

**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  
for a Standard Service Offer Pursuant to  
R.C. § 4928.143 in the Form of an Electric  
Security Plan**

**Case No. 12-1230-EL-SSO**

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**STIPULATION AND RECOMMENDATION**

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**INTRODUCTION**

Rule 4901-1-30, Ohio Administrative Code (“OAC”) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below (the “Signatory Parties”) and to recommend that the Public Utilities Commission of Ohio (the “Commission” or “PUCO”) approve and adopt this Stipulation and Recommendation, including all Attachments hereto, (“Stipulation”), as part of its Opinion and Order in this proceeding, resolving all of the issues in the proceedings.<sup>1</sup>

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and

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<sup>1</sup> Although filed as “SSO” pursuant to R.C. § 4928.143 and to the Commission’s Rules, we request that the proposal be considered as if filed pursuant to any other case designations as may be applicable to the scope of the proposals made herein.

capable Signatory Parties in a cooperative process and undertaken by the Signatory Parties representing a wide range of interests to resolve the aforementioned issues. The Companies and numerous other parties have engaged in a wide range of discussions over a period of time related to the development of the Companies' third Electric Security Plan ("ESP 3"), which essentially extends the Stipulation (including the Supplemental Stipulation and Second Supplemental Stipulation all as partially modified and approved by the Commission, together herein referred to as the "2010 ESP Stipulation") in Case No. 10-388-EL-SSO for two additional years, which continues to include the competitive bidding process, recovery of transmission related costs, distribution reliability and cost recovery, economic development in many forms, energy efficiency, and support for low income customers, as well as the efficient and timely resolution of other pending proceedings. The Signatory Parties recognized the advantages of implementing ESP 3 at this time including without limitation: 1) enabling the Companies to bid demand response resources and PJM-qualifying energy efficiency resources<sup>2</sup> into the PJM 2015-2016 Base Residual Auction, if ESP 3 is approved on or before May 2, 2012, thereby adding to supply in that auction, which may in turn increase low-cost capacity supply in that auction; 2) modifying the bid schedule previously approved in the Companies' current ESP so that the bids to occur in October 2012 and January 2013 will be for a three year period rather than a one year period in an attempt to capture the current historically lower generation prices for a longer period of time that would be blended with potentially higher prices occurring over the life of the ESP 3 plan thereby smoothing out generation prices and mitigating volatility in generation pricing for customers; 3) to extend the recovery period for renewable energy credit costs over the life of the ESP 3 plan in order

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<sup>2</sup> The term "PJM-qualifying energy efficiency resources," as used herein, is defined in Section E.9 *infra*.

to lower costs to customers related to compliance with the statutory benchmarks for renewable energy resources and such recovery will not result in a deferral to the AER Rider beyond the term of this ESP 3; and 4) to maintain the benefits gained and now being realized from the 2010 ESP Stipulation for an additional two years, thus enhancing the stability and predictability of rate levels and tariff provisions for customers. This Stipulation represents the culmination of these discussions and is an accommodation of the diverse interests represented by the Signatory Parties, and it is entitled to careful consideration by the Commission. For purposes of resolving the issues raised by this proceeding, the Signatory Parties stipulate, agree and recommend as set forth below.

In the event the Commission does not approve this ESP 3 as filed by Ohio Edison Company (“Ohio Edison”), The Cleveland Electric Illuminating Company (“CEI”), and The Toledo Edison Company (“Toledo Edison”) (hereinafter individually and collectively “Company” or “Companies”) by May 2, 2012, in order to have the Companies bid demand response resources and PJM-qualifying energy efficiency resources into the 2015/2016 PJM Base Residual Auction, but no later than June 20, 2012, which would be too late to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015/2016 Base Residual Auction (“BRA”) on May 7, 2012, but should still permit adequate time to implement changes to the bidding schedule to capture a potentially greater amount of generation at historically lower prices for the benefit of customers, then the Companies may render this Stipulation and ESP null and void and the Application filed with this Stipulation shall be considered withdrawn upon the filing of a written notice with the Commission.

## PARTIES

This Stipulation is entered into by and among the Staff of the Public Utilities Commission of Ohio (“Staff”), the Companies and the other Signatory Parties hereto. All the Signatory Parties have agreed to fully support the ESP filed in this proceeding as set forth in this Stipulation.

## RECITALS

WHEREAS, the Companies have contacted the parties to discuss the potential filing of a new Electric Security Plan (“ESP”). At such time, parties were provided information related to the Companies’ approach to filing a new ESP for a two year period commencing on June 1, 2014 and containing minimal changes to the Companies’ current ESP. Subsequently, the Companies provided a redline of their current ESP Stipulation to provide the parties an opportunity to make a detailed comparison between the existing plan and the proposed ESP 3 allowing them a full understanding regarding the filing and content of the proposed ESP 3 including the potential for bidding demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015/2016 BRA on May 7, 2012, modifying the Companies’ bidding schedule for SSO load to capture historically lower generation prices for a longer period to blend those lower prices with potentially higher prices during the remainder of the ESP 3 period and elongating the recovery period for renewable energy credit costs through Rider AER to mitigate rate levels for customers, and following additional discussions among the Companies, the Staff, and other parties regarding the terms and conditions as proposed by others, the Companies filed their proposed ESP 3 Application on April 13, 2012 in accordance with

R.C. § 4928.143 and the Commission's rules related thereto, with this Stipulation attached thereto and incorporated therein;

WHEREAS, all of the related issues and concerns raised by the Signatory Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Signatory Parties, and is not intended to reflect the views or proposals which any individual party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties, and is entitled to careful consideration by the Commission;

WHEREAS, as proposed in the ESP 3, the impact upon customer bills will be mitigated by maintaining the modifications to the charges and rate arrangements currently in place, as more fully described in the ESP 3 below, so that customers of the Companies will continue to experience more stable and certain rate levels than otherwise would have been in place during the ESP 3 period. By keeping such modifications in place, customers will continue enjoy benefits that without the implementation of the ESP 3 would not have been made available;

WHEREAS, the ESP 3 as set forth in this Stipulation represents a serious compromise of complex issues and involves substantial customer benefits that would not otherwise have been achievable. Through combining more certain rate levels and continuing timely recovery of all amounts authorized by the PUCO to be collected through rate components and deferral of cost recovery, the ESP 3 provides electric

service at more predictable prices for an extended period, which would not have been available otherwise, all of which is critical to the economy of Ohio and the well-being of Ohioans. The rates, together with other terms and conditions provided in the ESP 3, better assure customers of stabilized prices through the periods covered by the different aspects of the ESP 3 and continue to promote energy efficiency, demand reduction, reasonable generation pricing for customers, economic development and provide support for low income customers;

WHEREAS, the process set forth in R.C. § 4928.143 for an Electric Security Plan shall be preserved.

WHEREAS, in order to address these and other concerns and to continue providing to customers assurances as to the price of electricity covered by the ESP 3 ending May 31, 2016 and provide demand response, energy efficiency, economic development, and low income customer support during that period, the Signatory Parties stipulate and agree to the ESP as set forth below.

NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission approve the ESP 3 set forth in this Stipulation and issue its Opinion and Order in accordance herewith, and recommend that the Commission act by May 2, 2012, in order to have the Companies bid demand response resources and PJM-qualifying energy efficiency resources into the 2015-2016 PJM Base Residual Auction, but no later than June 20, 2012, which would be too late to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015/2016 BRA on May 7, 2012, but should still permit adequate time to implement changes to the bidding schedule to capture a greater amount of generation at historically lower prices for the benefit of customers.

## **A. Generation**

1. For the period beginning June 1, 2013 and ending May 31, 2016, retail generation rates will be determined pursuant to the results of a descending-clock format competitive bid process, including any costs associated with administering the procurement process, adjustments for losses and seasonality, and costs associated with any necessary contingency process. In the competitive bid process, the Companies will seek to procure, on a slice of system basis, the aggregate wholesale “full requirements” SSO Supply, which includes energy and capacity, resource adequacy requirements, market-based transmission service and market-based transmission ancillaries, to serve their retail SSO load and special contract load for the period June 1, 2013 through May 31, 2016. The bidding process, including its associated contingency process, shall be conducted by an independent bid manager. The Commission may also retain a consultant who, in addition to other duties, may monitor the bidding process, the cost of which will be included and recovered as part of the costs of procurement. The independent bid manager has established a bidding schedule in conjunction with the Companies, which is included as part of Attachment A. The bidding schedule has been modified from that approved in the Companies’ current ESP so that the bids to occur in October 2012 and January 2013 will be for a three year period rather than a one year period in an attempt to capture the current historically lower generation prices for a longer period of time that would be blended with potentially higher prices occurring over the life of the ESP 3 plan thereby smoothing out generation prices and mitigating volatility in generation pricing for

customers. The modified bidding schedule is reflected on Attachment A hereto and will serve to replace the remainder of the bidding schedule previously approved in Case No. 10-388-EL-SSO. Bidding will occur using three products of varying lengths and multiple bid processes over the term of the ESP 3 ending in May 31, 2016, as reflected in more detail in Attachment A. All bidders, including FirstEnergy Solutions Corp. and its successors and assigns (“FirstEnergy Solutions”), may participate subject to the limitations contained herein. As in previous solicitations, suppliers must adhere to the bidding rules and enter into a SSO Supply Agreement with the Companies. The competitive bid process shall be conducted consistent with the process approved in Case Nos. 10-388-EL-SSO and 10-1284-EL-UNC, including without limitation: the (i) communication protocols; (ii) SSO Supply Agreement; and, (iii) competitive bid process bidding rules, all as modified to be in accord with this Stipulation and as more fully outlined in Attachment A. The independent auction manager will select the winning bidder(s), but the Commission may reject the results within forty-eight (48) hours of the conclusion of the auction based upon a recommendation from the independent auction manager or the Commission’s consultant that the auction violated the competitive bidding process rules in such a manner so as to invalidate the auction. The pricing resulting from the outcome of the competitive bidding process shall be recovered through Rider GEN. The winning bidder(s) will execute the SSO Supply Agreement. Upon conclusion of an auction as set forth in Attachment A, the auction manager and the Commission’s consultant may review the auction process and make



