

OCC EXHIBIT NO. _____

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company for Authority to Provide) Case No. 14-1297-EL-SSO
for a Standard Service Offer Pursuant to)
R.C. 4928.143 in the Form of an Electric)
Security Plan.)

**DIRECT TESTIMONY
OF
BETH E. HIXON**

**On Behalf of the
Office of the Ohio Consumers' Counsel**
*10 West Broad Street, Suite 1800
Columbus, Ohio 43215*

December 22, 2014

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. PURPOSE OF TESTIMONY	3
III. BACKGROUND	4
A. FirstEnergy EDUs' Commitment on Legacy RTEP Charges.....	4
B. FirstEnergy EDUs' Proposed Treatment in ESP IV of Legacy MTEP Costs	6
IV. RECOMMENDATIONS.....	9

ATTACHMENTS

BEH-1 Beth E. Hixon – Testimony Submitted on Public Utility Regulation

I. INTRODUCTION

Q1. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.

A1. My name is Beth E. Hixon. My business address is 10 West Broad Street, Suite 1800, Columbus, Ohio 43215-3485. I am employed by the Office of the Ohio Consumers' Counsel ("OCC") as a Senior Energy Team Leader.

Q2. WOULD YOU PLEASE SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?

A2. I received a Bachelor of Business Administration degree in accounting from Ohio University in June 1980. For the period June 1980 through April 1982, I was employed as an Examiner in the Field Audits Unit of the Ohio Rehabilitation Services Commission ("ORSC"). In this position, I performed compliance audits of ORSC grants to, and contracts with, various service agencies in Ohio.

In May 1982, I was employed in the position of Researcher by the OCC. In 1984, I was promoted to Utility Rate Analyst Supervisor and held that position until November 1987 when I joined the regulatory consulting firm of Berkshire Consulting Services. In April 1998, I returned to the OCC and have subsequently held positions as Senior Regulatory Analyst, Principal Regulatory Analyst, Assistant Director of Analytical Services and Senior Energy Team Leader.

1 ***Q3. WHAT EXPERIENCE DO YOU HAVE IN THE AREA OF UTILITY***
2 ***REGULATION?***

3 ***A3.*** In my positions with the OCC, and as a consultant with Berkshire Consulting
4 Services, I have performed analysis and research in numerous cases involving
5 utilities' base rates, fuel, and gas rates and other regulatory issues. I have worked
6 with attorneys, analytical staff, and consultants in preparing for, and litigating,
7 utility proceedings involving Ohio's electric companies, the major gas companies,
8 and several telephone and water utilities. At the OCC, I also chair the OCC's
9 internal electric team, participate in and/or direct special regulatory projects
10 regarding energy issues, and provide training on regulatory technical issues.

11
12 ***Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE***
13 ***REGULATORY COMMISSIONS?***

14 ***A4.*** Yes. I have submitted testimony before the Public Utilities Commission of Ohio
15 ("PUCO" or "Commission") in the cases listed in Attachment BEH-1. As shown
16 on this Attachment, I have also submitted testimony in a case before the Indiana
17 Utility Regulatory Commission.

II. PURPOSE OF TESTIMONY

Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A5. The purpose of my testimony is to address one of FirstEnergy Electric Distribution Utilities'¹ proposals in this proceeding ("ESP IV"). I address the Utilities request related to a commitment they made in Case No. 10-388-EL-SSO ("ESP II"). In ESP II the FirstEnergy EDUs agreed not to seek recovery through Ohio retail rates (i.e. not to collect from retail customers) \$360 million of Legacy PJM² Regional Transmission Expansion Plan costs ("Legacy RTEP").

In this proceeding, the FirstEnergy EDUs request that the PUCO allow them to count MISO³ Transmission Expansion Plan costs ("Legacy MTEP") costs toward their commitment not to charge Ohio customers \$360 million of Legacy RTEP costs. The Utilities propose to count Legacy MTEP toward that commitment if the Federal Energy Regulatory Commission ("FERC") determines that Legacy MTEP costs are not permitted in the ATSI⁴ formula rate tariff. These are the same Legacy MTEP costs that the FERC has determined are not permitted in the ATSI formula rate tariff.

