

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	
Illuminating Company and The Toledo)	
Edison Company for Authority to)	Case No. 12-1230-EL-SSO
Establish a Standard Service Offer)	
Pursuant to R.C. § 4928.143 in the Form)	
of an Electric Security Plan.)	

**JOINT MOTION FOR CONTINUANCE OF THE EVIDENTIARY HEARING
OR, IN THE ALTERNATIVE,
JOINT MOTION FOR A PARTIAL CONTINUANCE TO CONSIDER
CUSTOMER BILL IMPACTS
AND
JOINT MOTION FOR AN EXTENSION OF THE TIME FOR FILING
TESTIMONY OF PARTIES NOT SIGNING FIRSTENERGY’S STIPULATION
AND
REQUEST FOR EXPEDITED RULING
BY
NORTHEAST OHIO PUBLIC ENERGY COUNCIL
NORTHWEST OHIO AGGREGATION COALITION
OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

Now come Northeast Ohio Public Energy Council, Northwest Ohio Aggregation Coalition, and the Office of the Ohio Consumers’ Counsel (collectively, the “Consumer Advocates”), and move the Public Utilities Commission of Ohio (“PUCO” or “the Commission”) to continue the evidentiary hearing. Consumer Advocates hereby submit these Joint Motions¹ for alternative forms of a continuance of the evidentiary hearing to further the opportunity to create a record with regard to customer bill impacts. Furthermore, the Consumer Advocates move the Commission to extend the time for

¹ The Motion is filed pursuant to Ohio Adm. Code 4901-1-12 and Ohio Adm. Code 4901-1-13.

filing testimony in order to allow non-signatory parties the opportunity to file supplemental testimony on the issue of customer bill impacts.

The reasons for this request are set forth more fully in the accompanying memorandum in support. In addition, because the evidentiary hearing is currently scheduled to commence June 4, 2012, Consumer Advocates request an expedited ruling on this Motion, pursuant to Ohio Adm. Code 4901-1-12(C).

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. CASE HISTORY

On April 13, 2012, Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, “Companies” or “FirstEnergy”) filed an application (“Application”) pursuant to Section 4928.141, Revised Code, to provide for a standard service offer (“SSO”) commencing as early as May 2, 2012, but no later than June 20, 2012, and ending May 31, 2016. The Application is for an electric security plan (“ESP”), filed pursuant to R.C. 4928.143. The Application included a Stipulation and Recommendation (“Stipulation”) agreed to by various Parties regarding the terms of the proposed ESP (“ESP 3”). FirstEnergy also filed a Motion for Waiver of Rules in an attempt to avoid compliance with the standards under Ohio Adm. Code 4901:1-35-03(C).

Six days later, the Attorney Examiner issued an Entry establishing a procedural schedule. In the April 19 Entry, the Attorney Examiner established the procedural schedule for this case.²

On April 17, 2012, the Consumer Advocates filed a Joint Motion to Bifurcate and a Joint Memorandum Contra FirstEnergy's Motion for Waiver of Rules. In addition, on April 23, 2012, the Consumer Advocates filed an Interlocutory Appeal of the April 19 Entry.

On April 25, 2012, the Commission issued a ruling on FirstEnergy's Motion for Waiver of Rules ("April 25 Entry"). The Commission's Entry thereby granted some of FirstEnergy's waiver requests and denied some of the waiver requests.³ In denying certain of the requests, the PUCO obligated the Companies to file additional materials with the Commission by May 2, 2012. On May 2, 2012, FirstEnergy filed supplemental information in the docket. Part of that information was a typical bill analysis comparing certain rates of the existing ESP 2 with years 1 and 2 of the ESP 3. The Companies' typical bill comparison did not include a comparison of the generation rates that customers will pay, as between the two ESP plans.

On May 7, 2012 and May 22, 2012 AEP Retail ("AEPR") served discovery set 4 and set 7 on FirstEnergy, respectively. Certain discovery requests sought information on the generation costs associated with FirstEnergy's ESP 3 case; however, FirstEnergy has

² April 19 Entry at 2-3.

³ April 25 Entry at 5-6.

not provided responses to AEPR's discovery. On May 29, 2012, AEPR filed a Motion to Compel.