recommendations to the Commission and the Companies as to process improvements for future auctions for delivery during the term of this ESP. Based on the recommendations of the auction manager and the Commission's consultant, the Commission may modify certain aspects of the auction process of future auctions contemplated by this ESP. However, such modifications may not alter the following: (1) all auctions are to be conducted as descending clock auctions; (2) all auctions shall be on a slice of system basis; (3) the load cap provisions contained in Section A.9; (4) the auction process shall be conducted to procure the entire SSO load requirements of the Companies excluding the load associated with customers enrolled in PIPP as set forth below in A.1; (5) product definition and credit parameters as contained in the Master Supply Agreement; and (6) tranche size. While PIPP customers will remain retail generation customers of the Companies, their retail load and usage will be excluded from the bid product and will instead be supplied by the Companies at a six percent (6%) discount off the PIPP customers' price to compare. To accomplish this pricing, the Companies will enter into a wholesale bilateral contract with FirstEnergy Solutions for this power supply for a two year period, with power flow under such wholesale contract commencing June 1, 2014. Under the bilateral contract, FirstEnergy Solutions will supply power to the Companies at wholesale in an amount sufficient to meet the requirements of all PIPP customers taking service under the Companies' tariffs and riders for generation service. As contemplated under Commission rule, PIPP customer load and usage is non-shoppable except as provided for in R.C. § 4928.54 if a better price is obtained. Under the wholesale

- contract, FirstEnergy Solutions would supply the same energy and capacity, resource adequacy requirements, market-based transmission service and market-based transmission ancillaries as winning bidders in the competitive bidding process.<sup>3</sup> For purposes of this section, a PIPP customer shall be defined as any customer who is a PIPP customer as of June 1, 2011 and any customer who thereafter is enrolled in the PIPP program during the period of this ESP 3.
2. There shall be no minimum stay for residential and small commercial non-aggregation customers.
  3. There shall be no minimum default service rider or standby charges as proposed by the Companies in Case No. 08-935-EL-SSO. There will be no rate stabilization charges (“RSC”). Unless otherwise noted, all generation rates for the ESP period are bypassable and there are no shopping credit caps.
  4. Renewable energy resource requirements for the period June 1, 2014 through May 31, 2016 (including, where reasonable, overpurchasing Renewable Energy Credits (“RECs”) in one year for banking into a future year) may be met using a separate Request for Proposal (“RFP”) process to obtain RECs. Purchasing RECS through an RFP or other competitive process in one calendar year for use in that or the following calendar year shall be deemed reasonable. The RFP process may be conducted by an independent bid manager. The RFP will seek to procure the Companies’ renewable energy requirements for Solar – Ohio, Solar – Ohio and contiguous states, Renewables – Ohio, and Renewables – Ohio and contiguous

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<sup>3</sup> At this time, Duke Energy Retail Sales, LLC and Duke Energy Commercial Asset Management take no position regarding this specific provision of the Stipulation related to the pricing and source of power for PIPP customers but for purposes of Settlement support the Stipulation as a whole.

states. No energy or capacity will be purchased under the RFP. Bidders must prove their RECs are provided from facilities that are certified or in the process of becoming certified by the Commission.

If the Companies are unable to acquire the required number of RECs through the RFP process, then the Companies may seek the remaining needed RECs through bilateral contracts.

The costs related to the procurement of all RECs, including any costs associated with administering the RFP, will be included in Rider AER to meet the Companies' renewable energy requirements, with any reconciliation between actual and forecasted information being recognized through Rider AER in the subsequent quarter. In addition, the gains associated with the sale of RECs or solar RECs would be included in Rider AER as a credit to customers in the two quarters immediately following the transaction. Rider AER may be subject to annual audit(s) during the life of this ESP 3, either by Commission staff or an external auditor as determined by the Commission, with the costs of such audit(s) to be recovered via Rider AER. The recovery of the cost of the renewable energy requirements will continue to occur through the Rider AER mechanism, but will be adjusted to occur over the life of the 2010 ESP Stipulation and ESP 3 as proposed in this Stipulation, i.e., through May 31, 2016. The rider charge established for the recovery of these costs will include any unrecovered balances including accumulated deferred interest and the costs related to the procurement and retirement of RECs to satisfy the statutory benchmarks through May 31, 2016, and the adjusted rider charge reflecting this new recovery period will commence

with the first quarterly update to the Rider following the Commission's approval, and the Companies' acceptance, of this ESP 3, subject to the outcome of PUCO case number 11-5201-EL-RDR.

5. The rate design currently in effect remains in place other than as modified below. However, the Commission may, with the Companies' concurrence, institute a changed revenue neutral distribution rate design:

- i) The average total rate overall percentage increase projected for the period 12 months ending May 2015 (rates to be effective commencing June 1, 2014) compared to 12 months ending May 2014 resulting from the rates derived from the Competitive Bid Process for customers on Private Outdoor Lighting, Traffic Lighting, Street Lighting, and Rate GT rates shall not exceed a percentage in excess of one and one-half times the system average overall percentage rate increase (the "cap"), by Company. If the average percent change by Company is negative, all lighting schedules (rate schedules STL, POL and TRF) shall be limited to a maximum increase of zero percent and then no cap shall be applied to Rate GT customers. This cap calculation shall be performed prior to June 1<sup>st</sup> each year. Recovery of any revenue over the cap stated above shall be recovered under Provision (e) of Rider EDR.
- ii) As a demand response program under R.C. § 4928.66, any revenue shortfall resulting from the application of the \$1.95 per kW/month interruptible credit in the Rider OLR and the \$5.00 per kW/month interruptible credit in the Rider ELR will be recovered from all non-interruptible customers as part of the non-bypassable demand side management and energy efficiency rider ("DSE") under

- the provisions of DSE-1. The Companies shall bid into the PJM auction eligible Rider OLR and Rider ELR interruptible load in a manner consistent with the Companies' prior practice. The revenues that the Companies receive from PJM through bidding in demand response from Rider OLR and Rider ELR shall be used to offset DSE-1 costs.<sup>4</sup>
- iii) The seasonality factors as adopted in Case No. 10-388-EL-SSO, shall be adopted for purposes of the extension of the 2010 ESP Stipulation.
  - iv) Capacity costs that result from the PJM capacity auctions will be used to develop capacity costs for Rider GEN. The PJM capacity costs from the auctions for each year will be allocated to the Companies and to each tariff schedule for each Company based on the average of the coincident peaks, including distribution losses, for the months of June through September of the prior year. The allocated capacity costs will be used to develop a kWh charge for each tariff schedule under the capacity charge section of Rider GEN. The PJM capacity costs auction results at the wholesale level, converted to an energy basis, will be subtracted from the auctions results under paragraph A.1 of this Stipulation to develop the non-capacity related energy charge for Rider GEN.
  - v) Rate schedule RS will have a flat rate structure.
6. A Generation Service Uncollectible Rider, Rider NDU, shall be continued to recover non-distribution related uncollectible costs associated with supply cost from the competitive bid process arising from SSO customers and shall only

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<sup>4</sup> Duke Energy Retail Sales LLC and Duke Energy Commercial Asset Management take no position regarding the provisions of the Stipulation related to the interruptible credits provided to customers and the Companies bidding interruptible load into the PJM auction but for purposes of Settlement support the Stipulation as a whole.

apply to generation and transmission uncollectible costs arising from SSO customers and will be bypassable for customers that switch to a certified retail electric service (“CRES”) supplier, and shall be reconciled on a quarterly basis.

7. Rider GCR shall be avoidable by customers during the period that the customers purchase retail electric generation service from a CRES provider subject to the following conditions:

- a) If the allowed balance of Rider GCR reaches 5% of the generation expense in two consecutive quarters, as calculated below on an illustrative basis, then this balance would shift to recovery through a non-avoidable charge in Rider GCR.

Annual MWh	55,000,000
Quarterly MWh	13,750,000
Shopping %	50%
Average Price	65
Quarterly Rev	446,875,000
Increase Cap	5%
Allowed Balance	22,343,750

- b) In the event of a winning bidder default, pursuant to and as defined in the Master SSO Supply Agreement, the Companies may convert Rider GCR to a non-avoidable charge provision if they believe the bidder default will cause the GCR balance to exceed the 5% threshold established in subsection a) above.

8. [Intentionally left blank]
9. Recovery of costs through Rider DFC and Rider DGC may be accelerated if such acceleration would be beneficial to customers and other Signatory Parties. Signatory Parties will work together if such acceleration would be beneficial to customers, and will file an application for such acceleration for approval by the Commission. Under the new securitization legislation, R.C. 4928.23 through R.C. 4928.2318, the Companies may securitize the balances of Rider DFC and Rider DGC, *inter alia*. Such application to securitize may not be approved by the

Commission unless it finds that such securitization complies with R.C. 4928.23, and such finding would meet the requirements of this provision of ESP 3. Any Signatory Party that does not support acceleration of recovery of these costs or the securitization application may oppose any application seeking Commission approval for such acceleration or securitization. Rider DGC will not apply to customers who were served by CEI under fixed price contracts during the period January 2009 through May 2009.

10. The Commission may order a load cap<sup>5</sup> of no less than 80% on an aggregated load basis across all auction products for each auction date such that any given bidder may not win more than 80% of the tranches in any auction.

