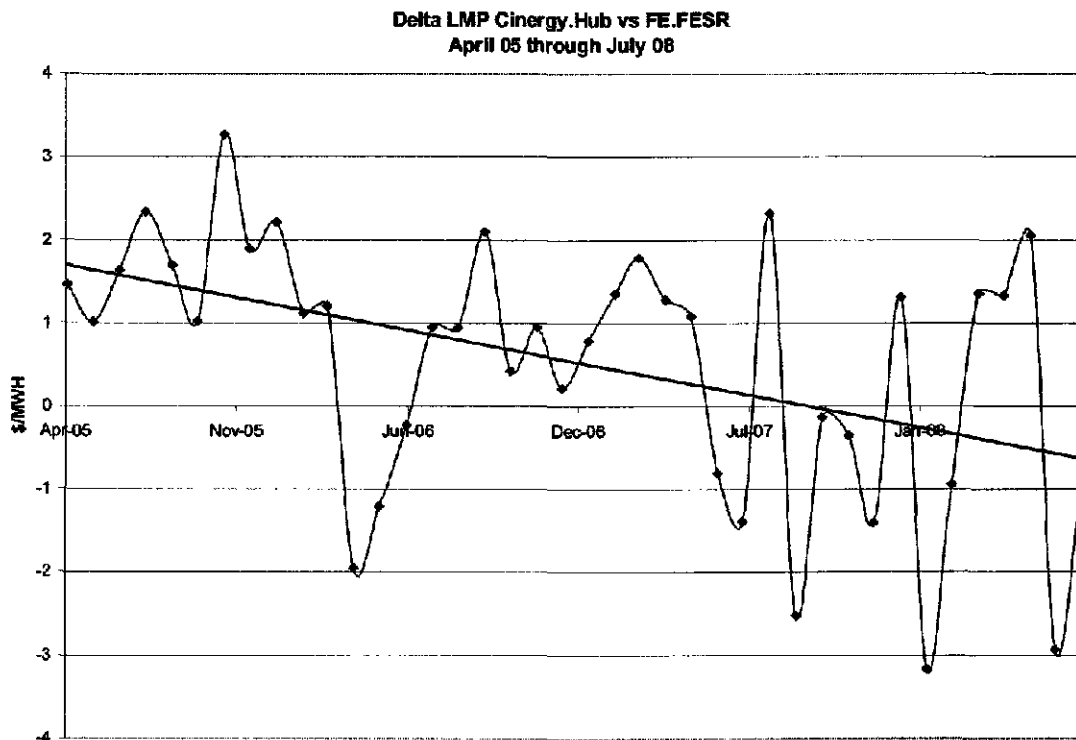
1 Forward prices vary daily. Although the prices that serve as the foundation of Dr. Jones'
2 analysis are rooted in a competitive market environment, these prices are volatile and
3 therefore using an isolated set of forward prices collected on a single day is not a sound
4 basis for comparing rates under the Companies' ESP. It is my understanding from the
5 deposition of Dr. Jones that these single day forecast prices that he developed were taken
6 on a day when the forward prices may have been at their peak for the year. He further
7 indicated that if present (September 23, 2008) data were gathered that the prices for 2009
8 would be approximately 10% lower than those that he used from July 15, 2008. I will
9 have more to say about these "root" values later in my testimony.

10
11 ***Q9. WHAT WAS THE FIRST ADJUSTMENT THAT DR. JONES MADE ONCE HE***
12 ***ESTABLISHED (BASED ON JULY 15, 2008 DATA) THE ROUND-THE-CLOCK***
13 ***VALUES FOR EACH YEAR OF THE ESP?***

14 ***A9.*** His next step was to adjust the Cinergy Hub values he obtained for the Ohio Companies'
15 load zones (or "FirstEnergy load zones"). He did this by comparing historic locational
16 marginal price ("LMP") data between the two locations. From this he concluded that
17 prices for the Ohio Companies would be about 70 cents per mWh higher than the Cinergy
18 Hub prices. As I discuss later in my testimony, this adjustment is unnecessary if one
19 starts with data from the FirstEnergy load zone, instead of the Cinergy Hub. However,
20 because he made this adjustment, it needs to be addressed on the basis upon which it was
21 calculated.

1 **Q10. IS THIS ADJUSTMENT BY DR. JONES APPROPRIATE?**

2 **A10.** No. Although Dr. Jones' adjustment is founded on appropriate theory, it is based upon an
3 inappropriate timeframe. Dr. Jones appropriately recognized that the MISO LMP prices
4 for FirstEnergy (designated by MISO as "FE.FESR" as compared to those at the
5 "CINERGY.HUB") would serve as the prices that would be paid for deliveries into the
6 FirstEnergy EDUs' service areas. However, he chose the rather odd timeframe to
7 analyze of September 2005 to August 2007. This is neither the most recent data, all of
8 the data, nor calendar year data. The following graph³ contains the differences in the
9 monthly LMP's between CINERGY.HUB and FE.FESR since MISO began collecting
10 and publishing information:



³ Data supporting this graph is contained on Exhibit AJY-1.

1 As can be seen from the trend line on the above graph, the difference in LMP prices
2 between the Cinergy Hub and the area served by the FirstEnergy EDUs has been
3 decreasing. Although there was a positive differential of 70 cents per mWh as reported
4 by Dr. Jones during the two year period September 2005 through August 2007, that
5 positive differential has turned negative. Over the past 12 months (August 2007-July
6 2008), that differential has become a negative 52 cents per mWh (the average LMP price
7 has been 52 cents per mWh lower in FirstEnergy than at the Cinergy Hub).
8

9 ***Q11. WHAT WAS THE SECOND ADJUSTMENT MADE BY DR. JONES IN HIS***
10 ***ANALYSIS?***

11 ***A11.*** Dr. Jones next made an adjustment to convert his Round-the-Clock values to reflect the
12 cost of "shaping" energy to meet the standard service offer of the Ohio Companies. He
13 developed a set of "load-shaping" ratio that he listed in his Exhibit 3. At this time I have
14 not reviewed the development of these ratios, so for purposes of this testimony, I will
15 accept them as presented by Dr. Jones. However, I reserve the right to supplement my
16 testimony if my continued review reveals that the ratios are inappropriate.
17

18 ***Q12. WHAT WAS THE THIRD ADJUSTMENT MADE BY DR. JONES IN HIS***
19 ***ANALYSIS?***

20 ***A12.*** Dr. Jones then proposes an adjustment for the cost of capacity in the calculation of a
21 market rate offer. He indicates that:

- 22 • MISO requires that load serving entities carry sufficient resources to meet reserve
23 margin requirements; and

- 1 • MISO's resource adequacy program is a work in progress and as such, there is
2 uncertainty regarding its operation.

3 Dr. Jones proposes in his Exhibit 4 an adjustment in Dollars per mWh for the cost of
4 capacity for each year as follows:

5 2009 \$5.89
6 2010 \$5.93
7 2011 \$5.96

8

9 ***Q13. ARE DR. JONES' CAPACITY COST ADJUSTMENT VALUES APPROPRIATE?***

10 ***A13.*** No. Dr. Jones' capacity cost adjustment is misplaced. Dr. Jones is correct that any load
11 serving entity operating in the MISO area will be required to meet reserve margin
12 requirements. Although there is a cost associated with meeting these reserve margin
13 requirements, there is no basis for the adjustment proposed by Dr. Jones to the Cinergy
14 Hub forward prices that he started with. Dr. Jones proposes a dollar adjustment for
15 something that is already included in the Round-the-Clock figures used as the basis for
16 his calculation. The Round-the-Clock forward prices offered by Dr. Jones are for the
17 Cinergy Hub, which is a part of the MISO control area. Whatever entities participated in
18 the development of these values, they would have taken whatever risks and expectations
19 they had with respect to meeting MISO capacity requirements over the next three years
20 into consideration in their market rate offers. Dr. Jones' proposed adjustment is merely
21 double-counting the cost impact of providing a reserve/capacity—once in the original
22 bid, and a second time as a separate adjustment.

1 **Q14. WHAT WAS THE FOURTH ADJUSTMENT/ADDER MADE BY DR. JONES' IN**
2 **HIS ANALYSIS?**

3 **A14.** His fourth adjustment/adder deals with MISO transmission and ancillary services costs.
4 He places this value at \$7.50 per mWh. I note that whatever the MISO transmission and
5 ancillary services costs are, they will be the same if paid by a marketing entity or by the
6 Operating Companies under an ESP. The only concern here is that this charge is treated
7 consistently between a market-based operation and the ESP. Although Dr. Jones has an
8 adjustment in his analysis of \$7.50 per mWh for transmission and ancillary services,
9 FirstEnergy witness Blank disregards this portion of Dr. Jones's calculation for
10 comparative purposes with respect to his ESP proposed generation rate.⁴ I will do the
11 same as Mr. Blank and ignore this adjustment for purposes of my testimony as well.