On May 31, 2012, Consumer Advocates served discovery on FirstEnergy seeking comparable generation-related cost information as was sought by AEPR. The information is viewed as highly relevant to the proceedings that are now scheduled for hearing on June 4, 2012.⁴ Inasmuch as FirstEnergy has not responded to AEPR, the Consumer Advocates do not expect a response to their discovery either. In order to further the opportunity for the Commission to develop a full and complete record and diminish the potential for surprises regarding case outcomes, the Commission should grant Consumer Advocates' Joint Motion and continue the evidentiary hearing.

II. ARGUMENT

A continuance of a hearing may be granted for good cause, under Ohio Admin. Code 4901-1-13(A). Good cause exists for the Commission to grant Consumer Advocates' Joint Motion to continue the evidentiary hearing. The evidentiary hearing is scheduled to begin June 4, 2012, and information requested by AEPR, in discovery, is critical to the evaluation of the ESP 3 proposal. Consumer Advocates were aware of the discovery requests of AEPR, and to avoid redundancy did not initially make similar requests to FirstEnergy. Upon the news that FirstEnergy has not responded to AEPR's discovery, Consumer Advocates have sent similar discovery to further secure their rights under the rules of discovery to obtain this information. There is not the expectation that FirstEnergy will respond to this discovery, absent a PUCO ruling.

⁴ Entry at 5 (May 2, 2012).

On May 2, 2012, FirstEnergy filed “Supplemental Information” that included typical bill comparisons. This FirstEnergy filing was made in response to the Commission’s decision to deny in part FirstEnergy’s waiver request,⁵ but in this filing, FirstEnergy has made no attempt to estimate the impacts on customers’ bills from the upcoming competitive bidding process. Despite the fact the future auction results are not known, nevertheless, the derived SSO rates are the crux of the ESP 3 case, and the Commission should require FirstEnergy to make any necessary assumptions, qualify their conclusions and provide estimates of the generation capacity and energy costs for the ESP 3 term. In a recent Duke Energy Ohio (“Duke”) energy efficiency cost recovery case, Duke was failing to comply with the Commission’s rules in an attempt to hastily dispense with the case. The Commission took a stern tone with Duke in an Entry by stating:

Regardless of Duke's continued disdain for the established rules and processes, in the interest of moving forward with our consideration of this case, the Commission finds that Duke's request for a waiver should be granted, conditioned upon Duke providing the necessary detailed information at the hearing to be held in this case, which is scheduled in finding (10) below. The Commission will no longer tolerate Duke's unwillingness to follow our directives in this matter. Should Duke fail to provide either the information required by Chapter 4901:1-39, O.A.C, or a detailed explanation as to why a waiver of the rules is necessary and appropriate, the Commission may have no other recourse than to begin anew in this matter.⁶

Not unlike the Duke Case, FirstEnergy has employed a strategy to rush the ESP 3 case to judgment, and along the way is resisting the necessity of providing interested parties with critical information important to their evaluation of the case. The Commission should take a

⁵ Entry at 5 (April 25, 2012).

⁶ *In the Matter of the Application of Duke Energy Ohio, Inc. for an Energy Efficiency Cost Recovery Mechanism and for Approval of Additional Programs for Inclusion in its Existing Portfolio*, Case No. 11-4393-EL-RDR, Entry at 3 (May 9, 2012).

similar stance in this case, and grant the Joint Motion pending FirstEnergy providing the requested information.

The fundamental basis for ample discovery rights is so that parties in PUCO cases are able to present to the Commission recommendations and positions that are based on information and data obtained through the discovery process, as contemplated by law, rule and Court precedent. Adequate information in the record is critical for the Commission's decision-making, as the Commission recently found in a decision in an electric case:

In the Opinion and Order, the Commission recognized that these rate impacts may be significant, based upon evidence indicating that total bill impacts may, in some cases, approach 30 percent. However, the evidence in the record inadvertently failed to present a full and accurate portrayal of the actual bill impacts to be felt by customers, particularly with respect to low load factor customers who have low usage but high demand.⁷

In the AEP case, the Commission heard from one vociferous consumer group -- small commercial customers -- and that resulted in the Commission's rejection of the Stipulation.⁸ In this case, the potential exists for the record to be void of any generation cost estimates for the term of the ESP 3, June 2014 through May 2016.

On May 7, 2012, PJM conducted its base residual auction. The results of that auction demonstrated a significant increase in the cost of capacity for zone of FirstEnergy's transmission affiliate, American Transmission Systems, Incorporated ("ATSI"). The resource clearing price in PJM has ranged from \$16.46/ MW-day for delivery year 2012/13

⁷ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al, Entry on Rehearing at 11 (February 23, 2012).