11.

a. The Companies agree to continue to honor the commitment they made as part of the 2010 ESP Stipulation related to conducting a maximum of four (4) RFPs through which the Companies will seek competitive bids to purchase RECs produced by facilities certified by the PUCO through ten year contracts as described herein. The Companies will file with the Commission, a separate application for approval of an RFP the Companies deem most appropriate to help meet a portion of the Companies' respective statutory renewable energy resource requirements through the acquisition of RECs. The filing of the application shall occur on or before 90 days following the Commission's Opinion and Order or final Entry on Rehearing in Case No. 12-1230-EL-SSO. However, if the Commission or a court stays the implementation of the ESP, implementation of

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<sup>5</sup> The Signatory Parties acknowledge that it is the Companies' position that any load cap would violate the statutory provisions of R.C. § 4928.142 - MRO.

the RFP shall only occur after all rights to appeal in Case No. 12-1230-EL-SSO have been exhausted and if after any appeal, an ESP agreed to by the Companies is implemented.

b. As the Companies have already held two (2) of the aforementioned RFPs, the Companies' application to the PUCO will provide for two additional years for the criteria to be met to potentially trigger the two (2) additional RFPs for ten year contracts for solar REC delivery beginning in 2015 and 2016, based upon the following

- If the standard service offer load of the Companies is less than 15,000,000 MWh: no additional solar RECs will be purchased that year.
- If the standard service offer load of the Companies is greater than 15,000,000 MWh and less than 27,000,000, a minimum of an annual delivery of an additional 1,000 solar RECs will be purchased that year.
- If the standard service offer load of the Companies is greater than 27,000,000 MWh and less than 35,000,000, a minimum of an annual delivery of an additional 2,000 solar RECs will be purchased that year.
- If the standard service offer load of the Companies is greater than 35,000,000 MWh a minimum of an annual delivery of an additional 3,000 solar RECs will be purchased that year.

The standard service offer load of the Companies for the purpose of the thresholds set forth above is calculated by multiplying the Companies' prior year non-shopping percentage, as submitted by the Companies to Commission Staff in December of each year, by the Companies' long term forecast as filed with the Commission on April 15<sup>th</sup> for the year in which an RFP may occur.

c. Any RECs required by this section but not obtained through one of the RFPs described above (including if such RFPs do not take place) will be carried



over to be obtained in the next subsequent RFP. Provided, however, no obligation to conduct an RFP pursuant to this section of the Stipulation will be carried beyond 2016 .

d. Any application seeking approval to conduct the long term RFPs described herein will request Commission approval for the timely recovery of REC costs irrespective of the date the RECs may be retired or the then-existing alternative energy resource requirement of the Companies. The Companies' solar REC requirements will be filled first by RECs supplied through contracts resulting from the RFPs described above, with the balance of such requirements obtained from other sources as the Companies select. The application will seek Commission approval for the long term RFPs and for any contracts that will be issued pursuant to such RFPs. Such RFP and contracts shall provide that should the Companies determine prior to entering into contracts that the Companies do not require those RECs to meet the requirements of R.C. § 4928.64, or that the purchase of those RECs would cause the Companies to exceed the cost cap set forth in R.C. § 4928.64(C)(3), that the Companies will not be required to purchase those RECs. The Companies will notify the Commission of the results of the RFP. The Commission may reject the results of the RFP within three (3) business days of the notification of the RFP results. If the Commission rejects the results of the RFP within the three (3) business day period, the event shall be deemed a force majeure and the Companies shall incur no penalty. In such event, the Companies shall be relieved of the obligation to procure the number of RECS which would have been procured absent the Commission's rejection, for that compliance year.

If the Commission fails to act within the three (3) business day period, the results will be deemed approved by the Commission.

e. The application to the Commission will seek approval for recovery of all costs associated with acquiring RECs through the aforementioned 10 year contracts consistent with Section A.11(d) above, including the costs associated with administering the RFP. Such approval shall also provide that such costs shall be included in Rider AER or such other rider that shall be established to effectuate the recovery of such costs. Such costs shall be recovered over the full contract period (including any period for reconciliation) and shall be recovered irrespective of the Companies' need for RECs to meet their statutory requirement. The provision contained herein is not intended and shall not be construed to extend the two-year period of the Companies' proposed Electric Security Plan.

f. Notwithstanding anything to the contrary in this section A.11, if the Commission's approval of the ESP 3, or any of the Companies' RFP applications, described above, is not consistent with the terms as described in this Section A.11, the Companies shall have no obligation to conduct the long term RFPs or purchase RECs as described in this Section A.11, the Companies retain the obligation to comply with R.C. 4928.64.

## **B. Distribution**

1. Except as expressly set forth elsewhere in this ESP 3, the Signatory Parties agree that, during the ESP 3 period, no proceeding will be commenced by the Signatory Parties, and recommend that no proceeding be commenced by the Commission,

whereby an adjustment to the base distribution rates of the Companies would go into effect prior to June 1, 2016 (subject to riders and other charges provided in the tariffs), subject to the “significantly excessive earnings test”, except in a case of an emergency pursuant to the provisions of R.C. § 4909.16. Approval of the Stipulation by the Commission indicates acceptance of the Signatory Parties’ recommendation. The Companies are not precluded during this period, however, from implementing changes in rate design that are designed to be revenue neutral or any new service offering, both as approved by the Commission.

2. Rider DCR (“Delivery Capital Recovery”), will continue to be in effect and provide the Companies with the opportunity to recover property taxes, Commercial Activity Tax and associated income taxes and earn a return on and of plant in service associated with distribution, subtransmission, and general and intangible plant, including allocated general plant from FirstEnergy Service Company that supports the Companies, which was not included in the rate base determined in the Opinion and Order of January 21, 2009 in Case No. 07-551-EL-AIR et al. (“last distribution rate case”). The return earned on such plant will be based on the cost of debt of 6.54% and a return on equity of 10.5% determined in the last distribution rate case utilizing a 51% debt and 49% equity capital structure. The net capital additions included for recognition under Rider DCR will reflect gross plant in service not approved in the Companies’ last distribution rate case less growth in accumulated depreciation reserve and accumulated deferred income taxes associated with plant in service since the Companies’ last distribution rate case. Rider DCR shall be adjusted quarterly to reflect in-service

net capital additions and encourage investment in the delivery system. For the 12 month period of June 1, 2014 through May 31, 2015 Rider DCR is in effect, the revenue collected by the Companies under Rider DCR shall be capped at \$195 million and for the following 12 months the revenue collected by the Companies under Rider DCR shall be capped at \$210 million. Consistent with the time periods for the revenue caps established above, each individual Company will have a cap of 50%, 70% and 30% for Ohio Edison, CEI and Toledo Edison, respectively, of the total aggregate caps as established above. Capital additions recovered through Riders LEX, EDR, and AMI, or any other subsequent rider authorized by the Commission to recover delivery-related capital additions, will be identified and excluded from Rider DCR and the annual cap allowance. Revenue requirements will be derived for each company separately, and on that basis the recovery of the revenue among the classes of each Company will be calculated using the same methodology as the existing DCR Rider.

To effect the quarterly adjustments, the Companies will submit a filing that contains the adjustment requested, the resulting rate for each customer class and the bill impact on customers. The filing shall show the Plant in Service account balances and accumulated depreciation reserve balances compared to that approved in the last distribution rate case. The expenditures reflected in the filing shall be broken down by the Plant in Service Accounts Numbers associated with Account Titles for subtransmission, distribution, general and intangible plant, including allocated general plant from FirstEnergy Service Company that supports the Companies based on allocations used in the Companies' last

distribution rate case. Net capital additions for Plant in Service for General Plant shall be included in the DCR so long as there are no net job losses at the Companies or with respect to FirstEnergy Service Company employees who provide support for distribution services provided by the Companies and are located in Ohio, per Commission order in 10-388-EL-SSO, as a result of involuntary attrition as a result of the merger between FirstEnergy Corp. and Allegheny Energy, Inc. For each account title the Companies shall provide the plant in service and accumulated depreciation reserve for the period prior to the adjustment period as well as during the adjustment period. The filing shall also include a detailed calculation of the depreciation expense and accumulated depreciation impact as a result of the capital additions. The Companies will provide the information on an individual Company basis.

The Signatory Parties agree that the quarterly Rider DCR update filing will not be an application to increase rates within the meaning of R.C. § 4909.18 and each Signatory Party further agrees it will not advocate a position to the contrary in any future proceeding. The first quarterly filing will be made on or about April 20, 2014, based on the actual plant in service balance as of May 31, 2014 with rates effective on June 1, 2014 on a bills rendered basis. The filing for DCR rates effective June 1, 2014 will include a reconciliation of the estimated plant balances included in the rates effective April 1, 2014 to the actual plant balances as of March 31, 2014. Thereafter, quarterly filings will be made on or about June 30, September 30, December 31, and March 31 with rates effective on a bills rendered basis effective September 1, December 1, March 1, and June 1,

respectively. The quarterly filings will be based on estimated balances as of August 31, November 30, February 28, and May 31, respectively, with any reconciliations between actual and forecasted information being recognized in the following quarter. The Companies will bear the burden to demonstrate the accuracy of the quarterly filings. Upon the Companies meeting such burden, any party may challenge such expenditures with evidence. Upon a party presenting evidence that an expenditure is unreasonable, it shall be the obligation of the Companies to demonstrate that the expenditure was reasonable by a preponderance of the evidence. The annual audit may, at the sole discretion of the Commission, be conducted by an independent auditor. The independent auditor shall be selected by Staff with the consent of the Companies, with such consent not being unreasonably withheld. The expense for the audit shall be paid by the Companies and be fully recoverable through Rider DCR. The audit shall include a review to confirm that the amounts for which recovery is sought are not unreasonable and will be conducted following the Companies' January 31, 2015, and January 31, 2016 filings, and one final audit following the Companies' July 30, 2016 final reconciliation filing. For purposes of such audits and any subsequent proceedings referred to in this paragraph, the determination of whether the amounts for which recovery is sought are not unreasonable shall be determined in light of the facts and circumstances known to the Companies at the time such expenditures were committed. Staff and Signatory Parties shall file their recommendations and/or objections within 120 days after the filing of the application. If no objections are filed within 120 days after the filing of the

application, the proposed DCR rate will remain in effect without adjustment, except through the normal quarterly update process or as may be ordered by the Commission as a result of objections filed in a subsequent audit process. If the Companies are unable to resolve any objections within 150 days of the filing of the application, an expedited hearing process will be established in order to allow the parties to present evidence to the Commission regarding the conformance of the application with this Stipulation, and whether the amounts for which recovery is sought are not unreasonable.