12
13 **Q15. WHAT WAS THE FIFTH ADJUSTMENT MADE BY DR. JONES' IN HIS**
14 **ANALYSIS?**

15 **A15.** His fifth adjustment was for the purpose of taking into account line losses that occur on
16 the distribution system. This adjustment increases the price at sales level by 4.28%. It
17 is appropriate to make this adjustment if one were comparing prices at the sales level as
18 opposed to inputs into the Operating Companies systems. For comparative purposes,
19 each price must be on the same basis. Although I believe that it would be easier, to
20 compare all prices at the Generation level, as long as all of the data is analyzed on the
21 same basis, there should be no problem.

⁴ See Blank's direct testimony at page 15 lines 13-14.

1 **Q16. WHAT WAS THE SIXTH ADJUSTMENT MADE BY DR. JONES IN HIS**
2 **ANALYSIS?**

3 **A16.** Dr. Jones notes that there are a host of risks associated with the supplying of electricity to
4 customers. He discusses such risks as: Shopping Risk; Load Variability Risk; Price
5 Variability Risk; Regulatory Risk; and Bidding Risk. Dr. Jones then opined that because
6 of these risks additional margins would need to be added to his calculated "adjusted"
7 prices of 20% in 2009, 30% in 2010, and 40% in 2011. This adjustment is completely
8 inappropriate as it ignores the obvious fact that anyone that would have established the
9 forward prices obtained from Platts Megawatt Daily would have included the impact of
10 all of these risks as understood by the seller. For example, Dr. Jones obtained⁵ a forward
11 price for 2011 of \$53.94 per mWh. This was the price offered—it was not \$53.94 plus
12 maybe a 30—50% adder of which the seller would settle for a 40% adder. The \$53.94
13 price includes what the seller (on July 15, 2008) expects his overall costs to be, including
14 sufficient margin to cover any risk he expected to encounter.

15

16 **Q17. PLEASE SUMMARIZE YOUR CRITIQUE OF THE MARKET BASED RATES**
17 **THAT THE FIRSTENERGY EDUs HAVE OFFERED THROUGH DR. JONES AS A**
18 **BASIS BY WHICH FIRSTENRGY'S ESP GENERATION PRICES CAN BE**
19 **COMPARED.**

20 **A17.** The expected market prices proposed by Dr. Jones are inappropriate to use as a basis for
21 comparison with the ESP generation prices proposed by the FirstEnergy EDUs. The
22 expected market-rate offer values for each of the three ESP years are approximately twice

⁵ Dr. Jones' direct testimony, Exhibit 2.

1 that of forward price values Dr. Jones obtained at a specific point in time from Platts
2 Megawatt Daily as demonstrated below:

	Platts	Jones
2009	\$55.71	\$ 90.47
2010	\$54.85	\$ 98.34
2011	\$53.94	\$105.49

3
4 Most of the adders/adjustments offered by Dr. Jones are inappropriate and should be
5 rejected.

6
7 ***Q18. PLEASE SUMMARIZE THE CORRECTIONS YOU HAVE OUTLINED TO THE***
8 ***MARKET RATE VALUES DEVELOPED BY DR. JONES.***

9 ***A18.*** I would start by reducing his July 15, 2008 forward prices to reflect, not the highest point
10 of the year, but something more realistic at this time. The forward prices that I propose
11 as starters would be: \$50.14 for 2009; \$49.36 for 2010; and \$48.55 for 2011.

12
13 I would then change his Locational Cost Adjustment from a positive 70 cents per mWh to
14 a negative 52 cents per mWh in order to reflect more recent cost differentials between the
15 Cinergy Hub and the area served by the FirstEnergy EDUs. This adjustment reflects how
16 prices have compared over the last 12 months and contains no adjustment for the
17 continuation of the downward trend in these prices that has occurred since MISO was
18 formed.

1 For purposes of this testimony I have accepted Dr. Jones' Load-Shaping adjustment.

2 This adds 7.55% to the forward prices less the LMP adjustment.

3
4 I have rejected Dr. Jones' capacity adjustment as these costs are already incorporated into
5 the forward prices offered. I also reject Dr. Jones' transmission and ancillary services
6 adjustment as did Mr. Blank for comparative purposes with the ESP generation rate offer.

7 I have accepted Dr. Jones' distribution loss factor as long as we are making all
8 comparisons on the basis of sales level as opposed to generation level. I have rejected
9 Dr. Jones' margin/risk adjustments as risk has already been incorporated into the forward
10 prices. Using the above corrections and only incorporating appropriate adjustments, I
11 calculate the following corrected forward prices:⁶

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Forward	\$50.14	\$49.36	\$48.55
LMP	-\$0.52	-\$0.52	-\$0.52
Load Shape	7.55%	7.55%	7.55%
losses	4.28%	4.28%	4.28%
Forward Price	\$55.65	\$54.78	\$53.87

12
13
14
15
16 **Mr. Graves' Market Rate Calculations**

17 ***Q19. HOW DOES FIRSTENERGY WITNESS GRAVES PROPOSE TO DETERMINE A***
18 ***MARKET PRICE BENCHMARK TO BE USED AS A REFERENCE PRICE FOR***
19 ***COMPARING THE ESP GENERATION RATE OFFERED BY THE COMPANIES?***

20 ***A19.*** Mr. Graves proposes two methods of establishing a market price benchmark. First, he
21 looks at "comparable" transactions. Second, he proposes the use of a "modified
22 construction cost" method, similar to that proposed by Dr. Jones.

⁶ For example: $(\$50.14 - \$0.52) \times 1.0755 \times 1.0428 = \55.65

1 ***Q20. HOW DID MR. GRAVES CONDUCT HIS "COMPARABLES" TEST?***

2 ***A20.*** He examined the procurement of SSO supplies in New Jersey, Illinois, and Pennsylvania.
3 He then adjusted them for locational differences as well as load shape differences
4 between those procurements and Ohio. He also adjusted for forward energy prices as
5 they occurred during each of these auctions compared to July 15, 2008.

6
7 ***Q21. ARE THESE "COMPARABLES" AS OFFERED BY MR. GRAVES AND THE***
8 ***RESULTS HE DEVELOPED, APPROPRIATE FOR JUDGING THE***
9 ***REASONABLENESS OF THE GENERATION ESP OFFERED IN THIS CASE?***

10 ***A21.*** No. As Mr. Graves recognizes on page 8, lines 4-7 of his testimony in this case, the
11 pricing of such transactions that he has used will vary. Specifically, he stated:

12 Of course, the price of such transactions will generally change over time,
13 so one must take into account the time frame and the prevailing
14 circumstances before using the observed price as a reference for other
15 transactions.

16 It is interesting that Mr. Graves would offer this statement and then on page 10 of his
17 testimony recognized that the result of his comparables method found on his Exhibit 2 are
18 "based mainly on procurement results pertaining to residential customers"⁷

19 Primarily residential load in other states is certainly not comparable with an entire system
20 load that is heavily industrial in Ohio.

21
22 When asked during his deposition, Dr. Jones stated that he used Cinergy Hub forwards as
23 opposed to FirstEnergy Hub forwards because the Cinergy Hub has far more
24 transactions—presumably making it more accurate or reflective of the market. By

⁷ Emphasis in original.

1 contrast, Mr. Graves' Exhibit 2 only deals with 13 total transactions over an 18 month
2 timeframe, for only 7 utilities in 3 states. Not only are these loads not very comparable
3 with Ohio, but the size of the sample was quite small.

4
5 Mr. Graves' analysis also suffers from the same reliance upon data from July 15, 2008 as
6 does that of Dr. Jones. Note that the "forward adjustment" in Column "8" of Mr. Graves'
7 Exhibit 2 that attempts to adjust all prices to July 15, 2008 all have positive values
8 ranging from 11% up to 32%. Given the overall slightly upward trend in FirstEnergy
9 LMP prices demonstrated in over the last 3+ years (see graph below), such huge
10 increases because of adjusting for "July 15, 2008" are excessive.

11

12 ***Q22. IS THERE A COMPARABLE TRANSACTION THAT MR. GRAVES DID NOT***
13 ***USE?***

14 ***A22.*** Yes. Surprisingly, Mr. Graves did not use the agreement that is presently in effect
15 between the FirstEnergy EDUs and their affiliate power marketer FirstEnergy Solutions.
16 That agreement covers the same customer base, load shape, LMP's, and risks of
17 switching that is the subject of this case. I will address this agreement later in my
18 testimony.