⁸ *Id.* at 12.

to \$136.00/ MW-day for delivery year 2015/16.⁹ However, in the newly created ATSI zone the resource clearing price for delivery year 2015/16 was a whopping \$357.00/MW-day.

FirstEnergy should be required to estimate the impact of the auction results on Ohio customers, into a figure of cents per kWh for capacity and energy costs by customer class for the term of ESP 3. By compelling FirstEnergy to respond to the outstanding discovery responses, interested parties can minimize the possibility of any surprises with regard to this important aspect of this case. Furthermore, the evidentiary hearing should be continued until that data is provided, the parties have time to analyze the information and there is an opportunity to supplement testimony of parties who are not signatories to FirstEnergy's settlement.

A recent article in The Plain Dealer described the circumstances resulting in the increased capacity costs.¹⁰ There has been a recent FirstEnergy announcement that four power plants in northern Ohio will be retired. At the same time the ATSI transmission zone is constrained and is inadequate to import enough power from outside [the ATSI zone] to make up the for the reserve capacity of the four old power plants FirstEnergy will close in 2015. Therefore, the Commission should take a more deliberate look at the implications that FirstEnergy's actions will have on the future energy and capacity costs for FirstEnergy's customers. In order to accomplish that however, FirstEnergy must respond to the outstanding discovery requests, and Consumer Advocates should also be given ample

⁹ UBS Investment Research; US Electric Utilities & IPPs; "Diving into the PJM Auction Results" (May 21, 2012).

¹⁰ [http://www.cleveland.com/business/index.ssf/2012/05/ Wholesale Power Prices in Northeast Ohio will go up](http://www.cleveland.com/business/index.ssf/2012/05/WholesalePowerPricesinNortheastOhiowillgoup), John Funk (May 22, 2012).

time to analyze the FirstEnergy responses and prepare for the evidentiary hearing (including the supplementation of testimony, if needed).

FirstEnergy has touted the benefits to be derived from the three-year auction product that it has proposed for serving Ohio customers. Its witness, Mr. Ridmann, has stated in testimony filed, but yet to be presented:

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 product rather than a one year product 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 Stipulation plan thereby smoothing out generation prices and mitigating volatility in generation pricing for customers, * * *.¹¹

What FirstEnergy does not discuss--and what the Consumer Advocates are concerned with, among other things, in this case--is through the blending do customers actually receive a benefit from the Companies proposal. In addition, there is a potential mismatch by customers paying more in 2013 and 2014 under FirstEnergy's proposal, and then potentially never receiving any of the supposed benefits that the Companies tout for 2015 and 2016 for example if they should leave the system or change their consumption habits (i.e. due to energy efficiency investments).

Another concern with the ESP 3 proposal is the fact that the Companies' affiliated supplier, FirstEnergy Solutions, may receive a windfall profit -- at the expense of customers -- as a result of collecting more (a higher blended cost than the actual capacity cost) in the early years (i.e. 2013 and 2014) plus additionally benefiting from the effects of the time value of money. For all of these reasons -- and possibly more -- it is critical

¹¹ Ridmann Direct Testimony at 15 (April 13, 2012).

that the bill impact information be properly and thoroughly reviewed in a public and transparent manner to assure the Commission has a full and complete record for its decision in this case.

The Commission should grant the Consumer Advocates' Joint Motion, and continue the evidentiary hearing scheduled to commence on June 4, 2012, to allow FirstEnergy time to respond to the attached discovery requests served on FirstEnergy on May 31, 2012.¹² Consumer Advocates should also be given ample time to analyze the FirstEnergy responses and prepare for the evidentiary hearing (including the supplementation of testimony, if needed).

In the event the Commission is does not grant a full continuance of the evidentiary hearing in this case, then, in the alternative, the Consumer Advocates alternatively have moved for a partial continuance of the evidentiary hearing. The Commission should continue that part of the hearing in order to allow interested parties the opportunity to fully create a record with regard to customer bill impacts. The continuance should be for a reasonable time after FirstEnergy fully responds to the requested discovery and until there is a reasonable opportunity for the parties that did not sign FirstEnergy's settlement to review the responses, prepare cross-examination and supplement testimony (if needed) on issues surrounding bill impacts on residential customers and others.