¹ Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company; collectively, "FirstEnergy EDUs," "Utilities," or "Companies."

² PJM Interconnection, L.L.C.

³ Midcontinent Independent Transmission System Operator, Inc.

⁴ American Transmission Systems, Inc., an affiliate of the FirstEnergy EDUs that owns and operates transmission facilities.

**Q6. WHAT IS YOUR RECOMMENDATION REGARDING THE FIRSTENERGY
EDUS' PROPOSAL RELATED TO LEGACY MTEP?**

A6. First, I recommend that it is premature for the PUCO, in this proceeding, to consider the FirstEnergy EDUs' request related to Legacy MTEP costs. This is because there has been no final FERC ruling on whether the FirstEnergy EDUs may be charged Legacy MTEP costs through the ATSI formula rate tariff. The ruling is not final because of a pending rehearing request before the FERC. If the PUCO decides to consider the FirstEnergy EDUs' request in this proceeding, contrary to OCC's recommendation otherwise, then the Commission should not allow the Utilities to count any Legacy MTEP that is not eligible for inclusion in ATSI's formula rate toward their Legacy RTEP commitment. The Utilities should not be permitted to count FERC-disallowed Legacy MTEP toward the \$360 million non-collection commitment for FERC-approved Legacy RTEP.

III. BACKGROUND

A. FirstEnergy EDUs' Commitment on Legacy RTEP Charges

**Q7. WHAT WAS THE RTEP-RELATED COMMITMENT BY THE UTILITIES
THAT WAS APPROVED BY THE PUCO IN THE ESP II CASE?**

A7. In the PUCO-approved Stipulation in the ESP II case, the FirstEnergy EDUs agreed:

1 “not to seek recovery through retail rates of legacy RTEP costs for
2 the longer of: (1) during the period of June 1, 2011 through May
3 31, 2016, or (2) when a total of \$360 million of legacy RTEP costs
4 have been paid by the Companies and have not been recovered by
5 the Companies through retail rates from Ohio customers (Joint Ex.
6 3 at 5).”⁵

7
8 Absent this “non-collection commitment” for Legacy RTEP, those Legacy RTEP
9 costs charged to the FirstEnergy EDUs could have been charged to their Ohio
10 customers.

11
12 ***Q8. HAVE THE UTILITIES’ MET THEIR LEGACY RTEP “NON-RECOVERY***
13 ***COMMITMENT” TO CUSTOMERS?***

14 ***A8.*** No. According to Utilities’ witness Mikkelsen, the Utilities “have made
15 payments of just over \$80 million”⁶ for PJM Legacy RTEP for which they have
16 not sought to charge Ohio customers. Therefore, FirstEnergy EDUs are still
17 committed to not collect from customers an additional \$280 million of PJM
18 Legacy RTEP charges.

⁵ August 25, 2010 Order in ESP II Case, at 13.

⁶ FirstEnergy EDUs witness Mikkelsen Direct Testimony at 17.

**B. FirstEnergy EDUs' Proposed Treatment in ESP IV of Legacy
MTEP Costs**

***Q9. WHAT IS THE FIRSTENERGY EDUS' PROPOSAL IN THIS
PROCEEDING RELATED TO LEGACY MTEP?***

A9. Witness Mikkelsen proposes that “if MISO transmission expansion costs are not eligible for inclusion in the ATSI formula rate,”⁷ then the PUCO should allow the Companies to count such Legacy MTEP costs toward their \$360 million commitment not to collect PJM Legacy RTEP from customers. According to Ms. Mikkelsen, the FirstEnergy EDUs' Ohio retail customers may not pay MTEP costs if “such costs cannot be included in the ATSI formula rate (billed to the Companies and then passed on to retail customers).”⁸

***Q10. WHY COULD MTEP COSTS NOT BE ELIGIBLE FOR INCLUSION IN THE
ATSI RATE FORMULA?***

A10. Currently, the issue of whether Legacy MTEP costs may be included in the ATSI rate formula is pending before the FERC. According to the Companies' response to OCC Interrogatory No. 13:

“ATSI is currently seeking authority from FERC to include MISO transmission expansion costs in its formula rate. In its initial decision, FERC determined that they are unable to approve ATSI's request without additional support for why ATSI's request is just

⁷ FirstEnergy EDUs witness Mikkelsen Direct Testimony at 18.