19

20 ***Q23. BASED UPON YOUR REVIEW OF MR. GRAVES' COMPARABLE METHOD, ARE***
21 ***THE VALUES DEVELOPED IN HIS EXHIBIT 2 ACCEPTABLE AS A BASIS FOR***
22 ***JUDGING THE APPROPRIATENESS OF THE ESP GENERATION RATES IN***
23 ***THIS CASE?***

1 A23. No.

2

3 Q24. HOW DID MR. GRAVES PERFORM HIS "MODIFIED CONSTRUCTED COST"
4 ANALYSIS AND WHY ARE HIS VALUES NOT APPROPRIATE FOR
5 COMPARISON WITH THE ESP GENERATING RATES IN THIS CASE?

6 A24. Mr. Graves essentially followed the same procedure as Dr. Jones. He used forward
7 prices (taken on July 15, 2008), and then adjusted them for locational differences, load
8 shape, as well as network services, ancillary services, and capacity. His no-risk values
9 came out very close to those calculated by Dr. Jones:

	Jones	Graves
2009	\$77.32	\$75.84
2010	\$76.39	\$75.39
2011	\$75.41	\$75.93

10

11 Although they used different adjustments (for presumably the same terms), they came up
12 with essentially the same result. Mr. Graves' Exhibit 5 used congestion adjustments for
13 the difference in historic LMP's of -0.38% for peak hours and -2.47% for off-peak hours.
14 By comparison, Dr. Jones used a positive additional price of 70 cents per mWh. Mr.
15 Graves used a load shaping adjustment of 2.07% for peak hours and 3.09% for off-peak
16 hours. By comparison, Dr. Jones used a load shaping adjustment of 7.55% for all hours.

1 **Q25. WHAT DO YOU CONCLUDE REGARDING THE RESULTS OF MR. GRAVE'S**
2 **"MODIFIED CONSTRUCTED COST" METHOD?**

3 **A25.** Mr. Graves' testimony and calculations are not as transparent as those of Dr. Jones.
4 Although Mr. Graves appears to use somewhat different values than Dr. Jones, his overall
5 methodology is similar as well as his results. The Commission should not give these
6 values any more credence than it gives to the values produced by Dr. Jones.

7
8 **Market Rate History for the FirstEnergy EDUs**

9 **Q26. IS THERE ANY HISTORY OF MARKET RATES FOR THE FIRSTENERGY**
10 **COMPANIES?**

11 **A26.** Yes. On December 8, 2004 an auction was held to bid out the load of the FirstEnergy
12 Companies. This was done almost six months before MISO began publishing data on the
13 various LMP costs across its control area. There were many unknowns at the time, and
14 these results may be considered in light of those unknowns. For background purposes,
15 however, it is interesting to note that bids came in to supply this load at \$54.50 per mWh.

16
17 **Q27. ARE THERE ANY OTHER EXAMPLES OF THE FIRSTENERGY COMPANIES**
18 **VENTURING INTO THE MARKET RATE ENVIRONMENT?**

19 **A27.** Yes. On October 17, 2006 FirstEnergy Solutions (FES) and the affiliated Ohio Operating
20 Companies (among others) offered a Settlement Agreement to the FERC regarding the
21 sale of power from FES as a power marketer on a wholesale basis to the Ohio Operating
22 Companies. This settlement agreement contained a price cap for each of the three years
23 of the contract on dollar per mWh basis as follows:

1	2006	\$50.50
2	2007	\$52.50
3	2008	\$53.62

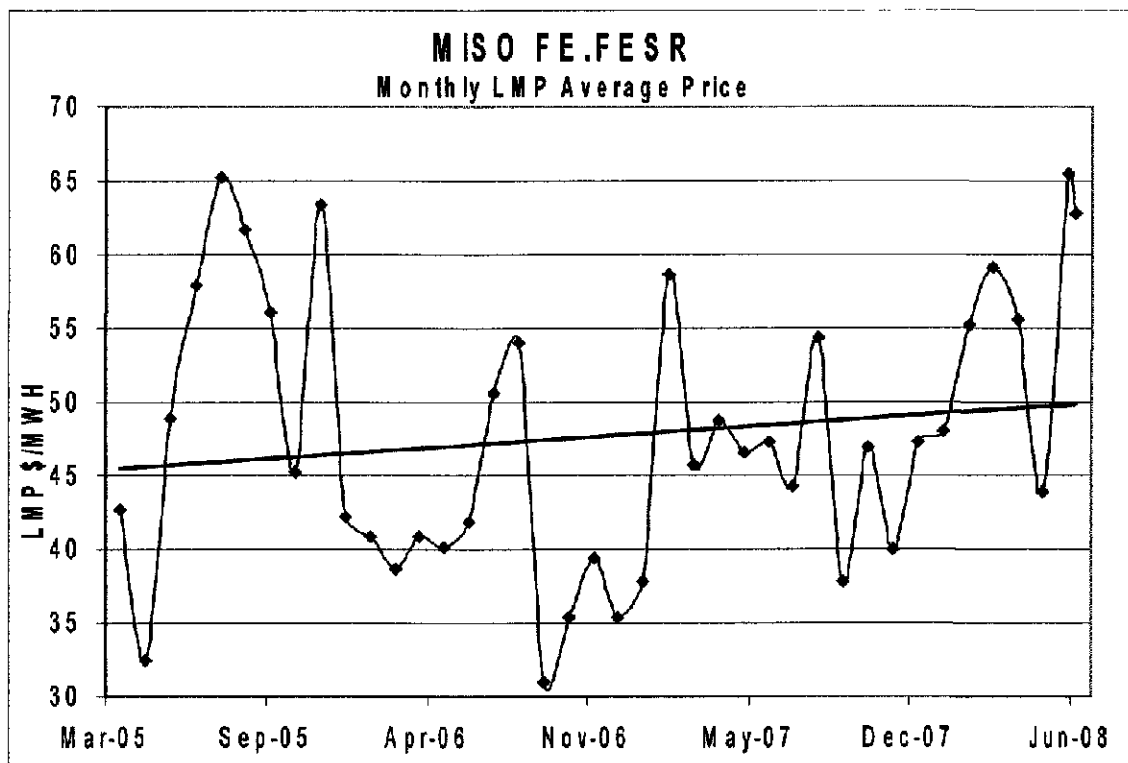
4 What is interesting about these prices is that they address the exact cost of serving the
5 load that is the subject to the ESP case. There was governmental aggregation in Ohio at
6 the time, and if it required any additional margin associated with that risk, then that
7 margin was not even noticeable when compared to the LMP's leading up to the time the
8 Settlement was reached.

9

10 ***Q28. WHAT HAS BEEN THE HISTORICAL TREND IN THE PRICE OF MARKET-***
11 ***BASED POWER IN THE FIRSTENERGY SERVICE AREA?***

12 ***A28.*** MISO has been in operation for over three years and has published hourly data ("LMP")
13 since April 2005. I have summarized the average of the hourly "Day-Ahead" LMP prices
14 for each month since April 2005 below⁸:

⁸ This data is tabulated on Exhibit AJY-2.



1
2 This graph contains the average hourly price for all day-ahead transactions in the
3 FirstEnergy Control Area for the complete historical period available. There is a great
4 deal of variation in these prices, not only on an hourly basis, but on an average monthly
5 basis as well. As the trendline demonstrates, the overall movement upward is slight and
6 the average price is (on a long term basis) less than \$50.00 per mWh. Again, this is the
7 average hourly price that the FirstEnergy EDUs could have paid through MISO on a firm,
8 day-ahead basis over the last three years. This price would have included the cost to
9 deliver this power into the FirstEnergy control area, capacity costs, and any margins
10 required by the sellers.

1 ***Q29. HOW DO THESE HISTORIC LMP PRICES RELATE TO THE PRICE CAPS***
2 ***FOUND IN THE FES/OPERATING COMPANY SETTLEMENT AT THE FERC?***

3 ***A29.*** Forward prices are designed to be reflections (at any given time) of the expectation of the
4 future LMP prices. There is no incentive for a buyer to pay more for energy in a forward
5 contract than he expects the LMP rates to be. Likewise, there is no incentive for sellers
6 to sell below the anticipated LMP rate. Although there is never a guarantee, the
7 expectation is that the forward prices will match the future average LMP rates.