In an Entry on May 2, 2012, the Attorney Examiner established the deadline for non-signatory parties to file testimony. That deadline was 3:00 PM on May 21, 2012.¹³ Pursuant to Ohio Adm. Code 4901-1-13 (A) extensions of time to file pleadings or other

¹² See attached NOPEC 3rd Set of Discovery, NOAC 3rd Set of Discovery and OCC 7th Set of Discovery.

¹³ Entry at 5, (May 2, 2012).

papers may be granted for good cause shown. There exists good cause for granting Consumer Advocates Joint Motion.

The established deadline for filing direct testimony was a mere 6 business hours after the results of the May, 2012 base residual auction results were released. AEPR and now Consumer Advocates have asked FirstEnergy to provide discovery responses that will provide estimates of the impacts of generation capacity and energy costs on customers' bills based upon the May 2012 auction results. That information could not have been provided and included in the direct testimony filed on May 21, 2012. Therefore, the Commission should grant the Consumer Advocates Joint Motion, and extend the time for filing testimony in order to allow non-signatory parties the opportunity to file supplemental testimony on the issue of customer bill impacts.

Because the evidentiary hearing is currently due to commence on June 4, 2012, the Consumer Advocates request expedited consideration of this Motion pursuant to Ohio Adm. Code 4901-1-12(C). Consumer Advocates are not able to certify that no party objects to an expedited ruling on this Motion.

III. CONCLUSION

For all the reasons discussed above, the Commission should grant Consumer Advocates' Joint Motion to continue the evidentiary hearing. In the alternative, the Commission should grant a partial continuance for the express purpose to allow the parties who did not sign the settlement the opportunity to fully create a record with regard to customer bill impacts.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been served upon the following parties via electronic mail, regular mail or by hand delivery this 1st day of June, 2012.

/s/ Larry S. Sauer
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**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 a Standard Service Offer)	Case No. 12-1230-EL-SSO
Pursuant to R.C. § 4928.143 in the Form of an)	
Electric Security Plan)	

**NORTHEAST OHIO PUBLIC ENERGY COUNCIL’S
THIRD SET OF DISCOVERY REQUESTS
TO OHIO EDISON, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND TOLEDO EDISON
(May 31, 2012)**

Pursuant to Rules 4901-1-16, 4901-1-19 and 4901-1-20 of the Ohio Administrative Code, and as an intervening party in the above-captioned case, the Northeast Ohio Public Energy Council (“NOPEC”) hereby propounds the following Discovery Requests upon Ohio Edison Company, The Cleveland Electric Illuminating Company and Toledo Edison Company (collectively “FirstEnergy”) to be answered in writing and under oath. Pursuant to the Attorney Examiner’s April 19, 2012 Entry in the above-captioned proceeding, all responses shall be served within ten (10) calendar days of the date set forth in the Certificate of Service affixed hereto, and upon counsel for NOPEC. Responses should be sent to:

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INSTRUCTIONS

1. If you refuse to answer any interrogatory, in whole or in part, specifically describe the basis for your refusal to answer, including a statement of facts relied on for any claim of privilege.

2. For all documents produced, identify by Bates number which documents are responsive to each separate discovery request.

3. In accordance with Rule 4901-1-16 of the Ohio Administrative Code, these interrogatories and requests for production of documents shall be deemed to be continuing so as to request supplementation of the responses up to and through the time of the hearing in this case.

4. For each response to these interrogatories and requests for production of documents, state the name and title of the person responsible for preparing the response.

5. Terms in the plural include the singular and terms in the singular include the plural.

6. Except as otherwise noted, the period of time covered by each interrogatory is to date.

7. The word "or" is not exclusive.

8. Terms referring to a gender include all genders.

9. The use of the past tense in any interrogatory shall include the present tense, and vice versa.

10. No statement or inference contained in any interrogatory herein shall constitute a representation or admission of any fact or condition.

DEFINITIONS

1. The term “person,” when used herein, means an individual, corporation, partnership or association, or any other business or governmental entity.

