

**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)	Case Nos. 12-2190-EL-POR
Edison Company For Approval of Their)	12-2191-EL-POR
Energy Efficiency and Peak Demand)	12-2192-EL-POR
Reduction Program Portfolio Plans for 2013)	
through 2015)	
)	

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY’S
MOTION TO STRIKE PORTIONS OF THE DIRECT TESTIMONY OF DR. DENNIS
GOINS ON BEHALF OF OEG AND NUCOR STEEL MARION**

Pursuant to O.A.C. 4901-1-12, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) respectfully ask the Commission to strike certain portions of the testimony of OEG/Nucor witness Dr. Dennis Goins as not relevant and beyond the scope of this proceeding. Dr. Goins opines on rate design issues that are not an element of this proceeding, and consideration of those issues would be unfair to the many affected parties that are not part of this proceeding.

FirstEnergy also moves to strike portions of Dr. Goins’ testimony relating to the manner in which the Companies calculate PDR savings associated with Rider ELR interruptible load. This issue was addressed in the Companies’ recent Electric Security Plan proceeding, Case No. 12-1230-EL-SSO (“ESP III”), with the Stipulating Parties agreeing that the Companies shall bid eligible ELR load into the PJM capacity auction “in a manner consistent with the Companies’

prior practice.”¹ Although Dr. Goins questions that prior practice, Nucor and OEG have not shown good cause to re-open this issue in this proceeding.

Due to the length of the testimony involved and in the interest of ensuring an efficient hearing, the Companies make this motion in advance of hearing and ask that the following portions of Dr. Goins’ testimony be struck:

Rate Design

Page 4 lines 4-21

Page 5 lines 20-24

Page 6 lines 12-26

Pages 7-13 all lines

Page 14 lines 1-5

ELR Calculation

Page 5 lines 6-13

Page 6 lines 1-5

Page 18 lines 10-18

Page 19 all lines

Page 20 lines 1-20

For the reasons set forth in the attached Memorandum in Support, the Companies respectfully request that the Commission strike these portions of Dr. Goins’ testimony. Due to the pending hearing scheduled to begin Monday, October 22, 2012, the Companies request an expedited ruling on this Motion pursuant to O.A.C. 4901-1-12(C).

¹ *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 Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Stipulation and Recommendation at p. 13 (April 13, 2012) (hereinafter, “ESP III Stipulation”). *See generally* ESP III Opinion and Order (July 18, 2012) (approving ESP III Stipulation) .

Respectfully submitted,

/s James F. Lang

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**MEMORANDUM IN SUPPORT OF
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY’S
MOTION TO STRIKE PORTIONS OF THE DIRECT TESTIMONY OF DR. DENNIS
GOINS ON BEHALF OF THE OEG AND NUCOR STEEL MARION**

Significant portions of Dr. Goins’ testimony do not apply to the pending proceeding. As Dr. Goins agreed in his deposition taken Tuesday, Oct. 16, 2012, the Companies’ Portfolio Plan is about the design of EE/PDR programs for 2013 through 2015.² Although Dr. Goins has attempted to insert into this proceeding issues relating to the design of Rider DSE and its DSE2 charge, the Companies are not proposing any changes to Rider DSE or the DSE2 charge in this proceeding.³ The Commission approved the design of Rider DSE in the Companies’ first Electric Security Plan, modified it in Case No. 09-1947-EL-POR *et al.*, and reaffirmed the current design through May 31, 2016 as one component of the Companies’ ESP III proceeding.⁴ In contrast to the Companies’ ESP proceedings, in which all interested parties are put on notice that rate design may be at issue,⁵ this proceeding is narrowly focused on the design of the Companies’ EE/PDR Portfolio Plan programs. Because of the limited nature of the Companies’

² See Deposition of Dennis W. Goins (“Goins Dep.”), at 9:3-6, attached hereto as Exh. A.

³ See *id.*, at 8:24-9:2.

⁴ See *id.*, at 9:7-10:16. See also ESP III Stipulation at pp. 27-28, 44 and Attachment B thereto.

⁵ Dr. Goins did not know whether OEG or Nucor sought to revise Rider DSE in the ESP III proceeding. Goins Dep., at 10:13-16.

filing, it is likely that not all interested parties are on notice that Rider DSE may be subject to revision in this proceeding. As such, Dr. Goins' testimony regarding Rider DSE is not only irrelevant, but also threatens the due process of interested persons not participating in this proceeding. To promote efficiency and fairness, this testimony should be struck.