8
9 At the time the Settlement was submitted, MISO had been publishing LMP data for
10 approximately 18 months. LMP prices at FE.FESR had averaged \$45.40 per mWh
11 during the previous twelve months and were trending downward. If this figure was
12 increased by 7.55% to reflect the load shaping adjustment proposed by Dr. Jones, the
13 price would be \$48.83 per mWh. The Settlement called for a price cap in 2006 of \$50.50
14 per mWh—not the total price, but the price not to be exceeded with the expectation that
15 based on the terms and costs within the Settlement that the price would/could be lower.
16 Thus, the Settlement price for 2006 to which the supplier (FES) and the buyer (the Ohio
17 Operating Companies) agree upon was basically the average LMP adjusted for the load
18 shape.

19

20 ***Q30. HOW DO TODAY'S PRICES (2008) FOR LMP AT FE.FESR RELATE TO THE***
21 ***PRICE CAP IN THE SETTLEMENT?***

22 ***A30.*** Over the last twelve months, the FE.FESR LMP has averaged \$51.47 per mWh.
23 Increasing this by 7.55% for load shape produces a price of \$55.36 per mWh, slightly

1 above the \$53.62 per mWh rate cap. Although the recent LMP rates are higher than the
2 2008 price cap offered by the Settlement, the contract must be taken as a whole. Over the
3 27 months of the Settlement period for which there is LMP data available, the average
4 LMP has been \$46.35 per mWh. Taking into account load shape brings this value up to
5 \$49.85 per mWh—significantly below the average price cap for all three years.

6
7 ***Q31. WHAT VALUES DO YOU RECOMMEND AS A STARTING POINT FOR THE***
8 ***DEVELOPMENT OF AN EXPECTED MARKET RATE IN THE FIRSTENERGY***
9 ***CONTROL AREA?***

10 ***A31.*** Based upon the trendline from the graph above of all FE.FESR LMP data, projections of
11 annual average LMP data for FE.FESR during the ESP period would be \$48.45 in 2009,
12 \$49.20 in 2010, and \$50.00 in 2011. My proposed starting points compared to those of
13 Dr. Jones for data as of July 15, 2008 and as modified by 10% to reflect more realistic
14 forward prices that did not occur at the peak time of the year are as follows:⁹

	Yankel	Jones	Jones
		less 10%	9/15/2008
2009	\$48.45	\$50.14	\$55.71
2010	\$49.20	\$49.37	\$54.85
2011	\$50.00	\$48.55	\$53.94
Average	\$49.22	\$49.35	\$54.83

15
16 The average of my starting prices are virtually the same as those proposed by Dr. Jones
17 after an adjustment is made to remove his use of data that represented the time of the
18 highest forward prices of this year. These prices should then be increased by the load

⁹ For example: Dr. Jones' Exhibit 2 had a forward price of \$55.71. Reducing this by 10% (\$5.57) yields a forward price of \$50.14.

1 shaping factor of 7.55% and if they are to be used at the sales level, then they need to be
2 increased by another 4.28% in order to reflect distribution losses. No other adjustments
3 are needed.

4

5 ***Q32. WHY ARE YOUR PROPOSED STARTING VALUES BETTER THAN THOSE***
6 ***OFFERED BY DR. JONES?***

7 ***A32.*** On average my starting prices are the same as those suggested by Dr. Jones (after
8 modifying for not being made at the time of the year when peak forward prices were
9 occurring. However, the prices I propose are significantly better and lower than those of
10 Dr. Jones because I did not make a number of inappropriate adjustments:

- 11 1. They represent a multi-year look at the data, as opposed to merely a snapshot that
12 was taken at one point in time (July 15, 2008);
- 13 2. Although Dr. Jones could have chosen to base his prices upon the FirstEnergy
14 Control Area, he chose to start at the Cinergy Hub. Today the FE.FESR LMP
15 prices are less than those at the Cinergy Hub;
- 16 3. Dr. Jones starting Round-the-Clock forward price for the Cinergy Hub for 2009 of
17 \$55.71 is a significant departure from the long term LMP prices that have been
18 realized historically in FE.FESR; and
- 19 4. Natural gas prices are expected to drop in the next couple of years—the impact of
20 which is in part responsible for the decline in price that is reflected in the Platts
21 data offered by Dr. Jones. I have not factored this decline into my analysis.

Q33. SHOULD ANY ADJUSTMENTS BE MADE TO YOUR STARTING LMP DATA THAT ARE SIMILAR TO THOSE PROPOSED BY DR. JONES TO HIS STARTING VALUES?

A33. Yes, as mentioned above, there are two adjustments of Dr. Jones that I have accepted. Dr. Jones adjusted his prices for load-shaping and distribution losses (assuming comparison is to be made at the sales level. I will use those same adjustments as he developed in order to increase the average hourly prices to reflect the sales level values would be incurred to serve the shape of the load of the FirstEnergy EDUs:

	Starting	Load Shaping Adjustment	Distribution Losses	Final
2009	\$48.45	7.55%	4.28%	\$54.34
2010	\$49.20	7.55%	4.28%	\$55.18
2011	\$50.00	7.55%	4.28%	\$56.08

Q34. WHAT IS THE IMPACT OF USING YOUR SUGGESTED STARTING MARKET PRICE AND ONLY INCLUDING APPROPRIATE ADJUSTMENTS ON THE ESP GENERATION RATES?

A34. The Companies' proposed ESP generation rates of \$75, \$80, and \$85 over the life of the Plan. Although these rates are approximately 6% below the average of the market prices projected by FirstEnergy witness Jones and Graves, these prices represent a large increase over that of the price capped \$53.62 per mWh that is presently being paid. The total cost impact of the Companies' proposed rates over the life of the Plan would be:

Total			\$ 13,854,000,000
	Rate	Sales (mWh)	Revenue
2009	\$75.00	57,202,000	\$ 4,290,000,000
2010	\$80.00	57,705,000	\$ 4,616,000,000
2011	\$85.00	58,211,000	\$ 4,948,000,000

By contrast, a more realistic forecast, with only appropriate adjustments applied yields a very different result:

	<u>Rate</u>	<u>Sales (mWh)</u>	<u>Revenue</u>
2009	\$54.34	57,202,000	\$3,108,356,680
2010	\$55.18	57,705,000	\$3,184,161,900
2011	\$56.08	58,211,000	\$3,264,472,880
Total			\$9,556,991,460

In real terms, the Companies' proposed prices (with inappropriate adjustments) result in \$4,296,000,000 more being charged to customers over the three year life of the Plan than properly adjusted estimated prices.

III. OTHER FEATURES OF THE PROPOSED ESP PLAN

Mr. Blank's ESP Benefit Calculations

Q35. WHAT IS THE PURPOSE OF THE TESTIMONY OF FIRSTENERGY WITNESS BLANK?

A35. It is my understanding that Mr. Blank addresses the FirstEnergy EDUs' proposed Electric Security Plan ("ESP" or "Plan") and explains the advantages to consumers under the Plan, and why the Companies believe that the terms and conditions of the Plan are more favorable to consumers than a Market Rate Offer ("MRO"). Mr. Blank presents a qualitative as well as a quantitative overview of the Companies' position regarding the benefits of the Plan.

1 **Q36. WHAT QUALITATIVE BENEFITS OF THE PLAN DOES MR. BLANK SUGGEST?**

2 **A36.** He addresses four general categories of qualitative benefits:

- 3 1. The Companies believe that its Plan provides price stability;
- 4 2. The Companies believe that its Plan settles (presumably to the benefit of
- 5 consumers) pricing and service arrangements for all aspects of electric service;
- 6 3. The Companies believe that its Plan provides the Commission with flexibility;
- 7 and
- 8 4. The Companies believe that its Plan gives the Commission additional time to
- 9 consider the longer term ESP, and if necessary a longer time to implement a
- 10 competitive bid process.

11

12 **Q37. IS THE PRICE STABILITY OF THE PLAN ANYTHING OUT OF THE**
13 **ORDINARY?**

14 **A37.** Although price stability is touted as the first qualitative benefit of the plan, there is
15 nothing in the Companies' Plan that makes this out of the ordinary. This is simply a 3-
16 year plan with known rate increases of approximately 5%, 4%, and 6% each year
17 respectively. Just because the rates increases are "known" does not make rates
18 "stable"—obviously rates are not stable, simply known. Additionally, there are a host of
19 riders under the Companies' Plan, many of them are variable and even the Companies do
20 not have a forecast of how the rates associated with these Riders will change. The
21 Companies' Plan is anything but stable.

1 Additionally, in order to keep the rate increase down to 5%, 4%, and 6% during each of
2 the years, the FirstEnergy EDUs had to defer 10% of the cost of generation that was
3 called for under its Plan. These deferrals go out for an additional 10 years such that
4 customers that did not use this electricity and incur these generation costs will be required
5 to pay for them. The ESP Plan should not include any deferrals past the 3-year life of the
6 Plan.