2. The term “document” means refers to any written, printed, typed, photostatic, photographed, recorded, electronically stored, computerized and/or otherwise reproduced communication or representation, whether comprised of letters, words, numbers, pictures, sounds or symbols, electronic and/or computerized data or any combination thereof. This definition includes all drafts of every document and/or computer file, and copies or duplicates of documents and/or computer files contemporaneously or subsequently created which have any non-conforming notes or other markings. More specifically, the term "document" includes, but is not limited to, correspondence, memoranda, notes or notations, records, letters, electronic mail, envelopes, telegrams, messages, studies, analyses, contracts, agreements, working papers, accounts, analytical records, reports and/or summaries of investigations, trade letters, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, drawings, diagrams, instructions, notes or minutes of meetings or of other communications of any type, including inter- and intra-office communications, questionnaires, surveys, charts, graphs, photographs, phonograph recordings, films, tapes, disks, data cells, e-mail, printouts or hard copies of information stored or maintained by electronic data processing or word processing equipment, all other data compilations from which information can be obtained (by translation, if necessary, by you through detection devices into usable form) including, without limitation, electromagnetically sensitive storage

media such as floppy disks, hard disks and/or CD-ROM, and any preliminary versions, drafts or revisions of any of the foregoing.

2. The term “identify,” when used herein, has the following meanings:
 - A. When used in reference to an individual, it means to state the person’s (a) full name; (b) present business address, or, if unavailable, last known home address; and (c) business or governmental affiliation or job title or, if unavailable, the last known business or governmental affiliation and job description.
 - B. When used in reference to any person other than an individual, it means to state the person’s (a) full name and dba, if any; and (b) present address or, if unavailable, last known address;
 - C. When used in reference to corporate or other business entities, it means to state (a) the name of the corporation or business entity; (b) the date and place(s) of incorporation; (c) the principal place(s) of business; (d) all locations where it is licensed or authorized to do business; and (e) all of its present business addresses.
 - D. When used in reference to communications, it means to describe the statements and communications by (a) stating the date and place where they were made; (b) identifying each of the makers and recipients thereof, in addition to all persons present; and (c) indicating the medium of communication. Note: When identifying the date of an oral statement or communication, the precise date must be given. If only an approximate date is given, it will be presumed that you have no recall or specific knowledge as to the exact date.
 - E. When used in reference to a document or documentary evidence, it means to state the type of document (e.g., letter, memorandum, telegraph, chart), its author and originator, its date or dates, all addresses and recipients, its present location or custodian, the topics dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production and any identifying marks, numerals, code words or letters distinguishing it from other similar documents. If any such document was but no longer is in your possession or subject to your custody or control, state what disposition was made of it. Documents to be identified shall include all those documents in your possession, custody or control and all of the documents of which you have knowledge, all documents available to you, and all documents that you could obtain from your employees, agents, representatives, sureties, or indemnitors.

3. “Relates to” and “relating to” are intended to include referring to, relating to, embodying, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, or constituting.

4. “FirstEnergy” refers collectively to FirstEnergy Corporation, its parent companies, subsidiaries (including Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company), affiliates, predecessors, successors, officers, directors, agents, employees, and other persons acting on its behalf.

5. “You” and “your” refers to FirstEnergy and all employees, agents, representatives, affiliates, successor corporations, subsidiary corporations, and parent corporations thereof.

6. The “Commission” means the Public Utilities Commission of Ohio.

7. “SSO” means standard service offer.

8. “Supplemental Information Filing” means the documents filed with the Commission by FirstEnergy on May 2, 2012 and titled “Supplemental Information Filing of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company.”

9. “MWH” means megawatt hour.

INTERROGATORIES

NOPEC Int. 24. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released

on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$45/MWH for all CBP components except capacity.

RESPONSE:

NOPEC Int. 25. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$50/MWH for all CBP components except capacity.

RESPONSE:

NOPEC Int. 26. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$55/MWH for all CBP components except capacity.

RESPONSE:

NOPEC Int. 27. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$60/MWH for all CBP components except capacity.

RESPONSE:

REQUESTS FOR PRODUCTION

NOPEC RFP 7. Provide any and all documents responsive to NOPEC Interrogatories 24, 25, 26, and/or 27.

RESPONSE:

Respectfully submitted,



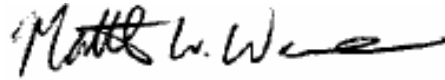
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties
of record by e-mail this 31st day of May 2012.