In addition, Dr. Goins has raised again the same argument he raised, without success, in Case No. 09-1947-EL-POR, *et al.*, regarding how Rider ELR interruptible load is calculated for purposes of counting it as a PDR resource. However, one component of the Commission's recent approval of the Companies' ESP III Stipulation in Case No. 12-1230-EL-SSO is the Companies' commitment to bid into the PJM capacity auction "eligible Rider OLR and Rider ELR interruptible load in a manner consistent with the Companies' prior practice."⁶ Dr. Goins believes that the amount of Rider ELR interruptible load registered with PJM should be ignored, and that the Companies should instead use a theoretical maximum load to calculate PDR savings.⁷ However, the Companies are bound by the Commission's approval of the ESP III Stipulation to use achievable PDR savings consistent with prior practice. Thus, Dr. Goins' testimony on this subject is not relevant to this proceeding and should be struck.

The specific pages and line numbers that the Companies are moving to strike are as follows:

Page 4 , lines 4-21

Dr. Goins' first two "conclusions" relate specifically to the design of Rider DSE. No witness of the Companies has put Rider DSE in question. This testimony is not relevant to this proceeding and, if considered in this proceeding, would unfairly prejudice interested persons who are not parties to this proceeding.

⁶ ESP III Stipulation at p. 13. Dr. Goins did not participate in the ESP III proceeding and did not review any of the testimony filed in that proceeding. Goins Dep., at 10:3-12.

⁷ Goins Testimony, p. 19.

Page 5 , lines 6-13

Dr. Goins' fourth "conclusion" challenges the measure of PDR benefits derived from Rider ELR interruptible load, which was resolved in the Companies' ESP III proceeding in favor of continuing to use existing metrics. This testimony is not relevant to this proceeding.

Page 5, lines 20-24

Dr. Goins' first recommendation is to modify the DSE2 charge in Rider DSE. This testimony is not relevant to this proceeding and, if considered in this proceeding, would unfairly prejudice interested persons who are not parties to this proceeding.

Page 6, lines 1-5

Dr. Goins' third recommendation is to modify the existing methodology used to calculate PDR benefits derived from Rider ELR interruptible load. This testimony is not relevant to this proceeding.

Page 6, line 12 through Page 14, line 5

Dr. Goins' offers multiple opinions regarding the allocation and collection of mercantile sector program costs from GT customers. Among other things, he proposes a monthly cap on what GT customers pay, with any overage to be recovered from GP, GSU and GT customers.⁸ The Companies have not put at issue in this proceeding the allocation and collection of costs among and within customer classes. Thus, this testimony is not relevant to this proceeding.

Moreover, because the design of Rider DSE is not an issue raised in this proceeding by the Companies (it was one of many riders extended through May 1, 2016 in the ESP III proceeding), it would be unfair to address this issue when all interested persons, including members of the GP and GSU classes, are not on notice that this case could include rate re-design. This testimony should be struck.

⁸ Goins Testimony, pp. 11-13.

Page 18, line 10 through Page 20, line 20

Dr. Goins questions the Companies' existing practice for calculating the PDR savings provided by ELR interruptible load. However, because Dr. Goins did not participate in the ESP III proceeding, he is not aware that the Commission's ESP III Order obligates the Companies to continue using the existing methodology consistent with PJM rules. As a result, his testimony is not relevant to this proceeding and should be struck.

For the foregoing reasons, the Companies respectfully request that the Commission strike the aforementioned testimony that does not relate to the proceeding under consideration and do so on an expedited basis.

Respectfully submitted,

/s James F. Lang

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CERTIFICATE OF SERVICE

I hereby certify that this Motion to Strike and Memorandum in Support was filed electronically this 19th day of October, 2012, with the Public Utilities Commission of Ohio Docketing Information System. Notice of this filing will be sent via e-mail to the list below.

s/ James F. Lang

One of attorneys for Ohio Edison Company, The
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Summary: Motion to Strike Portions of the Direct Testimony of Dr. Dennis W. Goins electronically filed by Mr. James F Lang on behalf of Ohio Edison Company and The Toledo Edison Company and The Cleveland Electric Illuminating Company