7
8 ***Q38. THE SECOND GENERAL QUALITATIVE BENEFIT SIGHTED BY MR. BLANK***
9 ***IS THAT THE PLAN CONTAINS A COMPREHENSIVE ARRANGEMENT THAT***
10 ***BENEFITS THE CONSUMERS. DO YOU AGREE?***

11 ***A38.*** This general category of "benefits" contains a host of specific proposals and
12 commitments. For example, there is a commitment to spend up to \$96 million over a
13 five-year period for energy efficiency, economic development, AMI and environmental
14 remediation programs. Actually, the commitment is only for \$76 million during the 3-
15 year Plan and because the commitment is "up to", it does not mean this full amount will
16 be spent or will be spent in a manner that all customer would consider to be beneficial or
17 above the amount the would have been spent absent the commitment.

18
19 The Companies' Plan establishes a 5-year stay-out provision with respect to any
20 distribution rate increase. Although it is beneficial to customers (and presumably the
21 Companies) to avoid rate cases as long as possible, there is no basis to assume significant
22 (if any) value to this commitment. The Companies have just completed a distribution
23 rate case and are awaiting a Commission decision in the case. It is quite conceivable that

1 the Companies would not be filing a distribution rate case absent the stay-out provision—
2 therefore, the commitment is of little or no value. Making a distribution rate case even
3 less likely under the Plan (without the 5-year stay-out provision) is the request for a
4 Delivery Service Improvement Rider of 0.2 cents/kWh that would result in additional
5 revenues to the Companies of approximately \$115 million per year.

6 The Companies' Plan proposes a settlement of its distribution rate case that is now
7 pending a Commission decision. Mr. Blank states¹⁰ that inclusion in the Plan will
8 establish "certainty for customers about the recovery patterns for legacy deferral issues."
9 Although I agree that the settlement of these issues in the Plan will bring "certainty", so
10 will a Commission Order. The Companies are not offering anything that will not happen
11 with the Order that is being awaited. Additionally, the Companies have offered to settle
12 the distribution rate cases for an increase in distribution rates of approximately \$150
13 million per year plus a \$25 million deferral for the CEI.¹¹ This large amount is of no
14 benefit to customers when the Staff has proposed an increase that is approximately \$123
15 million per year¹² and the OCC has supported a very modest increase for only TE.¹³
16

17 ***Q39. DO YOU HAVE ANY OVERALL OBSERVATIONS AND/OR COMMENTS***
18 ***REGARDING THE COMPANIES' SECOND CLAIMED BENEFIT OF ITS PLAN***
19 ***THAT IT SETTLES PRICING AND SERVICE ISSUES?***

¹⁰ Blank direct testimony page 13, lines 14-15.

¹¹ Application, paragraph A.3.b.

¹² FirstEnergy Distribution Rate Cases, Case No. 07-551-EL-AIR, et al., Tufts Testimony, LET-2. The \$123 million is the average of the lower and upper bounds, and added across three companies.

¹³ Id., Effron Testimony, Schedule DJE-A.

1 **A39.** Although Mr. Blank presents the Companies' claimed benefits regarding the settlement
2 of pricing and service issues, he correctly observes that these matters are not uniquely
3 limited to what can only take place in the Plan:

4 Most—but not all—of these matters could of course be dealt with in
5 separate regulatory proceedings, all of which would serve primarily to
6 occupy valuable time and space on the Commission's docket, as well as
7 for the parties involved.

8
9 Basically, he admits that these are not separate benefits to customers that can only be
10 achieved in the Plan. Admittedly, the resolution of these issues (to the Companies'
11 liking) would save the time of the intervenors, OCC, the Commission Staff and the
12 Commission—but these people are all paid to insure that those that they represent get a
13 benefit, not that their workload is reduced. Although some of the "benefits" of the
14 Companies' Plan espoused by Mr. Blank are truly benefits, they come at a very high
15 price and may in fact not be a "benefit" when compared to other avenues of obtaining the
16 same result.

17

18 **Q40. THE THIRD GENERAL QUALITATIVE BENEFIT CITED BY MR. BLANK IS**
19 **THAT THE PLAN PROVIDES THE COMMISSION WITH FLEXIBILITY. DO**
20 **YOU AGREE THAT THIS IS A BENEFIT?**

21 **A40.** As described by Mr. Blank¹⁴, the Companies' Plan provides some flexibility such as
22 allowing the Commission to reject the year 3 generation prices if a more favorable
23 arrangement becomes available. I agree with Mr. Blank that this offers a certain degree
24 of flexibility to the Plan.

¹⁴ Blank's direct testimony, pages 14-15.

1 However, there are other aspects of the Companies' Plan that do not necessarily add
2 flexibility beyond the ordinary. For example, the Plan offers a Phase-in program for the
3 base generation rates. This is something that is certainly not unique or out of the
4 ordinary, so it has little value as a "benefit". Additionally, as I stated above, I believe
5 that such deferral should be rejected, as they only tend to mask the impacts of the rates
6 being proposed by the Companies. Moreover, if rates continue to go up during the years
7 that the deferrals are to be recovered, this will create additional problems for consumers
8 in terms of paying these costs.

9
10 ***Q41. THE FOURTH GENERAL QUALITATIVE BENEFIT CITED BY MR. BLANK IS***
11 ***THAT THE PLAN GIVES THE COMMISSION ADDITIONAL TIME TO MAKE A***
12 ***REASONED DECISION REGARDING THE ESP PLAN, OR ADDITIONAL TIME***
13 ***TO IMPLEMENT A COMPETITIVE BID UNDER A MRO. DO YOU AGREE THAT***
14 ***THIS IS A BENEFIT?***

15 ***A41.*** Although I do not necessarily agree with the terms outlined in the Companies' proposal
16 to extend the timeframe over which a decision can be made and/or a competitive auction
17 held, I agree that the concept of providing an extended time to get everything done may
18 be a benefit.

19
20 ***Q42. THE COMPANIES CONTEND THAT ITS PLAN PROVIDES \$1.3 BILLION IN***
21 ***QUANTIFIABLE BENEFITS. HOW WAS THIS VALUE CALCULATED?***

22 ***A42.*** Mr. Blank's Attachment 1 as well as pages 16-17 of his direct testimony gives an
23 overview of the development of how the Companies derived the claimed benefit of \$1.3

1 billion. Primarily, the Companies' calculated "benefit" of \$1.3 billion came from a
2 calculated cost of Market rates over a calculated price being paid by customers for
3 generation in 2008 (net present value of \$2.88 billion), less the change in revenue under
4 the Plan (net present value of \$1.58 billion).

5
6 **Q43. ARE THE COMPANIES' CALCULATIONS SOUND?**

7 **A43.** No. The vast majority of the problem comes about with respect to the Companies'
8 calculation of the impact of the Market Rates that it is applying as a target for the ESP to
9 be below. However, before I get into that problem I would like to make one observation
10 regarding the ESP side of the calculations presented by the FirstEnergy EDUs. The ESP
11 is suppose to be a 3-year plan, but the Companies propose to defer a significant amount
12 of costs for the next 27 years—until the year 2035. Such deferrals are simply wrong.

13
14 Because the vast majority of the impact of the calculated "benefit" rests on the
15 calculation of the appropriateness of the generation rates, I will address only this issue.
16 Because I disagree with any deferrals of the costs out until the year 2035, I will only
17 address these costs on a non-deferral basis over the 3-year Plan period.

18
19 Mr. Blank's Attachment 1 utilizes the Companies' Consultant Market Rates of \$82.57 for
20 2009, \$85.27 for 2010, and \$88.19 for 2011. As can be seen from the table below, if one
21 starts with Market Rates as suggested by the Companies' witnesses, and used the
22 FirstEnergy EDUs' proposed ESP generation rates, the net savings is \$923,000,000 on a
23 "real" dollar basis.