⁸ FirstEnergy EDUs witness Mikkelsen Direct Testimony at 19.

1 and reasonable or a cost-benefit analysis showing that the benefits
2 of ATSI's request outweigh the costs. ATSI is currently seeking
3 rehearing on FERC's initial decision. As a result, the inclusion of
4 MISO transmission expansion costs in the ATSI formula rate
5 remains unresolved."

6
7 ***Q11. HOW WOULD THE ATSI FORMULA RATE AFFECT RATES CHARGED***
8 ***BY THE FIRSTENERGY EDUS TO OHIO RETAIL CUSTOMERS?***

9 ***A11.*** The ATSI rate formula is a part of the PJM Open Access Transmission Tariff
10 ("PJM Tariff") that is charged to ATSI zone transmission customers. The PJM
11 Tariff, and the underlying ATSI rate formula, is subject to approval by the FERC.
12 If a FERC-approved PJM Tariff's ATSI rate formula included Legacy MTEP
13 costs then PJM could charge those costs to the FirstEnergy EDUs. Those MTEP
14 costs charged by PJM to the Companies could then be collected from Ohio retail
15 customers through the Utilities' Non-Market-Based Services Rider ("Rider
16 NMB").⁹

17
18 ***Q12. HOW DID ATSI SEEK FERC APPROVAL TO RECOVER LEGACY MTEP***
19 ***COSTS?***

20 ***A12.*** In February 2011, PJM and ATSI filed, before the FERC, proposed revisions to
21 the PJM Tariff, which would have allowed transmission customers in the ATSI

⁹ "All MTEP charges that are charged to the Companies shall be recovered from customers through Rider NMB." *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, PUCO Opinion and Order at 11 (July 18, 2012).

1 zone to be charged for specific costs related to ATSI's June 2011 exit from MISO
2 and integration into PJM. One of the costs proposed to be added to the PJM
3 Tariff was Legacy MTEP. It is my understanding, as confirmed by counsel, that
4 in May 2011, the FERC denied PJM's request to include Legacy MTEP costs in
5 the ATSI formula rate.¹⁰ In that May 2011 Order, the FERC found that ATSI had
6 not demonstrated that it was just and reasonable to collect from its wholesale
7 transmission customers costs associated with its decision to switch RTOs.
8 Therefore, the FERC ordered those costs to be removed from the PJM Tariff. The
9 FERC did indicate that ATSI could subsequently file with FERC to seek
10 collection of those costs, if it identified the benefits of ATSI's RTO switch
11 decision to its wholesale transmission customers and included an analysis
12 showing that the benefits to wholesale transmission customers exceeded the costs
13 of the RTO switch.¹¹

14
15 ***Q13. DID ATSI SEEK FERC APPROVAL OF THE RTO SWITCH COSTS IN A***
16 ***SUBSEQUENT FILING, SHOWING THAT THE BENEFITS TO ITS***
17 ***WHOLESALE TRANSMISSION CUSTOMERS EXCEEDED THE COSTS?***

18 ***A13.*** No. In December 2012, ATSI submitted, for FERC's consideration, settlements
19 which would have allowed PJM to collect the RTO switch costs, including
20 Legacy MTEP, from ATSI transmission customers. It is my understanding, as

¹⁰ FERC ordered removal from PJM's formula rates of "(1) the costs incurred by PJM in connection with ATSI's integration and billed to ATSI; (2) ATSI's deferred internal integration costs and (3) Midwest Independent Transmission System Operator, Inc. (MISO) exit fees, including Legacy MISO Transmission Expansion (MTEP) costs." *PJM Interconnection, LLC*, 135 FERC ¶ 61,198, at 24, Docket Nos. ER11-2814-000, et al. (May 31, 2011) ("May 2011 Order").