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**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 a Standard Service Offer)	Case No. 12-1230-EL-SSO
Pursuant to R.C. § 4928.143 in the Form of an)	
Electric Security Plan)	

**NORTHEAST OHIO PUBLIC ENERGY COUNCIL’S
THIRD SET OF DISCOVERY REQUESTS
TO OHIO EDISON, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND TOLEDO EDISON
(May 31, 2012)**

Pursuant to Rules 4901-1-16, 4901-1-19 and 4901-1-20 of the Ohio Administrative Code, and as an intervening party in the above-captioned case, the Northeast Ohio Public Energy Council (“NOPEC”) hereby propounds the following Discovery Requests upon Ohio Edison Company, The Cleveland Electric Illuminating Company and Toledo Edison Company (collectively “FirstEnergy”) to be answered in writing and under oath. Pursuant to the Attorney Examiner’s April 19, 2012 Entry in the above-captioned proceeding, all responses shall be served within ten (10) calendar days of the date set forth in the Certificate of Service affixed hereto, and upon counsel for NOPEC. Responses should be sent to:

Glenn S. Krassen
Bricker & Eckler LLP
1001 Lakeside Avenue East, Suite 1350
Cleveland, Ohio 44114
E-mail: gkrassen@bricker.com

Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
E-mail: mwarnock@bricker.com

INSTRUCTIONS

11. If you refuse to answer any interrogatory, in whole or in part, specifically describe the basis for your refusal to answer, including a statement of facts relied on for any claim of privilege.

12. For all documents produced, identify by Bates number which documents are responsive to each separate discovery request.

13. In accordance with Rule 4901-1-16 of the Ohio Administrative Code, these interrogatories and requests for production of documents shall be deemed to be continuing so as to request supplementation of the responses up to and through the time of the hearing in this case.

14. For each response to these interrogatories and requests for production of documents, state the name and title of the person responsible for preparing the response.

15. Terms in the plural include the singular and terms in the singular include the plural.

16. Except as otherwise noted, the period of time covered by each interrogatory is to date.

17. The word "or" is not exclusive.

18. Terms referring to a gender include all genders.

19. The use of the past tense in any interrogatory shall include the present tense, and vice versa.

20. No statement or inference contained in any interrogatory herein shall constitute a representation or admission of any fact or condition.

DEFINITIONS

1. The term “person,” when used herein, means an individual, corporation, partnership or association, or any other business or governmental entity.

2. The term “document” means refers to any written, printed, typed, photostatic, photographed, recorded, electronically stored, computerized and/or otherwise reproduced communication or representation, whether comprised of letters, words, numbers, pictures, sounds or symbols, electronic and/or computerized data or any combination thereof. This definition includes all drafts of every document and/or computer file, and copies or duplicates of documents and/or computer files contemporaneously or subsequently created which have any non-conforming notes or other markings. More specifically, the term "document" includes, but is not limited to, correspondence, memoranda, notes or notations, records, letters, electronic mail, envelopes, telegrams, messages, studies, analyses, contracts, agreements, working papers, accounts, analytical records, reports and/or summaries of investigations, trade letters, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, drawings, diagrams, instructions, notes or minutes of meetings or of other communications of any type, including inter- and intra-office communications, questionnaires, surveys, charts, graphs, photographs, phonograph recordings, films, tapes, disks, data cells, e-mail, printouts or hard copies of information stored or maintained by electronic data processing or word processing equipment, all other data compilations from which information can be obtained (by translation, if necessary, by you through detection devices into usable form) including, without limitation, electromagnetically sensitive storage

media such as floppy disks, hard disks and/or CD-ROM, and any preliminary versions, drafts or revisions of any of the foregoing.

2. The term “identify,” when used herein, has the following meanings:
 - F. When used in reference to an individual, it means to state the person’s (a) full name; (b) present business address, or, if unavailable, last known home address; and (c) business or governmental affiliation or job title or, if unavailable, the last known business or governmental affiliation and job description.
 - G. When used in reference to any person other than an individual, it means to state the person’s (a) full name and dba, if any; and (b) present address or, if unavailable, last known address;
 - H. When used in reference to corporate or other business entities, it means to state (a) the name of the corporation or business entity; (b) the date and place(s) of incorporation; (c) the principal place(s) of business; (d) all locations where it is licensed or authorized to do business; and (e) all of its present business addresses.
 - I. When used in reference to communications, it means to describe the statements and communications by (a) stating the date and place where they were made; (b) identifying each of the makers and recipients thereof, in addition to all persons present; and (c) indicating the medium of communication. Note: When identifying the date of an oral statement or communication, the precise date must be given. If only an approximate date is given, it will be presumed that you have no recall or specific knowledge as to the exact date.
 - J. When used in reference to a document or documentary evidence, it means to state the type of document (e.g., letter, memorandum, telegraph, chart), its author and originator, its date or dates, all addresses and recipients, its present location or custodian, the topics dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production and any identifying marks, numerals, code words or letters distinguishing it from other similar documents. If any such document was but no longer is in your possession or subject to your custody or control, state what disposition was made of it. Documents to be identified shall include all those documents in your possession, custody or control and all of the documents of which you have knowledge, all documents available to you, and all documents that you could obtain from your employees, agents, representatives, sureties, or indemnitors.