*Direct Testimony of Anthony J. Yankel
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 08-0935-EL-SSO*

Year Sales (mWh)	<u>2009</u> <u>57,202,000</u>	<u>2010</u> <u>57,705,000</u>	<u>2011</u> <u>58,211,000</u>
FirstEnergy Market	\$82.57	\$85.27	\$88.19
Cost \$ millions	\$4,723	\$4,921	\$5,134
Proposed ESP	\$75.00	\$80.00	\$85.00
Cost \$ millions	\$4,290	\$4,616	\$4,948
ESP savings \$ million	\$433	\$304	\$186
		Total	\$923

However, as pointed out above, the Market Rate prices offered by the Companies' witnesses are highly inflated and are substantially above the \$53.62 per mWh competitive rate that the FirstEnergy EDUs are paying to FES today. The following table demonstrates that applying the FES offered prices of \$75, \$80, and \$85 during the term of the Plan will result in not a benefit, but an overpayment by customers of \$4,297,000,000:

Year Sales (mWh)	2009 57,202,000	2010 57,705,000	2011 58,211,000
Proposed Market	\$54.34	\$55.18	\$56.08
Cost \$ millions	\$3,108	\$3,184	\$3,264
Proposed ESP	\$75.00	\$80.00	\$85.00
Cost \$ millions	\$4,290	\$4,616	\$4,948
ESP savings \$ million	-\$1,182	-\$1,432	-\$1,683
		Total	-\$4,297

The dollar amounts submitted by the FirstEnergy EDUs should be carefully considered in light of my testimony, and the Commission should eliminate overpayment by customers.

IV. TARIFF RATES AND RIDERS

Q44. ARE THE TARIFF RATES AND RIDERS PROPOSED BY THE FIRSTENERGY EDUs IN THIS CASE FOR THE RESIDENTIAL CUSTOMERS APPROPRIATE?

A44. There are some notable proposals that inappropriately impact the residential class and/or charge customers prices that are excessive.

Q45. IS THE OVERALL RATE DESIGN OFFER BY THE FIRSTENERGY EDUs FOR THE RESIDENTIAL CUSTOMERS APPROPRIATE?

A45. No. In the Distribution Rate Case (Case No. 07-551-EL-AIR), the Companies proposed an inverted block rate for the Residential customers. This inverted block rate was opposed by both the OCC and the Commission Staff. That case and that issue are still pending a Commission Order. In Mr. Hussing's testimony in this case,¹⁵ the Companies are no longer pursuing an inverted block distribution rate for residential customers.

In this case, the FirstEnergy EDUs propose that virtually all charges other than the distribution charge are to be assessed through a rider—including the generation cost in the Generation Service Rider 88. Rider 88 has a flat rate that is somewhat different for various voltage levels and customer groups, but it is a flat rate structure for all but the residential customers where an inverted block summer rate is once again proposed by the Companies.

¹⁵ Companies witness Hussing's direct testimony page 6 lines 3-4.

1 ***Q46. HAS THE COMPANY JUSTIFIED ITS PROPOSAL FOR AN INVERTED BLOCK***
2 ***RATE STRUCTURE FOR RESIDENTIAL CUSTOMERS IN THIS CASE?***

3 ***A46.*** No. The Company has provided no basis (cost or otherwise) for its isolated proposal for
4 charging residential customers. Under traditional ratemaking (something that is not
5 occurring in this case), such proposals as an inverted rate design would be accompanied
6 by a detailed study that would demonstrate the nature of the underlying cost differentials
7 that would give rise to such a proposal. If anything, the little information that is available
8 in this case indicates that the rate should be flat. The generation charge from FES is a flat
9 rate without any differentiation based upon the amount of usage.

10

11 The Companies' proposal is not only lacking any quantitative support, but it is counter to
12 the rate designs contained in Rider 88 for all of the other customer groups. If it is
13 appropriate to charge extra for extra residential usage in the summer (presumably air
14 conditioning load), why would it not be appropriate to charge extra for commercial air
15 conditioning load? Why would it not be appropriate to simply charge for any customer's
16 (residential, commercial, or industrial) beyond a certain level in the summer? The
17 Companies rate design in Rider 88 for residential customers lacks quantitative support as
18 well as being counter to the rate design proposed for all of the other customer groups.
19 Until the Companies can provide data to support its proposal, residential customers under
20 Rider 88 should be given a flat rate.

1 ***Q47. ARE THERE OTHER RATE DESIGN ISSUES WITH RESPECT TO THE***
2 ***GENERATION RATE AND RESIDENTIAL CUSTOMERS?***

3 ***A47.*** Yes. The Companies' recognize throughout their testimony that the changes that are
4 being made by the Companies will have and great impact on a limited number of
5 customers that have paid below average rates. This is not to say that these customers
6 have been paying below cost of service rates, just that their rates have been less than
7 average and that the Companies' present proposals are not based upon cost of service.
8 The Companies' recognition of these problems comes to light with respect to Rider 81,
9 which is a distribution credit for Residential customers who have traditionally been on a
10 space-heating rate. The Companies also have proposed Rider 94 for grandfathered
11 contracts.

12
13 The Companies' Rider 81 appropriately gives a discount to these residential heating
14 customers that provides gradualism with respect to the distribution rates. However, the
15 distribution rates represent approximately one-third of the customer's bill. A similar
16 discount should be developed for former residential space-heating customers with respect
17 to the generation portion of their bills.

18
19 ***Q48. ARE THERE ANY OTHER PROBLEMS WITH GENERATION SERVICE***
20 ***RIDER 88?***

21 ***A48.*** Yes. According to Rider 88, the charges listed includes "a minimal default service
22 charge in the amount of one cents per kWh payable by all customers...." Thus, the "one
23 cents per kWh" portion of the Rider 88 charges is not related to the cost of generation

1 from FES. Furthermore, this minimum default service charge is not based on the results
2 of a cost-based analytical study.¹⁶ Companies witness Warvell addresses this default
3 service charge on page 10 of his testimony:

4 This non-bypassable charge is necessary to recover, among other things,
5 generation related administrative costs and hedging costs associated with
6 the Companies' obligation to serve the entire load of their retail customers.
7 The Companies are required to be the default provider of retail generation
8 service to all customers within their service territories.

9 This charge is inappropriate.

10
11 ***Q49. WHY IS THIS ONE CENT MINIMUM DEFAULT SERVICE CHARGE***
12 ***INAPPROPRIATE?***

13 ***A49.*** As readily admitted by the Companies, there is no cost basis for the charge. Although the
14 Companies give a qualitative rationale for applying a minimum default service charge,
15 the rationale is faulty. The Companies are not supplying the generation—FES is.
16 Therefore the Companies do not need to incur “generation related administrative costs
17 and hedging costs associated with the Companies' obligation to serve.” The one cent per
18 kWh charge would simply be a double counting of any costs that FES or any other
19 supplier would have added to the sale price of its generation in order to cover a multitude
20 of risks. As pointed out in my testimony above regarding ESP generation charges, these
21 costs are built into the offer price to distribution utilities such as the FirstEnergy EDUs.
22 This one cent per kWh should not be included in the generation rates under Generation
23 Service Rider 88. Considering the fact that one cents per kWh translates into \$10 per
24 mWh and that the Companies project that they will sell 173 million mWh during the Plan

¹⁶ See Companies' response to IEU Set 1, request 1-11, attached as Exhibit AJY-3.

1 period, this translates into an additional \$1.73 billion of revenue for the Companies that is
2 not associated with any cost.

3
4 ***Q50. ARE THERE OTHER RIDERS PROPOSED BY THE COMPANIES THAT RESULT***
5 ***IN EXCESSIVE OR INAPPROPRIATE RATES?***

6 ***A50.*** Yes. The Companies propose a Delivery Service Improvement Rider 106. These rates
7 are to be adjustable, based upon the Companies' ability to meet specific reliability
8 performance targets—to be addressed later. The base rate for Residential is 0.2571 cents
9 per kWh and for other schedules the rate is applied to the billing demand. From
10 Attachment 1 to Mr. Blank's testimony, the Companies suggest that this DSI Rider will
11 recover on average \$2.00 per mWh (0.200 cents per kWh) or approximately \$115 million
12 per year. According to Companies witness Schneider¹⁷:

13 This rider would enable the Companies to place emphasis on and dedicate
14 adequate resources to all aspects of the delivery of reliable distribution
15 service.

16 The Company has provided absolutely no cost justification for this charge—it is
17 essentially asking for money in advance so that it can do some unspecified work on the
18 distribution system. If the Commission is inclined to have a rider that adjusts up or down
19 (depending upon the Companies ability to meet specific reliability performance targets),¹⁸
20 it should do so without first providing the Companies with a 0.200 cents per kWh starting
21 rate. Moreover, since this is a distribution charge, it should be recovered at such time as
22 the costs are incurred and can be justified in a future rate case.

¹⁷ Company witness Schneider page 5 lines 1-3.

¹⁸ The advisability of the DSI Rider is addressed in the testimony of OCC Witness Cleaver.