¹¹ May 2011 Order at 2-3.

confirmed by counsel, that in September 2013 the FERC rejected these settlements, noting that the settlements imposed the same tariff changes as originally proposed, but that ATSI had neither provided the required additional support for why the changes were just and reasonable nor the cost-benefit analysis for the RTO switch costs.¹² Because, in its September 2013 Order, the FERC again did not allow inclusion of Legacy MTEP costs in the ATSI formula rate, PJM, consequently, cannot charge Legacy MTEP costs to ATSI's wholesale transmission customers. As explained in the FirstEnergy EDUs' response to OCC Interrogatory No. 13, ATSI requested a rehearing on the September 2013 Order¹³ and FERC has not made a decision on that request.¹⁴

IV. RECOMMENDATIONS

Q14. IN THIS PROCEEDING, SHOULD THE PUCO CONSIDER THE FIRSTENERGY EDUS' REQUEST RELATED TO LEGACY MTEP?

A14. No, because the premise of the request - that Legacy MTEP costs are not eligible for the ATSI formula rate - remains unresolved as it is currently pending at the FERC and thus the PUCO should not consider it in this proceeding.

¹² *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,207, at 17, Docket Nos. ER11-2814-000, et al. (September 19, 2013) ("September 2013 Order").

¹³ ATSI Request for Rehearing, *PJM Interconnection, L.L.C.*, Docket Nos. ER11-2814-000, et al., (October, 21, 2013).

¹⁴ FERC has not ruled on the merits of ATSI's rehearing request. Specifically, on November 19, 2013, FERC issued, in Docket Nos. ER11-2814-000, et al., an Order Granting Rehearing for Further Consideration to afford itself additional time for consideration of the matters raised. As of the date of this testimony, no subsequent decision has been issued by FERC regarding the collection of Legacy MTEP costs from ATSI's wholesale customers.

1 However, if, in the alternative, the PUCO decides to consider the request in this
2 proceeding, then the Commission should deny FirstEnergy EDUs' proposal on
3 Legacy MTEP. FERC's May 2011 Order and September 2013 Order confirmed
4 that ATSI cannot charge Legacy MTEP costs to its transmission customers. In
5 both Orders, FERC disallowed Legacy MTEP charges because ATSI has not
6 shown that the resulting rates are just and reasonable, and has not shown that the
7 benefits of the RTO switch to its wholesale transmission customers exceed the
8 costs.

9
10 If it is assumed that the FERC's decision stands (which is the premise of the
11 FirstEnergy EDUs' request), then PJM would not be able to charge the
12 FirstEnergy EDUs for Legacy MTEP costs. And because the FirstEnergy EDUs
13 would not be charged these costs, the FirstEnergy EDUs would not be able to
14 charge Ohio retail customers for Legacy MTEP.¹⁵ Thus, Ohio retail customers
15 would not (as they should not) be responsible for paying the FirstEnergy EDUs
16 for costs the Utilities did not incur, and which were not charged to the Utilities.

17
18 Under these circumstances, the Utilities' request in this proceeding would have
19 the PUCO approve costs disallowed by FERC to satisfy the non-collection
20 commitment for Legacy RTEP from ESP II. This is improper because counting

¹⁵ "All MTEP charges that are charged to the Companies shall be recovered from customers through Rider NMB." *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, PUCO Opinion and Order at 11 (July 18, 2012).

1 FERC-disallowed Legacy MTEP toward the \$360 million non-recovery
2 commitment for FERC-approved Legacy RTEP means that Ohio retail customers
3 would begin paying sooner for, and far more of, Legacy RTEP. Ohio retail
4 customers should receive the benefit of not having to pay \$360 million in Legacy
5 RTEP that the FirstEnergy EDUs paid. Using Legacy MTEP costs that the
6 FirstEnergy EDUs did not pay, and are not responsible for, reduces the benefit to
7 Ohio customers of the \$360 million non-recovery RTEP commitment from ESP
8 II.