For any year that the Companies' spending would produce revenue in excess of that period's cap, the overage shall be recovered in the following cap period subject to such period's cap. For any year the revenue collected under the Companies' Rider DCR is less than the annual cap allowance, as established above, then the difference between the revenue collected and the cap shall be applied to increase the level of the subsequent period's cap. In no event will authorization exist to recover in the DCR any expenditures associated with net plant in service additions made after May 31, 2016.

3. Any charges billed through Rider DCR will be included as revenue in the return on equity calculation for purposes of SEET and will be considered an adjustment eligible for refund. For each year during the period of this ESP, adjustments will be made to exclude the impact: (i) of a reduction in equity resulting from any write-off of goodwill, (ii) of deferred carrying charges, and (iii) associated with any additional liability or write-off of regulatory assets due to implementing this ESP 3 or the ESP in Case No. 10-388-EL-SSO. The significantly excessive

earnings test applicable to plans greater than three years and set forth in R.C. § 4928.143(E) is not applicable to this two-year ESP.

4. The Distribution Uncollectible Rider and the PIPP Uncollectible Rider may be audited by an independent consultant or the PUCO Staff. The Commission shall select and solely direct the work of the consultant. The Companies shall directly contract for and bear the cost of the services of the consultant chosen by the Commission. Staff will review and approve payment invoices submitted by the consultant.

### **C. Transmission**

1. NITS and other non-market-based FERC/RTO charges will be paid by utilities for all shopping and nonshopping load, and the amount shall be recovered through Rider NMB. The non-market-based FERC/RTO charges that will be paid for by utilities and recovered through Rider NMB include, but are not limited to, those that are set forth in Appendix A to the Companies' Supplier Tariff as the responsibility of the utility. Under Rider NMB, applicable costs will be allocated to the Companies and to each tariff schedule for each Company based on the average of the coincident peaks, including distribution losses, for the months of June through September of the prior year. Winning bidders and retail suppliers would remain responsible for all other FERC/RTO imposed or related charges such as congestion, market based ancillary services and losses, which would be bypassable as part of Rider GEN.



2. All MTEP charges that are charged to the Companies, either directly or indirectly, shall be recovered from customers through the rider discussed in C.1, above. The Companies agree to not seek recovery through retail rates for MISO exit fees or PJM integration costs from retail customers of the Companies. The Companies agree to not seek recovery through retail rates for the costs billed by PJM during the period June 1, 2011 through May 31, 2016 for RTEP projects which are approved by the PJM Board prior to June 1, 2011. In the event the Companies receive any refund or credit from PJM related to the charges described in the preceding sentence, the Companies will retain all of the refund or credit. All other RTEP costs that are charged to the Companies, either directly or indirectly, shall be recovered from customers through the rider discussed in C.1, above, except as provided in Section C.6 below. Capacity costs shall be allocated as set forth in Section A.5.iv above and recovered as set forth in Section A.1 above. Approval of the Stipulation by the Commission indicates acceptance of the Companies' authorization to recover the costs described above in this paragraph. Signatory Parties to this ESP Stipulation agree not to object to or otherwise contest in any forum the recovery by the Companies of any of the charges they are entitled to recover pursuant to this Section C.<sup>6</sup>
3. As outlined in this Section C, it is intended that shopping and SSO customers shall be treated in the same manner under Rider NMB. In the event that CRES providers or other load serving entities (LSEs), in their capacity in supplying

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<sup>6</sup> While the Companies will abide by the terms and conditions of this Section C, the Companies preserve the ability to argue that all RTEP charges are legally recoverable from customers in response to any challenges to the recovery of such charges, and the Companies making of such arguments does not constitute a position contrary to this Stipulation.

retail customers in the Companies' service territories, receive an invoice from PJM that contains charges or fees associated with RTEP charges that conflicts with this provision, the Companies agree to cooperate with CRES providers or other LSEs to dispute any such invoices through the applicable PJM dispute resolution process.

4. [Intentionally left blank.]
5. The Companies, NOPEC and NOAC agree that the Companies have used, and the Companies agree to continue to use, best efforts to take actions at FERC and with PJM and PJM members to mitigate allocation of costs billed by PJM for 500 kV and above RTEP projects which are approved by the PJM board prior to June 1, 2011 to ATSI and, in turn, to the Companies ("Legacy RTEP Costs"). For purposes of this paragraph, "best efforts" shall be limited to advocating and litigating up to the Federal Circuit Court in favor of positions that would result in mitigating, to the maximum extent practicable, the Legacy RTEP Cost impact on Ohio retail customers of the Companies in FERC Docket Nos. ER 09-1589, EL10-6-000, EL05-121-000, and RM10-23-000. The Companies will provide Signatory Parties a report of actions taken by the Companies and their results pursuant to this paragraph prior to the expiration of the ESP 3 on May 31, 2016. Nothing in this paragraph shall preclude the Companies from accepting or supporting a settlement which reduces the Companies' obligation for Legacy RTEP Costs, provided any settlement shall not abrogate the Companies' obligation in paragraph 6 below.

6. The Companies collectively agree to not seek recovery through retail rates from Ohio retail customers of Legacy RTEP Costs for the longer of: (1) the five year period from June 1, 2011 through May 31, 2016 or (2) when a total of \$360 million of Legacy RTEP Costs has been paid for by the Companies and has not been recovered by the Companies in the aggregate through retail rates from Ohio retail customers. If FERC issues an order or there is an appellate decision that results in the ATSI zone avoiding responsibility for payment of Legacy RTEP Costs on a load ratio share basis such that Ohio retail customers of the Companies avoid at least \$360 million of such Legacy RTEP Costs, all obligations of the Companies under this Agreement with respect to Legacy RTEP costs will be satisfied. Consistent with Section C.2 of the Stipulation and Recommendation and subject to this paragraph 6, the Companies may recover in retail rates all RTEP costs billed by PJM to ATSI commencing June 1, 2016.
7. NOPEC and NOAC, together with their respective successors and assigns, for themselves expressly waive, release and relinquish any and all rights or claims regarding Legacy RTEP Costs and further agree not to bring suit, initiate or make or support any claim to challenge rate recovery, in any forum or jurisdiction, of all RTEP costs on any basis related to the integration into PJM, provided that the Companies perform their obligations under this RTEP Section of the Stipulation.

#### **D. Continuance of Existing Tariff Riders and Deferrals**

Other than changes to the dates appearing in the riders, the substantive provisions of the existing riders have not been modified. All riders in effect on the filing date of

this Stipulation are listed on Attachment B hereto. Such riders shall be subject to ongoing Commission Staff review and audit.

1. With respect to Riders ELR and OLR , the Signatory Parties agree for themselves and recommend that the Commission should find that the demand response capabilities of customers electing service under these Riders shall count towards the Companies' compliance with the peak demand reduction benchmarks as set forth in R.C. § 4928.66 as applied by the Commission's applicable rules and regulations and shall be considered incremental to interruptible load on the Companies' system that existed in 2008. Commission approval of the continuation of Rider ELR and OLR will potentially enable the Companies to bid the demand response resources arising from these tariffs into the PJM BRA for the 2015/2016 Delivery Year (June 1, 2015 through May 31, 2016) on May 7, 2012 in order to add to the amount of capacity bid into that auction thereby increasing comparatively low-cost supply. Under this approach, the Companies will be paid for the demand response resources that clear in the PJM 2015/2016 BRA and will flow those dollars to customers through Rider DSE1. Because the Companies will have fulfilled their commitment prior to the resolution of any potential applications for rehearing or appeals, this provision along with Riders ELR and OLR shall remain fully in effect during any SSO that may be in effect for the Companies through May 31, 2016. Approval of the Stipulation by the Commission indicates acceptance of the Signatory Parties' recommendation. Customers wishing to continue to be on Rider ELR will need to sign an

- Addendum to the Contract for Electric Service no later than May 3, 2012 signaling their commitment of their demand response capabilities under Rider ELR to the Companies under the peak demand reduction benchmarks for the term of their service under Rider ELR. Redlined tariffs are attached to this Stipulation as Attachment B, reflecting the changes that will be implemented on June 1, 2014 based upon Commission approval in this proceeding. Such tariffs as modified will go into effect, per the terms of the tariff, upon the effective date of this ESP.
2. All deferrals previously approved in Case Nos. 10-388-EL-SSO, 08-935-EL-SSO and 07-551-EL-AIR et al. shall continue under the approved terms and conditions, with such deferrals, except line extension deferrals, continuing through May 31, 2016, and until full recovery of such deferrals is accomplished. Such storm damage deferrals shall occur based upon deferral criteria that was agreed upon by the Staff and the Companies following Case No. 10-388-EL-SSO.

**E. Energy Efficiency/Demand Response, AMI & Smart Grid**

1. The following issues in the Companies' proposal for cost recovery, Case No. 09-1820-EL-ATA, for the Ohio site deployment of the smart grid initiative were approved in Case No. 10-388-EL-SSO as set forth below and shall continue under these terms and conditions. All other issues that were pending in that proceeding have been decided in that proceeding.
  - i) Collected from customers of Ohio Edison, CEI and Toledo Edison, exclusive of GT customers.
  - ii) All costs approved in Case No. 09-1820-EL-ATA associated with the project will be considered incremental for recovery under Rider AMI.