1 ***Q51. HOW DOES THIS DELIVERY SERVICE IMPROVEMENT RIDER 106 RELATE***
2 ***TO THE COMPANIES' ESP COMMITMENT TO SPEND \$1 BILLION ON THE***
3 ***DISTRIBUTION SYSTEM OVER THE NEXT FIVE YEARS?***

4 ***A51.*** This \$1 billion of funds (which may or may not be more than spent without the
5 Companies' "commitment") would be recovered in rates, as a return on rate base. From
6 the Staff Report in the Distribution case¹⁹ it can be calculated that an 8.125% rate of
7 return for this investment would be at the Staff's midpoint.²⁰ Multiplying by a revenue
8 conversion factor of 1.594 yields an annual revenue on a \$1 billion investment of \$130
9 million per year.²¹ This is only slightly higher than the amount that the Companies
10 propose to collect each year under Rider 106. However, the Companies intend to take
11 five years to spend this \$1 billion, while Rider 106 would be collected revenue on the
12 basis that this investment is essentially incurred in the first year. The Companies'
13 "base/beginning" rate in Rider 106 should be rejected.²²

14
15 ***Q52. IS THE GENERATION PHASE-IN RIDER 87 APPROPRIATE?***

16 ***A52.*** No. As pointed out above, the Companies' proposed ESP generation rates of \$75, \$80,
17 and \$85 per mWh are excessive. If a more appropriate rate is developed, deferrals will
18 not be necessary. Additionally, as pointed out above, the extra "minimum default service
19 charge" of one cent per kWh should be removed from Generation Service Rider 88.

¹⁹ Staff Report in case No. 07-551-EL-AIR.

²⁰ The midpoint stated in Staff witness Tufts' testimony is 8.48%.

²¹ The figure increases to \$135 million under the 8.48% rate of return stated in Staff witness Tufts testimony.

²² The testimony of OCC witness Cleaver states other problems connected with the Delivery Service Improvement Rider 106.

1 Removing this one cent per kWh charge alone would be greater than the deferral
2 proposed by the Companies in any year. Rider 87 should be rejected.

3

4 **Q53. ON PAGE 12 AND 13 OF MR. WARVELL'S TESTIMONY, THERE IS A**
5 **DISCUSSION OF RIDER CCA DESIGNED TO RECOVER FROM CUSTOMERS**
6 **ADDITIONAL COSTS TO FES OF MEETING THE OPERATING COMPANIES'**
7 **LOADS. SHOULD FES' CAPACITY BE INSUFFICIENT. IS THIS RIDER**
8 **APPROPRIATE?**

9 **A53.** No. The purpose of this proposed rider as outlined by Mr. Warvell is:

10 Capacity purchases required to meet FERC, NERC, MISO or other
11 applicable standards for planning reserve margin requirements for the
12 Companies' retail Ohio load will be provided by FES through FES-owned
13 capacity as described below. *In the event this capacity is insufficient, FES*
14 *will supply the needed capacity to meet the planning reserves requirement,*
15 *but the associated costs of doing so will be included in the wholesale*
16 *power supply agreement, and recovered by the Companies pursuant to a*
17 *separate charge recovered from customers through Rider CCA.*²³

18 The prices paid to an affiliated or non-affiliated marketer for supplying the requirements
19 of the FirstEnergy EDUs should include all costs, not just a portion of the costs with the
20 Companies paying additional if FES runs short on its own capacity. This additional cost
21 that is to be added (if FES falls short of its obligations) is inappropriate and should be
22 rejected by the Commission.

²³ Emphasis added.

1 ***Q54. IS THE COMPANIES' FUEL TRANSPORTATION SURCHARGE AND***
2 ***ENVIRONMENTAL CONTROL RIDER 110 APPROPRIATE?***

3 ***A54.*** No. Like the proposed Capacity Cost Adjustment Rider (CCA) proposed by Mr.
4 Warvell, proposed Rider 110 is also inappropriate. The forward prices that are offered
5 and purchased by other companies in the market include all costs. They are not
6 constantly adjusted upward for any increases that may occur to the supplier. The
7 Commission should reject Rider 110. Additionally, the Companies are proposing a Fuel
8 Cost Adjustment Rider ("Rider FCA") in 2011 to recover "uncertainty of fuel prices
9 more than two years out into the future." This Rider should also be rejected by the
10 Commission because these costs are not known and measurable. Further, under a
11 competitive bidding regime, the estimated fuel costs would be included in the bid price.
12 In determining the rate that FES is going to charge, it should be a like comparison.

13

14 ***Q55. IS THE COST RECOVERY IN THE COMPANIES' DEMAND SIDE***
15 ***MANAGEMENT AND ENERGY EFFICIENCY RIDER 97 APPROPRIATE?***

16 ***A55.*** No. The recovery of demand side management costs in this rider is treated in two
17 different manners, where some costs have been assigned to all customer classes on an
18 equal cents per kWh basis and other costs have been allocated only to the residential
19 class. It is my understanding that the "DSE2" costs that are allocated only to residential
20 customers are a legacy cost from Case No. 05-1125-EL-ATA. It is inappropriate to have
21 the recovery of DSM costs on two different allocation methods. The Commission should
22 ensure that all future recovery of DSM costs is performed on a consistent basis.

1 **V. CONCLUSION**

2

3 **Q56. WHAT ARE YOUR OVERALL RECOMMENDATIONS REGARDING THE**
4 **FIRSTENERGY EDUs' ESP PLAN?**

5 **A56.** For the Companies' ESP Plan to have any benefit to the consumers at all, the generation
6 rates charge at sales level must be no greater than \$54.34 in 2009, \$55.18 in 2010, and
7 \$56.08 in 2011. There should be no deferrals outside of the 3-year plan period. The
8 Companies' proposal for "settling" the distribution rate case for \$150 million per year
9 should be rejected.

10 In addition, the Commission should reject the following rates and rider proposals
11 made by the Companies:

- 12 • The inverted block generation rate for Residential summer usage;
- 13 • The one cent per kWh minimum default service charge contained in the
14 Generation Service Rider 88;
- 15 • The Delivery Service Improvement Rider 106 base rate of approximately
16 0.2 cents per kWh;
- 17 • The Deferred Generation Recovery Rider 87;
- 18 • The proposed Capacity Cost Adjustment (CCA) Rider;
- 19 • The Fuel Transportation Surcharge & Environmental control Rider 110;
- 20 and
- 21 • The proposed Fuel Cost Adjustment Rider in 2011.


*Direct Testimony of Anthony J. Yankel
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 08-0935-EL-SSO*

1 ***Q57. DOES THIS CONCLUDE YOUR TESTIMONY?***

2 ***A57.*** Yes, however, I reserve the right to supplement my testimony to incorporate new
3 information that may subsequently become available.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Testimony of Anthony J. Yankel on behalf of the Office of the Ohio Consumers' Counsel has been served upon those persons listed below via first class U.S. Mail, prepaid, this 29th day of September, 2008.


Jeffrey L. Small
Assistant Consumers' Counsel

PERSONS SERVED

David F. Boehm
Boehm, Kurtz & Lowry
36 East Seventh St., Ste. 1510
Cincinnati, OH 45202

Attorney for Ohio Energy Group

John W. Bentine
Chester, Willcox & Saxbe LLP
65 East State St., Ste. 1000
Columbus, OH 43215-4213

Attorney for The Kroger Company, Inc.

Barth E. Royer
Bell & Royer Co. LPA
33 South Grant Avenue
Columbus, OH 43215-3927

Attorney for The Ohio Environmental
Council and Dominion Retail, Inc.

John Jones
William Wright
Assistant Attorneys General
Public Utilities Commission of Ohio
180 E. Broad St., 9th Fl.
Columbus, OH 43215

Samuel C. Randazzo
Lisa McAlister
Daniel Neilsen
Joseph Clark
McNees, Wallace & Nurick LLC
21 East State St., 17th Fl.
Columbus, OH 43215

Attorney for Industrial Energy Users-Ohio

David C. Rinebolt
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793

Attorney for Ohio Partners for Affordable
Energy

James W. Burk
Arthur E. Korkosz
Mark A. Hayden
Ebony L. Miller
FirstEnergy Corp.
76 South Main Street
Akron, OH 44308

Leslie A. Kovacik
Dept. of Law
420 Madison Ave., 4th Fl.
Toledo, OH 43604-1219

Attorney for the City of Toledo and NOAC

Lance M. Keiffer, Asst. Prosecutor
711 Adams Street, 2nd Floor
Toledo, OH 43624-1680

Attorney for Lucas County and NOAC

Garrett Stone
Brickfield, Burchette, Ritts & Stone
1025 Thomas Jefferson St., N.W.
8th West Tower
Washington, D.C. 20007

Attorney for Nucor Steel Marion, Inc.