3. “Relates to” and “relating to” are intended to include referring to, relating to, embodying, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, or constituting.

10. “FirstEnergy” refers collectively to FirstEnergy Corporation, its parent companies, subsidiaries (including Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company), affiliates, predecessors, successors, officers, directors, agents, employees, and other persons acting on its behalf.

11. “You” and “your” refers to FirstEnergy and all employees, agents, representatives, affiliates, successor corporations, subsidiary corporations, and parent corporations thereof.

12. The “Commission” means the Public Utilities Commission of Ohio.

13. “SSO” means standard service offer.

14. “Supplemental Information Filing” means the documents filed with the Commission by FirstEnergy on May 2, 2012 and titled “Supplemental Information Filing of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company.”

15. “MWH” means megawatt hour.

INTERROGATORIES

NOPEC Int. 28. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released

on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$45/MWH for all CBP components except capacity.

RESPONSE:

NOPEC Int. 29. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$50/MWH for all CBP components except capacity.

RESPONSE:

NOPEC Int. 30. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$55/MWH for all CBP components except capacity.

RESPONSE:

NOPEC Int. 31. On May 2, 2012, FirstEnergy filed their Supplemental Information Filing with the Commission, including Exhibit 3 titled “Typical Bills – Comparison.” Please update all calculations in columns (C) through (E) to reflect PJM’s 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process (“CBP”) for SSO service is \$60/MWH for all CBP components except capacity.

RESPONSE:

REQUESTS FOR PRODUCTION

NOPEC RFP 8. Provide any and all documents responsive to NOPEC Interrogatories 24, 25, 26, and/or 27.

RESPONSE:

Respectfully submitted,



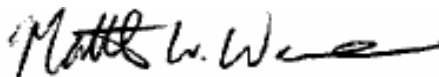
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Attorneys for NOPEC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties of record by e-mail this 31st day of May 2012.



Matthew W. Warnock

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company for Authority to) Case No. 12-1230-EL-SSO
Establish a Standard Service Offer)
Pursuant to R.C. § 4928.143 in the Form)
of an Electric Security Plan.)

**THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED UPON FIRSTENERGY,
SEVENTH SET
(DATED MAY 31, 2012)**

The Office of the Ohio Consumers' Counsel, in the above-captioned proceedings before the Public Utilities Commission of Ohio, submits the following Interrogatories and Requests for Production of Documents pursuant to Sections 4901-1-19 and 4901-1-20 Ohio Adm. Code for response from the FirstEnergy electric distribution utilities ("FirstEnergy EDUs") within ten (10) days.¹⁴ An electronic, non-pdf (e.g. Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

Larry S. Sauer
Terry Etter
Melissa Yost
Assistant Consumers' Counsel
10 West Broad Street, Suite 1800
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(614) 466-8574 (T)
sauer@occ.state.oh.us
etter@occ.state.oh.us
yost@occ.state.oh.us

¹⁴ Entry at 3 (April 19, 2012).

Additionally, the FirstEnergy EDUs must follow the instructions provided herein in responding to the inquiries. Definitions are provided below that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein the following definitions apply:

1. "Document" or "Documentation" when used herein, is used in its customary broad sense, and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and

electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.

4. “And” or “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. “You,” and “Your,” or “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.
8. “Person” includes any firm, corporation, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” or “the Identity of,” or “Identified” means as follows:
 - A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;
 - D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;
 - E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.