- iii) Recovery of the costs approved in Case No. 09-1820-EL-ATA shall be over a ten (10) year period for recovery under Rider AMI. The recovery of costs over a 10 year period is limited to this ESP and shall not be used as precedent in any subsequent AMI & Smart Grid proceeding.
  - iv) Return on the investment shall be at the overall rate of return from the Companies' last distribution rate case.
  - v) Rate base is defined as plant in service, depreciation reserve and accumulated deferred income taxes.
  - vi) All reasonably incurred incremental operating expenses associated with the project will also be recovered.
  - vii) The Companies agree that during the term of this ESP the deployment of the smart grid initiative will not include prepaid smart meters and that there will be no remote disconnection for nonpayment without complying with the requirements of O.A.C. 4901:1-18-05.
  - viii) The Companies shall not complete any part of the Ohio Site deployment that the DOE does not match funding in an equal amount. Therefore cost recovery from customers will remain at 50% of total project cost even if the DOE reduces the funding.
2. The administrators, as were identified and as the Companies were permitted to designate pursuant to Section E.6.i of the Stipulation in Case No. 08-935-EL-SSO, and who are Signatory Parties, shall continue to be administrators through the term of this ESP and, shall receive compensation based on terms as approved by the Commission in Case No. 09-553-EL-EEC, or as may be approved in the

future by the Commission. The Companies may also name up to five additional administrators for commercial and industrial programs. Notwithstanding, and in lieu of the fixed monthly compensation provided pursuant to Case No. 09-553-EL-EEC, the Companies will provide funding to the Council of Smaller Enterprises (“COSE”), Association of Independent Colleges and Universities of Ohio (“AICUO”), Ohio Hospital Association (“OHA”) and the Ohio Manufacturer’s Association (“OMA”) for their roles as energy efficiency administrators for completed energy efficiency projects in the following amounts: COSE -\$25,000 in 2014, \$50,000 in 2015, and \$25,000 in 2016; AICUO - \$41,333 in 2014, \$21,000 in 2015 and \$21,000 in 2016; OHA - \$25,000 in 2014, \$50,000 in 2015, and \$25,000 in 2016; OMA - \$100,000 in 2014, \$100,000 in 2015, and \$50,000 in 2016, with such amounts recovered through Rider DSE.

3. During the term of this ESP 3, the Companies shall be entitled to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission. Such lost distribution revenues do not include approved historical mercantile self directed projects. The Signatory Parties agree that the collection of such lost distribution revenues by the Companies after May 31, 2016 is not addressed nor resolved by the terms of this Stipulation.
4. The Companies will continue funding the Community Connections program under the same terms and conditions and amounts as set forth in Case Nos. 07-551-EL-AIR, et. al. and 08-935-EL-SSO for the period of this ESP 3; provided, however, that the amount may be increased as a result of the energy efficiency

- collaborative approving such funding increase, and it being approved by the Commission and fully recoverable through Rider DSE or other applicable rider. Ohio Partners for Affordable Energy (“OPAE”) shall be paid out of the commitment above an administrative fee equal to 5% of the program funding payable annually on the first day of the program year.
5. An AICUO college or university member may elect to be treated as a mercantile customer, and the Companies will treat any such college or university as a mercantile customer for the limited purposes of R.C. § 4928.66 so long as the aggregate load of facilities situated on a campus and owned or operated by the respective college or university qualifies such an entity as a mercantile customer and makes the college or university eligible for any incentive, program, or other benefit made available to a mercantile customer pursuant to R.C. § 4928.66.
  6. AICUO will work cooperatively with the Companies to determine whether its members have professionals capable of performing energy related research for the benefit of the Companies and customers in achieving statutory energy efficiency, demand response, and renewable energy benchmarks.
  7. To help make energy efficiency programs available to Akron residents in the Ohio Edison service territory and to enable the City of Akron to achieve its energy efficiency and sustainability goals, the Companies will provide funding to the City of Akron to be used only for the benefit of Ohio Edison customers in the City of Akron in the following amounts: \$100,000 in 2014; and \$100,000 in 2015, with such amounts recovered through Rider DSE.



8. To help make energy efficiency programs available to Lucas County electric consumers in the Toledo Edison service territory and to enable Lucas County to achieve its energy efficiency and sustainability goals, the Companies will provide funding to Lucas County to be used only for the benefit of Toledo Edison customers in Lucas County in the following amounts: \$100,000 in 2014, and \$100,000 in 2015, with such amounts recovered through Rider DSE.
9. The Companies have identified up to 65 MW of energy efficiency resources that can potentially be bid into the PJM BRA auction on May 7, 2012. Assuming a Commission order approving this ESP 3 by May 2, 2012, the Companies will use their reasonable best efforts and will expend the additional time and resources to alter their energy efficiency plans in an effort to qualify the energy efficiency resources that reduce demand at the PJM coincident peak for the PJM BRA auction on May 7, 2012. The Companies will use their reasonable best efforts to put forward an M&V plan that will be acceptable to PJM. Only such resources as qualify under a PJM-approved M&V plan and for which the Companies have ownership and/or control over the resources shall be considered to be “PJM-qualifying energy efficiency resources,” as used herein, and bid into the PJM BRA auction. The actual number of megawatts of energy efficiency resources bid into the PJM BRA auction is dependent upon the level of customer agreement, which will be pursued and identified following the signing of the Stipulation. The revenues received by the Companies from any energy efficiency resources that clear the PJM BRA auction will be flowed through to customers in Rider DSE2.

10. The Companies are currently test deploying the Volt-Var Control distribution and communication hardware infrastructure and software systems as part of the Ohio smart grid initiative approved in Case No. 09-1820-EL-ATA. The pilot is scheduled for performance testing in 2013 and production benchmarking in 2014. The results of the pilot study, including an analysis of the associated costs and benefits, will be shared with the PUCO and DOE as they become available.

#### **F. Economic Development and Job Retention**

1. During the period June 1, 2014 through May 31, 2016, the Companies will contribute, in the aggregate, \$2 million to support economic development and job retention activities within their service areas, including without limitation to fund customer-owned transformers, redundant feeds, and substations that improve overall performance. The Companies agree not to seek recovery of such amounts from customers. Such contribution shall not be used to fund special contracts and/or reasonable arrangements filed with the Commission.
2. The Signatory Parties acknowledge and recognize that The Cleveland Clinic Foundation (the “Clinic”) provisions agreed to in Case No. 10-388-EL-SSO shall continue under the terms contained and approved in that case, which were as follows<sup>7</sup>: the Clinic anticipates implementing a major expansion plan at its Main Campus located at 9500 Euclid Avenue in Cleveland, Ohio.<sup>8</sup> The Clinic’s current expansion plan calls for the Clinic to invest \$1.4 billion in the Main Campus to

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<sup>7</sup> Inclusion in this Stipulation of this language from the 2010 ESP Stipulation does not enlarge or diminish any commitment made by CEI or the Clinic in the 2010 ESP Stipulation.

<sup>8</sup> At this time, the Ohio Hospital Association takes no position regarding this specific provision of the Stipulation relating to the Cleveland Clinic, but for purposes of this settlement supports the Stipulation as a whole.

meet growing local, national and international patient demand and to increase direct employees in Ohio by adding more than 1000 new high-quality jobs in Cleveland, Ohio.<sup>9</sup> The current expansion plan will also create hundreds of indirect and local construction jobs. The Clinic's expansion plan cannot be successfully completed without alterations and modifications to the electric plant, facilities and equipment that have historically provided service to the Clinic and other customers in the area. Such alterations and modifications include the design, construction and operation of transformation and delivery plant, facilities and equipment required to meet expected growth in the area in and around the Main Campus and to meet the reliability needs of the Clinic and its patients. Absent the opportunity presented by this ESP proceeding, the Clinic, a mercantile customer, intended to file an application for a reasonable arrangement for the purposes of addressing the responsibility for the costs of the electric utility plant, facilities and equipment that must be installed to allow the Clinic to successfully complete its expansion plan at its Main Campus and to address opportunities for the Clinic to commit its energy efficiency, peak demand reduction or alternative energy resource capabilities to CEI for purposes of meeting the portfolio requirements set forth in R.C. § 4928.66. As a result of the intent to apply for approval of a reasonable arrangement, the Clinic has discussed its expansion plan, the electric utility infrastructure requirements and its customer sited capabilities with the Staff of the Commission. In view of the foregoing and the desire to use this ESP proceeding to comprehensively and timely address the issues and opportunities

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<sup>9</sup> The Clinic employs more than 40,000 direct employees in Northeast Ohio and is one of the largest private employers in Ohio.

related to the planned expansion of the Clinic's Main Campus, the Signatory Parties hereby recommend that the Commission adopt all of the following provisions as part of the ESP with the understanding that the Clinic shall proceed with the above described Main Campus expansion plan upon such adoption by the Commission:

- CEI shall be responsible for the cost of the electric utility plant, facilities and equipment installed to reliably support the Clinic's expansion plan at the Main Campus to the extent that such cost might otherwise be demanded by CEI from the Clinic in the form of a contribution in aid of construction or otherwise.
- CEI shall be entitled to classify the original cost of investment made in utility plant, facilities and equipment at or below the subtransmission level to support the Clinic's expansion plan as distribution plant in service subject to the Commission's jurisdiction for ratemaking purposes at the time of the next base rate case.
- The first seventy million dollars of the original cost of such plant, facilities and equipment shall be funded by a non-bypassable distribution rider that shall apply to the retail residential, commercial and industrial customers respectively (exclusive of customers on STL, TRF, POL rate schedules). The seventy million dollars will be depreciated and recovered, including appropriate taxes, from customers of the Companies over a five year period on a service rendered basis starting June 1, 2011. Recovery shall be through Provision (g) of Rider EDR.
- The Clinic shall be obligated to work in good faith to install cost-effective energy efficiency measures in its facilities, with, where needed, the assistance of an independent energy facility auditor selected by the Clinic with input from the Companies and the Commission's Staff. The customer-sited capabilities of the Clinic shall be counted, measured and verified by a qualified independent third-party evaluator (in the event there are not suitable alternatives to satisfy the counting, measurement and verification objectives) for R.C. § 4928.66, compliance purposes by using a whole building, total energy approach such as that used for purposes of benchmarking performance through the Portfolio Manager program operated under the supervision of the United States Environmental Protection Agency. This section F.2 shall apply to the entire customer-sited capabilities of the Clinic within the Companies' certified service areas as if the Clinic were a single account and in order to avoid suboptimization of resources. The Clinic shall work with the Companies and the Commission's Staff for the purposes of committing its new customer-sited capabilities to the Companies for integration into their R.C. § 4928.66, compliance benchmarks in exchange for the Companies investment in the distribution utility plant, facilities,

and equipment over the five-year period. During such five-year period, nothing herein shall preclude the Clinic from seeking Commission approval of terms and conditions that are designed to encourage the Clinic to undertake and commit new customer-sited capabilities to the Companies. After such five-year period, the Clinic shall have unimpaired access to utility and other energy efficiency, peak demand reduction and alternative energy programs open to mercantile customers.