M. Howard Petricoff
Vorys, Sater, Seymour And Pease LLP
52 East Gay St., P. O. Box 1008
Columbus, OH 43216-1008

Attorney for Constellation NewEnergy,
Inc. and Constellation Energy
Commodities Group, Inc., Direct Energy
Services, LLC and Integrys Energy
Services, Inc.

Cynthia A. Fonner
David Fein
Constellation Energy Group, Inc.
550 W. Washington St., Suite 300
Chicago, IL 60661

Attorney for Constellation NewEnergy,
Inc. and Constellation Energy
Commodities Group, Inc.

Mark A. Whitt
Jones Day
P.O. Box 165017
Columbus, OH 43216-5017

Richard L. Sites
General Counsel and Senior Director of
Health Policy
Ohio Hospital Association
155 East Broad Street, 15th Floor
Columbus, OH 43215-3620

Henry W. Eckhart
50 W. Broad St., #2117
Columbus, OH 43215

Attorney for The Sierra Club Ohio Chapter
and Natural Resources Defense Council

Craig G. Goodman
National Energy Marketers Association
3333 K St., N.W., Ste. 110
Washington, D.C. 20007

Sean W. Vollman
David A. Muntean
Assistant Directors of Law
161 S. High Street, Suite 202
Akron, OH 44308

Attorney for City of Akron

Joseph Meissner,
The Legal Aid Society of Cleveland
1223 West 6th St.
Cleveland, OH 44113

Attorney for Citizens Coalition,
Citizens for Fair Utility Rates,
Neighborhood Environmental Coalition
Cleveland Housing Network,
Empowerment Center for Greater
Cleveland

Glenn Krassen
Bricker & Eckler LLP
1375 East Ninth St., Ste. 1500
Cleveland, OH 44114

Attorney for Northeast Ohio Public Energy
Council and Ohio Schools Council

R. Mitchell Dutton
FPL Energy Power Marketing, Inc.
700 Universe Boulevard
CTR/JB
Juno Beach, FL 33408

Attorney for FPL Energy Power
Marketing, Inc., and Gexa Energy
Holdings, LLC

Eric D. Weldele
Tucker Ellis & West LLP
1225 Huntington Center
41 South High Street
Columbus, OH 43215

Attorney for Council of Smaller
Enterprises

Larry Gearhardt
Chief Legal Counsel
Ohio Farm Bureau Federation
280 North High St., P.O. Box 182383
Columbus, OH 43218-2383

Gregory H. Dunn
Schottenstein, Zox & Dunn Co., LPA
250 West Street
Columbus, OH 43215

Attorney for the City of Cleveland

Langdon D. Bell
Bell & Royer Co., LPA
33 South Grant Ave.
Columbus OH 43215-3927

Attorney for Ohio Manufacturer's
Association

Damon E. Xenopoulos
Brickfield, Burchette, Ritts & Stone, PC.
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, DC 20007

Attorney for OmniSource Corporation

Craig I. Smith
2824 Coventry Road
Cleveland, OH 44120

Attorney for Material Sciences Corporation

Douglas M. Mancino
McDermott, Will & Emery LLP
2049 Century Park East, Ste. 3800
Los Angeles, CA 90067-3218

Attorney for Morgan Stanley Capital
Group, Inc.

sam@mwncmh.com
john.jones@puc.state.oh.us
william.wright@puc.state.oh.us
drinebolt@aol.com
dboehm@bkllawfirm.com
BarthRoyer@aol.com
jbentine@cwslaw.com
Cynthia.A.Fonner@constellation.com
mhpetricoff@vssp.com
gas@bbrslaw.com
leslie.kovacik@toledo.oh.gov
lkeiffer@co.lucas.oh.us
mitch.dutton@fpl.com
LBell33@aol.com
robinson@citizenpower.com
lmcalister@mwncmh.com
jclark@mwncmh.com
dneilsen@mwncmh.com

Theodore S. Robinson
Citizen Power
2121 Murray Avenue
Pittsburgh, PA 15217

Attorney for Citizen Power

Gregory K. Lawrence
McDermott, Will & Emery LLP
28 State Street
Boston, MA 02109

Attorney for Morgan Stanley Capital
Group, Inc.

Grace C. Wung
McDermott Will & Emery, LLP
600 Thirteenth Street, N.W.
Washington, DC 20005

Attorney for the Commercial Group

burkj@firstenergycorp.com
korkosza@firstenergycorp.com
haydenm@firstenergycorp.com
elmiller@firstenergycorp.com
mawhitt@jonesday.com
ricks@ohanet.org
henryeckhart@aol.com
cgoodman@energymarketers.com
Vollmse@ci.akron.oh.us
jpmessn@lasclev.org
LGearhardt@ofbf.org
gkrassen@bricker.com
gdunn@szd.com
dex@bbrslaw.com
wis29@yahoo.com
eric.weldele@tuckerellis.com
david.fein@constellation.com
gwung@mwe.com

FE.FESR less CINERGY.HUB
Average Monthly
LMP Prices

Apr-05	\$1.46
May-05	\$1.02
Jun-05	\$1.64
Jul-05	\$2.34
Aug-05	\$1.70
Sep-05	\$1.02
Oct-05	\$3.27
Nov-05	\$1.90
Dec-05	\$2.22
Jan-06	\$1.12
Feb-06	\$1.21
Mar-06	-\$1.96
Apr-06	-\$1.21
May-06	-\$0.23
Jun-06	\$0.95
Jul-06	\$0.95
Aug-06	\$2.10
Sep-06	\$0.42
Oct-06	\$0.95
Nov-06	\$0.22
Dec-06	\$0.79
Jan-07	\$1.35
Feb-07	\$1.79
Mar-07	\$1.28
Apr-07	\$1.08
May-07	-\$0.81
Jun-07	-\$1.39
Jul-07	\$2.32
Aug-07	-\$2.52
Sep-07	-\$0.14
Oct-07	-\$0.36
Nov-07	-\$1.41
Dec-07	\$1.31
Jan-08	-\$3.16
Feb-08	-\$0.95
Mar-08	\$1.36
Apr-08	\$1.33
May-08	\$2.05
Jun-08	-\$2.93
Jul-08	-\$0.85

Average Monthly
LMP Price

FE.FESR	Apr-05	\$42.66
FE.FESR	May-05	\$32.44
FE.FESR	Jun-05	\$48.90
FE.FESR	Jul-05	\$57.93
FE.FESR	Aug-05	\$65.32
FE.FESR	Sep-05	\$61.71
FE.FESR	Oct-05	\$56.11
FE.FESR	Nov-05	\$45.15
FE.FESR	Dec-05	\$63.40
FE.FESR	Jan-06	\$42.21
FE.FESR	Feb-06	\$40.86
FE.FESR	Mar-06	\$38.69
FE.FESR	Apr-06	\$40.77
FE.FESR	May-06	\$40.08
FE.FESR	Jun-06	\$41.84
FE.FESR	Jul-06	\$50.59
FE.FESR	Aug-06	\$53.97
FE.FESR	Sep-06	\$31.02
FE.FESR	Oct-06	\$35.41
FE.FESR	Nov-06	\$39.42
FE.FESR	Dec-06	\$35.38
FE.FESR	Jan-07	\$37.83
FE.FESR	Feb-07	\$58.61
FE.FESR	Mar-07	\$45.75
FE.FESR	Apr-07	\$48.80
FE.FESR	May-07	\$46.63
FE.FESR	Jun-07	\$47.34
FE.FESR	Jul-07	\$44.27
FE.FESR	Aug-07	\$54.41
FE.FESR	Sep-07	\$37.79
FE.FESR	Oct-07	\$47.03
FE.FESR	Nov-07	\$40.04
FE.FESR	Dec-07	\$47.27
FE.FESR	Jan-08	\$48.03
FE.FESR	Feb-08	\$55.33
FE.FESR	Mar-08	\$59.08
FE.FESR	Apr-08	\$55.59
FE.FESR	May-08	\$43.94
FE.FESR	Jun-08	\$65.52
FE.FESR	Jul-08	\$62.83

IEU Set 1

Witness: K. Warvell

Case No. 08-935-EL-SSO

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

RESPONSES TO REQUEST

IEU Set 1-11 How was the 1cent/kWh POLR charge, which is built into generation rates for non-shoppers determined?

Response: The Minimum Default Service charge is not based on the results of a cost-based analytical study. This non-bypassable charge is necessary to recover, among other things, generation related administrative costs and hedging costs associated with the Companies' obligation to serve the entire load of their retail customers. This charge addresses the cost of hedging generation to serve the Companies' retail load and the associated risk of customers leaving and shopping with an alternative supplier. The effect of this charge is to reduce risk otherwise borne by the Companies thereby permitting the base generation price to be offered at a lower level than otherwise would have been achievable.