- F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (for example: a room number, file cabinet, and/or file designation).
10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
 11. The term "e.g." connotes illustration by example, not limitation.
 12. "OCC" means the Office of the Ohio Consumers' Counsel.
 13. "OE" means Ohio Edison Company, "CEI" means The Cleveland Electric Illuminating Company and "TE" means The Toledo Edison Company.
 14. "FirstEnergy EDUs" and "the Company" means OE, CEI, and TE collectively.
 15. "FirstEnergy Solutions" means the affiliate of OE, CEI, and TE that owns generating plants, some or all of which were formerly owned by the FirstEnergy EDUs.
 16. "ATSI" means the American Transmission Service, Incorporated, the affiliate of OE, CEI, and TE that owns transmission facilities located in and around Ohio.
 17. "FirstEnergy-Affiliated Companies" means the FirstEnergy EDUs and their affiliated companies (including, but not limited to, FirstEnergy Solutions and ATSI).
 18. "Application" means the document, labeled as such, filed in the above-captioned case on April 13, 2012, but not including the attached Stipulation and Recommendation.
 19. "Stipulation" means the document, labeled as such, attached as part of the application filed in the above-captioned case on April 13, 2012.
 20. "CBP" means the competitive bidding process.
 21. "SSO" means standard service offer.
 22. "RTO" means regional transmission organization, and includes what have also been called independent system operators (e.g. including by the PJM Interconnection, "PJM," and the Midwest Independent System Operator, "MISO").
 23. "ESP Proceeding" and means the above-captioned case; "MRO Proceeding" means Case No. 09-906-EL-SSO; and "SSO Proceedings" means these two cases, collectively.
 24. "LMP" means the locational marginal price that is defined as the sum of the system energy price plus transmission congestion price plus the cost of marginal losses.
 25. "DSI" means the Delivery Service Improvement rider.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged which is in your possession or control, or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization(s) is requested to produce responsive materials and information within its physical control or custody, as well as that physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;
 - B. other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files; and
 - D. such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in kWh may be provided in MWh or GWh as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2000 through and including the date of your response.

9. Responses must be complete when made, and must be supplemented with subsequently acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (i.e. provide a privilege log). Respondent to the discovery must a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, b) identify all persons to whom the information has already been revealed, and c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

INTERROGATORIES

INT-57. Regarding the Companies' Exhibit 3, "Typical Bills – Comparison" included in its May 2, 2012 Supplemental Information Filing with the Commission, please update all calculations in columns (C) through (E) to reflect PJM's 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process ("CBP") for SSO service is \$45/MWH for all CBP components except capacity.

RESPONSE:

INT-58. Regarding the Companies' Exhibit 3, "Typical Bills – Comparison" included in its May 2, 2012 Supplemental Information Filing with the Commission, please update all calculations in columns (C) through (E) to reflect PJM's 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process ("CBP") for SSO service is \$50/MWH for all CBP components except capacity.

RESPONSE:

INT-59. Regarding the Companies' Exhibit 3, "Typical Bills – Comparison" included in its May 2, 2012 Supplemental Information Filing with the Commission, please update all calculations in columns (C) through (E) to reflect PJM's 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process ("CBP") for SSO service is \$55/MWH for all CBP components except capacity.

RESPONSE:

INT-60. Regarding the Companies' Exhibit 3, "Typical Bills – Comparison" included in its May 2, 2012 Supplemental Information Filing with the Commission, please update all calculations in columns (C) through (E) to reflect PJM's 2015/2016 Base Residual Auction prices released on May 18, 2012, and assuming the result of the competitive bidding process ("CBP") for SSO service is \$60/MWH for all CBP components except capacity.

RESPONSE:

INT-61. In regards to your answer to OCC Interrogatory No. 57 above, please indicate the rate for both the capacity and energy charges separately, in cents-per-kWh, included in each line item of Service that represents the Companies' Rider GEN rate in Colum D.

RESPONSE:

INT-62. In regards to your answer to OCC Interrogatory No. 57 above, please indicate the rate for both the capacity and energy charges separately, in cents-per-kWh, included in each line item of Service that represents the Companies' Rider AER rate in Colum D.

RESPONSE:

INT-63. In regards to your answer to OCC Interrogatory No. 57 above, please indicate the rate for both the capacity and energy charges separately, in cents-per-kWh, included in each line item of Service that represents the Companies' Rider NDU rate in Colum D.

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

RPD 15. Provide any and all documents responsive to OCC Interrogatories 57, 58, 59, 60, 61, 62 and/or 63.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Interrogatories and Requests for Production of Documents*, Seventh Set, were served upon the persons listed below, electronically, this 31st day of May 2012.

/s/ Larry S. Sauer

Larry S. Sauer

Assistant Consumers' Counsel

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Summary: Motion Joint Motion for Continuance of the Evidentiary Hearing or, in the Alternative, Joint Motion for a Partial Continuance to Consider Customer Bill Impacts and Joint Motion for an Extension of the Time for Filing Testimony of Parties Not Signing FirstEnergy's Stipulation and Request for Expedited Ruling by Northeast Ohio Public Energy Council, Northwest Ohio Aggregation Coalition and Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Sauer, Larry S.