3. This provision applies for the period of the ESP to domestic automaker facilities that used more than 45 million kWhs annually at a single site in 2009.<sup>10</sup> For each facility a baseline energy consumption level will be established based on the average monthly consumption for the year 2009. On a monthly basis, usage above the established baseline during the term of the ESP shall receive a non-bypassable discount based on the following:
- For the first 10% increment of usage above the baseline a discount of 1.0 cents/kWh will be provided;
  - For the second 10% increment of usage above the baseline a discount of 1.0 cents/kWh will be provided; and
  - For all additional usage above the baseline a discount of 1.2 cents/kWh will be provided

Any discount provided shall be collected based on a levelized rate for all three Companies under Rider EDR from customers provided service under the RS, GS, GP and GSU rate schedules.<sup>11</sup>

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<sup>10</sup> At this time, the Ohio Partners for Affordable Energy takes no position regarding this Section F.3 of the Stipulation relating to the Domestic Automaker Facilities provision, but for purposes of this settlement supports the Stipulation as a whole.

<sup>11</sup> In an effort to provide economic development support and retain existing manufacturing jobs in Ohio that otherwise may be at risk of being lost, Commission approval of the ESP Stipulation authorizes Toledo Edison to bill and collect, commencing the first billing period following Commission approval of this Stipulation and the Companies' acceptance of such approval, a charge of \$6.00 per kVa of billing demand under Rider EDR, Sheet 116, part d., General Service-Transmission (Rate GT) Provision, under the current ESP ending May 31, 2014, and then under ESP 3 ending May 31, 2016, for service rendered to Material Sciences Corporation, an existing large industrial customer that utilizes a unique manufacturing process.

4. CEI agrees to continue the LED streetlight pilot program ("LED Pilot") approved in Case No. 10-388-EL-SSO for the City of Cleveland for the period of this ESP subject to the following terms and conditions:

- a. The LED Pilot is applicable to LED streetlights installed by the City of Cleveland during the period of this ESP 3.
- b. The City of Cleveland will be billed the base distribution charges of the CEI Customer Owned Streetlight rate based on March 2010 kWh usage. No reduction in kWh usage shall be applied to base distribution charges as a result of the City of Cleveland's LED Pilot.
- c. CEI will work in good faith with the City of Cleveland to develop monthly kWh usage for the different types and sizes of LED streetlights being installed at such time as the City of Cleveland has identified the applicable LED streetlight project.
- d. The City of Cleveland must provide CEI a written report detailing the number of streetlights installed with LED lighting and the location of such installations. CEI will have 30 days from receiving such report to verify that the LED streetlights have been installed. The City of Cleveland will then be billed for all other charges and riders based upon an agreed monthly kWh usage figure starting at the next billing date following the verification. Over at least a 30 day period, which may occur prior to the start of the ESP, the City of Cleveland will measure the consumption of each type of LED streetlight it will install. This information will be shared with CEI to help determine the basis for the "agreed upon monthly kWh usage" for the particular LED streetlight.

## **G. Retail Market Enhancements**

The Companies agree to continue providing enhanced customer data and information and web-based access to such information, subject to and consistent with the Commission's rules, as set forth in Attachment C.

## **H. Other Issues**

1. The Companies' corporate separation plan in Case No. 09-462-EL-UNC remains approved and in effect as filed. This plan may be audited by an independent auditor. The Commission shall select and solely direct the work of the auditor. The Companies shall directly contract for and bear the cost of the services of the auditor chosen by the Commission. Staff will review and approve payment invoices submitted by the consultant.
2. The Companies will file a separate application to commence recovery of any new or incremental taxes arising after June 1, 2011, whether paid by or collected by the Companies, and not recovered elsewhere, the recovery of which is contemplated by this Stipulation. The recovery mechanism and procedural schedule will be determined by the Commission at the time the Commission approves the Companies' application. The application will be deemed approved if the Commission has not ruled to the contrary within 90 days of the filing. The recovery of such taxes would be subject to a Staff audit.
3. Time differentiated pricing concepts as proposed by the Companies and approved by the Commission in Case No. 09-541-EL-ATA shall continue in effect through the term of this ESP. Time-differentiated pricing products such as the Peak Time

Rebate Rider and any other new time-differentiated pricing products proposed and approved in the Companies' Ohio Site Smartgrid Pilot Project shall continue through the end of the pilot period. In addition, the auction bidding rules will not prohibit any new time differentiated pricing concepts from being developed during the term of this ESP.

4. The Signatory Parties agree for themselves, and recommend to the Commission, to withdraw from FERC cases FirstEnergy Service Co. v. PJM, Docket No. EL10-6-000 and American Transmission Systems, Inc. ER09-1589-000. The ESP 3 is more favorable in the aggregate to customers as compared to the expected results that would otherwise occur under an MRO alternative and represents a serious compromise of complex issues and involves substantial customer benefits that would not otherwise have been achievable. Through combining more certain rate levels and timely recovery of all amounts authorized by the Commission to be collected through rate components and deferral of cost recovery, this ESP 3 provides electric service at more predictable prices for an extended period through modifying the bid schedule and extending the recovery of costs associated with renewable energy credits over the life of ESP 3 and promotes demand response, energy efficiency, economic development and provides support for low income customers, which would not have been available otherwise, all of which is critical to the economy of Ohio and the well-being of Ohioans.
5. \$1.0 million dollars will be made available to OP&E for its fuel fund program, allocated as \$500,000 in 2015, and \$500,000 in 2016. Any amounts not expended



as part of the OP&A fuel fund program in the time frame specified will not be carried forward.

6. If this ESP 3 is inconsistent with the Commission's rules, the Companies request waivers of those rules to the extent that the Commission deems necessary to approve and implement this ESP.
7. In order to assist low-income customers (defined as customers at or below 200 percent of the Federal Poverty Guideline) in paying their electric bills from the Companies, a fuel fund provided by the Companies shall be continued consisting of \$4 million to be spent in each calendar year from 2015 through 2016. Any unspent funds from the \$4 million annual fuel fund provided herein will be carried over through the following calendar year. The dollars will be allocated as follows: \$660,000 per year in the Toledo Edison service territory, \$1,390,000 per year in the Cleveland Electric Illuminating Company service territory; and \$1,950,000 per year in the Ohio Edison service territory. Fuel fund monies shall be distributed to the same agencies, on the same pro-rata basis, as set forth in Exhibit D to the letter filed on July 28, 2009 in Case No. 09-641-EL-ATA, and pursuant to the Fuel Fund Grant Program Agreement as set forth in Exhibit C to that letter, and as may be modified by mutual agreement of the parties thereto.

Such fuel fund shall only be available to distribution customers of the Companies. As a condition of receiving the funds, any organization receiving funds from the Companies shall provide the Companies and the Commission Staff with an annual accounting of how the dollars were disbursed and will agree to an audit of those dollars if requested by the Companies or the Commission Staff. The funds for the

respective calendar year shall be made available by January 31 of that year. If the Stipulation and Recommendation is rejected or modified due to court or regulatory action and terminated by the Companies, the Companies will have no obligation to continue the fuel fund for periods after the effective ESP termination date, other than to exhaust any remaining balance calculated on a pro-rata basis for the periods that the ESP 3 contemplated under this Stipulation was in effect. Any such remaining balances shall be used within one year after such termination or May 31, 2016, whichever occurs first.

8. Nothing in the Companies' proposed ESP 3 is intended to modify the Commission's Order in Case No. 10-176-EL-ATA.
9. Material Sciences Corporation agrees to dismiss with prejudice its complaint against Toledo Edison, filed in Case No. 12-919-EL-CSS, upon Commission approval of the ESP 3 Stipulation authorizing Toledo Edison to actually bill and collect a charge of \$6.00 per kVa of billing demand under Rider EDR, Sheet 116, part d., General Service-Transmission (Rate GT) Provision, for service, commencing the first billing period following Commission approval of the Stipulation and the Companies' acceptance of such approval, under the current ESP ending May 31, 2014, and then under ESP 3 ending May 31, 2016; and further upon the lapse of all procedural provisions described in the ESP 3 Stipulation, particularly in Section I (Procedural Aspects) herein, concerning possible nullification of, or not otherwise going forward with ESP 3. If Material Sciences Corporation withdraws from this Stipulation at any time in its sole discretion prior to the later of Commission approval or June 1, 2012 as long as

Toledo Edison has not billed the charge of \$6.00 per kVa, as provided for therein, then the footnote 11 at Section F.3 of this Stipulation will be null and void without further notice or approval upon which the complaint case filed in Case 12-919-EL-CSS will proceed. Material Sciences Corporation and the Companies agree that the case filed in 12-919-EL-CSS will be held in abeyance in all respects at least until such time as the earlier of the rejection or withdrawal of ESP 3 or the dismissal of the complaint proceeding as described above.

## **I. Procedural Aspects**

Recognizing the value of an expeditious ruling by the Commission to achieve the benefits described in this Stipulation, the Signatory Parties urge the Commission to render a decision adopting this Stipulation no later than May 2, 2012 in order to permit the Companies to bid demand response resources and PJM-qualifying energy efficiency resources into the 2015/2016 PJM BRA, but no later than June 20, 2012, which date would be too late to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM BRA on May 7, 2012, but should still permit adequate time to implement changes to the bidding schedule to capture a greater amount of generation at historically low prices for the benefit of customers. In support of the Signatory Parties request for an expedited ruling by the Commission adopting this Stipulation, the Signatory Parties support a Commission decision to waive all briefing following the hearing in this matter, and in lieu thereof agree to oral argument, if determined necessary by the Commission, at the close of the hearing. If briefing is requested, the Signatory Parties urge the Commission to permit oral argument in lieu of

briefing, and if either briefing or oral argument is permitted, allow all parties to participate.

In the event the Commission does not approve this ESP as filed by the Companies by June 20, 2012, then the Companies may render this Stipulation and ESP null and void and the Application filed with this Stipulation shall be considered withdrawn upon the Companies filing a written notice with the Commission.

The Application and ESP 3 are presented, collectively, by all three Companies and its offer is conditioned on its acceptance in its totality with all of its provisions and accepted for all three Companies. The Commission's approval of the Stipulation indicates the Commission's acceptance of all of the Signatory Parties' recommendations contained herein.

The term of this ESP 3 is June 1, 2014 to May 31, 2016.<sup>12</sup> The duration of this ESP 3 (including for purposes of determining the applicability of R.C. § 4928.143(E)) is the period during which the standard service offer provided by it is in effect, i.e., June 1, 2013 through May 31, 2016, which will be the termination date, except that certain provisions will continue after May 31, 2016 to the extent such provisions are necessary to carry out the terms and conditions of the ESP 3. The Signatory Parties agree to not take a position contrary to the preceding sentence in any forum. Approval of the Stipulation by the Commission shall constitute its concurrence with this position. The Signatory Parties request that the Commission take administrative notice of the evidentiary record established in Case No. 10-388-EL-SSO, and thereby incorporate by reference that record for the purposes of and use in this proceeding.

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<sup>12</sup> The Companies' current ESP is in place through May 31, 2014 and the proposed ESP 3 will commence on June 1 2014, reflecting the outcome of the Companies' wholesale generation auctions conducted in October 2012 and January 2013, but for a three-year period as approved as part of this Stipulation.

To the extent necessary, the terms and conditions of this ESP may require FERC approval or a general affiliate waiver. The ESP 3 is conditioned upon all necessary FERC approvals to carry out the terms and conditions of matters set forth herein and FirstEnergy Solutions being able to provide power and effectively participate in the competitive bid process as contemplated by Section A.1 hereof.

This Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, and except as otherwise provided herein, nor is it to be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. The agreement of the Signatory Parties reflected in this document is expressly conditioned upon its acceptance in its entirety and without alteration by the Commission. Notwithstanding anything herein to the contrary, the Companies have the right to withdraw and terminate the Application and the ESP 3 if the Commission or any court of competent jurisdiction, rejects all or any part of the ESP 3 or otherwise modifies its terms or provisions. The Signatory Parties agree that if the Commission or any court of competent jurisdiction rejects all or any material part of this Stipulation, or otherwise materially modifies its terms, any adversely affected Signatory Party shall have the right to file an application for rehearing or a motion for reconsideration. If such application or motion is filed, and if the Commission or court does not, on rehearing or reconsideration, accept the Stipulation without material modification within 45 days of the filing of such motion, then anytime thereafter the adversely affected Signatory Party may terminate its Signatory Party status without penalty or cost and regain its rights as a non-Signatory Party as if it had never executed the Stipulation by filing a notice with the Commission and the other Signatory Parties.

The provisions of this Paragraph do not impair the right of the Companies to withdraw and terminate the ESP 3 at any time prior to approval of the Application and ESP 3 by the Commission.

Unless the Signatory Party exercises its right to terminate its Signatory Party status as described above, each Signatory Party agrees to and will support the reasonableness of the ESP 3 and this Stipulation before the Commission, and to cause its counsel to do the same, and in any appeal from the Commission's adoption and/or enforcement of the ESP 3 and this Stipulation. The Signatory Parties also agree to urge the Commission to accept and approve the terms hereof as promptly as possible.

IN WITNESS WHEREOF, this Stipulation and Recommendation has been signed by the authorized agents of the undersigned Parties as of this 13th day of April, 2012. The undersigned Parties respectfully request the Commission to issue its Opinion and Order approving and adopting the ESP 3 as set forth in this Stipulation. The Stipulation will be held open for additional interveners and parties to sign on as Signatory Parties until the issuance of an Order by the Commission.

**Signatory Parties:**

Thomas McNamee / by AEK  
Staff of the Public Utilities Commission of Ohio  
By: Thomas McNamee, Esq.

Art Korkosz  
Ohio Edison Company  
By: Art Korkosz, Esq.

Art Korkosz  
The Cleveland Electric Illuminating Company  
By: Art Korkosz, Esq.

Art Korkosz  
The Toledo Edison Company  
By: Art Korkosz, Esq.

Christopher Miller / by AEK  
Association of Independent Colleges and  
Universities of Ohio  
By: Christopher Miller, Esq.

Michael Lavanga / by AEK  
Nucor Steel Marion, Inc.  
By: Michael Lavanga, Esq.

Craig Smith / by AEK  
Material Sciences Corporation  
By: Craig Smith, Esq.

Joseph Meissner / by AEK  
Consumer Protection Association  
By: Joseph Meissner, Esq.

Morgan Parke / by AEK  
FirstEnergy Solutions Corp.  
By: Morgan Parke, Esq.

Michael Kurtz / by AEK  
Ohio Energy Group  
By: Michael Kurtz, Esq.

Lisa McAlister / by AEK  
Ohio Manufacturers Association  
By: Lisa McAlister, Esq.

Sam Randazzo / by AEK  
Industrial Energy Users Ohio  
By: Sam Randazzo, Esq.

Colleen Mooney / by AEK  
Ohio Partners for Affordable Energy  
By: Colleen Mooney, Esq.

Thomas O'Brien / by AEK  
Ohio Hospital Association  
By: Thomas O'Brien, Esq.

Matthew Cox / by AEK  
Council of Smaller Enterprises  
By: Matthew Cox, Esq.

Joseph Meissner / by AEK  
Empowerment Center of Greater Cleveland  
By: Joseph Meissner, Esq.

Joseph Meissner / by AEK  
Cleveland Housing Network  
By: Joseph Meissner, Esq.

Cheri Cunningham / by AEK  
The City of Akron  
By: Cheri Cunningham, Esq.

Greg Lawrence /by A&K  
Morgan Stanley Capital Group, Inc.  
By: Greg Lawrence, Esq.

**Signing as Non-Opposing Parties:**

Mark Yurick /by A&K  
The Kroger Co.  
By: Mark Yurick, Esq.

Greg Poulos /by A&K  
EnerNoc  
By: Greg Poulos, Esq.

Amy Spiller /by A&K  
Duke Energy Commercial Asset Management  
By: Amy Spiller, Esq.

Dane Stinson /by A&K  
GEXA-Energy Ohio, LLC  
By: Dane Stinson, Esq.

Amy Spiller /by A&K  
Duke Energy Retail Sales, LLC  
By: Amy Spiller, Esq.



## **Attachment A**

The following terms and conditions set forth in Part A below are related to the competitive bidding process were proposed and approved as part of the Companies' current ESP in Case No. 10-388-EL-SSO. The terms and conditions will remain in effect for the duration of ESP 3, which is through May 31, 2016.

The terms and conditions included in Part B below reflect changes from the competitive bidding documents and process that was approved in the Companies' current ESP, which will go into effect as part of the approval of ESP 3.

### **Part A.**

#### **1. Previously Approved Alternate Forms of Guaranty**

A potential bidder that had secured approval for an alternate form of guaranty for the 2009 Ohio CBP and that wishes to use the same alternate form of guaranty can renew this approval for any CBP conducted pursuant to the ESP in Case No. XX-XXX-EL-SSO (the "ESP CBP"), by submitting:

- ☐ The alternate form of guaranty for the 2009 CBP;
- ☐ The enforceability opinion for the 2009 CBP;
- ☐ A certification that the text of the alternate form of guaranty for the ESP CBP is exactly the same as the alternate form of guaranty that had been previously approved for the 2009 CBP;
- ☐ A certification that the text of the enforceability opinion for the ESP CBP is exactly the same as the enforceability opinion that had been previously approved for the 2009 CBP.

If a potential bidder submits the materials as specified above, the alternate form of guaranty will be approved for the ESP CBP without further re-evaluation. If a potential bidder had secured approval for an alternate form of guaranty for the 2009 CBP but is unable to provide the materials as specified above, the potential bidder must resubmit the alternate form of guaranty and all supporting documentation as specified in the Minimum Requirements for the Alternate Form of Guaranty section above and these materials will be re-evaluated according to the criteria set forth in this document.

#### **2. Alternate Billing at PJM**

PJM on a billing line item basis, allows for market participants to select an alternate market participant for billing purposes so long as there is agreement between the two market participants for such an arrangement to take place.

For example, Party A is serving SSO load in OH. In that SSO Agreement, it states that PJM billing line Item 1100 - Network Integrated Transmission Service (NITS) charges will be paid for by the EDC. This means that Party A is assigned

a NITS responsibility for a specific load amount. Under normal circumstances at PJM, PJM would then bill Party A accordingly for the NITS service. Instead however, PJM bills the EDC on their invoice and Party A never sees the charge show up on Party A's invoice. The EDC does not own the NITS load responsibility – just the obligation to pay the bill on behalf of Party A. PJM sets up this arrangement as is evidenced in the SSO agreement signed by both parties. The EDC submit to PJM all SSO Agreements so all parties financial settlements would work this way.

Further, for CRES suppliers, so long as the CRES supplier signs up customers in the EDC's retail zone, the Supplier Tariff (including the Operating Agreement) explains the same type of billing arrangement with respect to specific PJM billing line items. All processes associated with CRES supplier registration with the EDC indicate that certain PJM billing line items will be the responsibility of the EDC and not the CRES supplier. PJM can then in turn charge the EDC for services such as NITS while the CRES supplier is the entity responsible for all load-related charges except those that PJM transfers back to the EDC.

3. Section 6.6 of the Master Supply Agreement was amended as follows:

Credit Rating of the SSO Supplier			Maximum Credit Limit (calculated as the lesser of the percentage of TNW and the Credit Limit Cap below)	
S&P	Moody's	Fitch	Percentage of TNW	Credit Limit Cap
BBB+ and above	Baa1 and above	BBB+ and above	16%	\$75,000,000
BBB	Baa2	BBB	10%	\$50,000,000
BBB-	Baa3	BBB-	8%	\$25,000,000
BB+	Ba1	BB+	2%	\$10,000,000
BB	Ba2	BB	1%	\$5,000,000
BB-	Ba3	BB-	0.5%	\$5,000,000
Below BB-	Below Ba3	Below BB-	0%	\$0

4. An update to account for Duke Energy Ohio's pending move to PJM and the potential effect that the move will have on the Cinergy Hub pricing point, such that the Mark-to-Market Credit Exposure Methodology was modified so as to allow for another liquid pricing point located within PJM's geographic footprint to be used for the Mark-to-Market Credit Exposure calculation purposes.
5. The option for suppliers to pledge First Mortgage Bonds to cover margin calls in excess of \$400 million consistent with the provision that was included in the Master SSO Supply Agreement in Case No. 08-935-EL-SSO. The First Mortgage Bond collateral alternative is in addition to the option to use cash or letters of credit for margin calls.

6. The clarification that the Mark-to-Market Exposure Amount is limited to a rolling forward 24 month period starting from the Effective Date of the Agreement.

**Part B.**

The following modifications are being made to accommodate the requirements of the ESP 3. Unless noted below, the structure and all other provisions of the bidding process as approved in Companies' bidding process in Case No. 10-388-EL-SSO remain in effect:

1. The bid schedule and product structure previously approved in the Companies' current ESP has been modified so that the bids to occur in October 2012 and January 2013 will be for a three year period rather than a one year period. See schedule below.
2. Master SSO Supply Agreement is modified to accurately reflect the Term of ESP 3, to remove references to the FRR Integration Plan and the Transitional Period, to adjust the Delivery Point from the ATSI Load zone to the FE Ohio Aggregate, and to further describe the coordination of SSO Supplier and its Affiliate with regards to the Independent Credit Threshold. A red-lined version of the Master SSO Supply Agreement will be attached hereto as Attachment A-1 and is incorporated herein.
3. The CBP bid documents are modified to further define the application of the load cap and credit provisions related to the participation in the bid process by Associated Parties or Affiliates of a single Parent company. There will be a load cap of 80% on an aggregated load basis across all auction products for each auction date such that any given bidder, or bidders that are Associates or affiliated through a common parent company, may not bid on and win more than 80% of the tranches in any auction. The redline change to the existing Bidding Rules for the FirstEnergy Ohio Utilities' CBP Auctions and the new Rules and Protocols for Participation by Associated Bidders in the FirstEnergy Ohio Utilities Standard Service Offer CBP Auctions will be attached hereto as Attachments A-2 and A-3, respectively, and are incorporated herein.

## ESP CBP Schedule

Procurement Date	Tranches Procured	Delivery Periods			
		June-13	June-14	June-15	June-16
October-12	17	36 Month June 2013 thru May 2016			
January-13	17	36 Month June 2013 thru May 2016			
October-13	16		12 Month June 2014 thru May 2015		
	17		24 Month June 2014 thru May 2016		
January-14	16		12 Month June 2014 thru May 2015		
	17		24 Month June 2014 thru May 2016		
October-14	16			12 Month June 2015 thru May 2016	
January-15	16			12 Month June 2015 thru May 2016	

## **Attachment B**

Set forth below is a complete listing of Riders in effect on the date of the filing of this Stipulation. No new riders are anticipated as part of this ESP 3. Existing Riders that will continue as part of the extension of the 2010 ESP Stipulation, but with amendments, are attached hereto as Attachment B-1 and are incorporated herein.

### **RIDERS THAT CHANGE WITH ESP 3**

Delivery Capital Recovery - (124)  
Economic Development - (116)  
Economic Load Response - (101)  
Experimental Critical Peak Pricing - (113)  
Experimental Real Time Pricing - (111)  
Optional Load Response Program - (102)  
PIPP Customer Discount - (80)

### **CHANGE**

different filing and effective dates starting in 2014  
expiration date  
expiration date  
expiration date  
expiration date  
expiration date  
expiration date

### **RIDERS WITH NO CHANGES**

Advanced Metering Infrastructure/ Modern Grid - (106)  
Alternative Energy Resource - (84)  
Business Distribution Credit - (86)  
CEI Delta Revenue Recovery - (112) CEI only  
Deferred Fuel Recovery - (118)  
Deferred Generation Cost Recovery - (117) CEI only  
Delivery Service Improvement - (108)  
Delta Revenue Recovery - (96)  
Demand Side Management - (97)  
Demand Side Management and Energy Efficiency - (115)  
Distribution Uncollectibles - (99)  
Economic Development (4a) (88) TE Only  
Fuel - (105)  
Generation Cost Recovery - (103)  
Generation Service - (114)  
Grandfather Contract - (94) CEI Only  
Hospital Net Metering - (87)  
Line Extension Cost Recovery - (107)  
Net Energy Metering - (93 or 94)  
Non-Distribution Uncollectibles - (110)  
Non Market Based Services - (119)  
Non-Residential Deferred Distribution Cost Recovery - (121)  
Partial Service - (24) OE only  
PIPP Uncollectibles - ( 109)  
Reasonable Arrangement - (98)  
Residential Deferred Distribution Cost Recovery - (120)  
Residential Distribution Credit - (81)  
Residential Electric Heating Recovery - (122)  
Residential Generation Credit - (123) -  
School Distribution credit - (85)  
State kWh Tax - (92)  
Transmission and Ancillary Services - (83)  
Universal Service - (90)

### **Attachment C**

The following terms and conditions set forth below are related to the competitive retail electric service and were proposed and approved as part of the Companies' current ESP in Case No. 10-388-EL-SSO. The terms and conditions will remain in effect for the duration of ESP 3, which is through May 31, 2016.

Data access including EDI transaction information access posted via electronic data interchange-post; 867 historical usage and historical interval usage data; 867 monthly usage and interval usage data; transmission and capacity Peak Load Contributions in EDI transaction; meter read cycle information.

A quarterly updated sync-list should be provided to CRES providers on a confidential basis showing the accounts that are enrolled with the CRES provider (which would contain information such as service start date, bill method, and PLC values). Web-based system that provides electronic access to key customer usage and account data that can be accessed via a supplier website that is updated quarterly and that presents data and information including: account numbers, meter numbers, names, service addresses and billing addresses including zip codes, email addresses, meter read cycle dates, meter types, interval meter flags, rate code indicators, load profile group indicators, PLC values (capacity obligations), 24 months of consumption data in kWh by billing period including on-peak and off-peak data; 24 months of demand data (in kW) by billing period; 24 months of interval data; default service indicators (if on default service); minimum stay dates (if applicable); and identifiers of whether customers are participating in budget plans.

### **Attachment D**

The following terms and conditions set forth below are related to governmental aggregation and were proposed and approved as part of the Companies' current ESP in Case No. 10-388-EL-SSO. The terms and conditions will remain in effect for the duration of ESP 3, which is through May 31, 2016.

#### **Governmental Aggregation.**

This Attachment D applies to the situation where the Commission has ordered a phase-in, pursuant to its authority in R.C. § 4928.144, of the generation prices arising out of the auction provided for in Section A.1 of this Stipulation and a governmental aggregation group, with agreement from its Governmental Aggregation Generation Supplier ("GAGS"), elects to phase-in such generation costs.

1. For every kWh of energy that a GAGS delivers to a governmental aggregation customer, such customer will be entitled to receive a phase-in credit ("GAGS Phase-In Generation Credit") in an amount equal to the \$/kWh phase-in credit for the Company's(ies') SSO customers approved by the Commission for the period of this ESP.
2. For every kWh of energy that a GAGS delivers to a governmental aggregation customer, the GAGS will be granted the right to receive a receivable amount from the Companies equal to the GAGS Phase-In Generation Credit, plus carrying charges at the rate of 0.7066 percent per month ("GAGS Receivables").

3. Pursuant to R.C. § 4928.144, the Commission shall provide for the creation of regulatory assets for the Companies by authorizing the deferral of incurred generation costs equal to the amount not collected due to a phase-in, plus carrying charges at the rate of 0.7066 percent per month.

4. The Companies are authorized by the Commission to create regulatory assets and to charge, collect and receive from customers of the Companies the accrued GAGS Receivables that are to be paid to the GAGS subject to the provisions of R.C. § 4928.20(I). The Companies shall recover the accrued deferred cost amounts associated with such regulatory assets, including carrying charges at the rate of .7066 percent per month, through a Commission approved cost recovery rider. The cost recovery rider shall be non-bypassable for customers of the Companies subject to and consistent with the provisions of R.C. § 4928.20(I) and R.C. § 4928.144 and shall be reconciled on a quarterly basis.

5. Payment to the GAGS of amounts actually received by the Company(ies) shall occur under the same process as with other CRES provider payments received directly from customers. Uncollectible GAGS Receivables arising out of supplying generation and transmission to a governmental aggregation group electing to phase-in prices as approved by the Commission and as



described above shall be included in the cost recovery rider referenced in paragraph 4 above.

6. The Company(ies) must use commercially reasonable efforts to promptly enter into an agreement with the GAGS which will provide the GAGS with assurance of full recovery of all costs related to the GAGS' recovery of its GAGS Receivables.

7. Any payments to be made by the Companies to the GAGS contemplated hereunder shall be made not later than 3 days after receipt by the Companies of payment from the Companies' customers.

8. The GAGS' right to receive the GAGS Receivables and the Companies' right to defer and collect such amounts is authorized by the Commission by its approval of this Stipulation.

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

**Commission of Ohio Docketing Information System on**

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**Case No(s). 12-1230-EL-SSO**

Summary: Stipulation & Recommendation electronically filed by Ms. Laura C. McBride on behalf of Ohio Edison Company and The Toledo Edison Company and The Cleveland Electric Illuminating Company