9
10 ***Q15. DOES THIS CONCLUDE YOUR TESTIMONY?***

11 ***A15.*** Yes. However, I reserve the right to incorporate new information that may
12 subsequently become available. I also reserve the right to supplement my
13 testimony in the event that the Utilities, the PUCO Staff, or other parties submit
14 new or corrected information in connection with this proceeding.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Beth E. Hixon on Behalf of the Office of the Ohio Consumers' Counsel's*, was served via electronic transmission to the persons listed below on this 22th day of December 2014.

/s/ Larry S. Sauer

Larry S. Sauer
Deputy Consumers' Counsel

SERVICE LIST

Thomas.mcnamee@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
Ryan.orourke@puc.state.oh.us
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylern@BKLawfirm.com
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
joseph.clark@directenergy.com
ghull@eckertseamans.com
myurick@taftlaw.com
dparram@taftlaw.com
Schmidt@sppgrp.com
ricks@ohanet.org
tobrien@bricker.com
mkl@bbrslaw.com
gas@bbrslaw.com
ojk@bbrslaw.com
wttpmlc@aol.com
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us
mdortch@kravitzllc.com
rparsons@kravitzllc.com
gkrassen@bricker.com
dstinson@bricker.com
dborchers@bricker.com
mitch.dutton@fpl.com

burkj@firstenergycorp.com
cdunn@firstenergycorp.com
jlang@calfee.com
talexander@calfee.com
dakutik@jonesday.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
cmooney@ohiopartners.org
callwein@wamenergylaw.com
joliker@igsenergy.com
mswhite@igsenergy.com
Bojko@carpenterlipps.com
Allison@carpenterlipps.com
hussey@carpenterlipps.com
barthroyer@aol.com
athompson@taftlaw.com
Christopher.miller@icemiller.com
Gregory.dunn@icemiller.com
Jeremy.grayem@icemiller.com
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us
tdougherty@theOEC.org
jfinnigan@edf.org
Marilyn@wflawfirm.com
todonnell@dickinsonwright.com
matt@matthewcoxlaw.com
mfleisher@elpc.org
drinebolt@ohiopartners.org
meissnerjoseph@yahoo.com

selisar@mwncmh.com
ccunningham@akronohio.gov
asonderman@keglerbrown.com
sechler@carpenterlipps.com
gpoulos@enernoc.com
toddm@wamenergylaw.com

Attorney Examiners:

Gregory.price@puc.state.oh.us
Mandy.willey@puc.state.oh.us

LeslieKovacik@toledo.oh.gov
trhayslaw@gmail.com
Jeffrey.mayes@monitoringanalytics.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
msoules@earthjustice.org
sfisk@earthjustice.org

Beth E. Hixon
Testimony Submitted on Public Utility Regulation

As an employee of the Office of the Ohio Consumers' Counsel (OCC):

Company	Docket No.	Date
Ohio Power	83-98-EL-AIR	1984
Ohio Gas	83-505-GA-AIR	1984
Dominion East Ohio Gas	05-474-GA-ATA	2005
Dayton Power & Light	05-792-EL-ATA	2006
Duke Energy Ohio	03-93-EL-ATA, et al.	2007
Dominion East Ohio	08-729-GA-AIR	2008
AEP Ohio	08-917-EL-SSO, et al.	2008
AEP Ohio	11-346-EL-SSO, et al.	2012
Duke Energy Ohio	12-1682-EL-AIR, et al.	2013
Duke Energy Ohio	12-1685-GA-AIR, et al.	2013
Dayton Power & Light	12-426-EL-SSO, et al.	2013
AEP Ohio	13-1406-EL-RDR	2013

As an employee of Berkshire Consulting Service:

Company	Docket No.	Date	Client
Toledo Edison	88-171-EL-AIR	1988	OCC
Cleveland Electric Illuminating	88-170-EL-AIR	1988	OCC
Columbia Gas of Ohio	88-716-GA-AIR, et al.	1989	OCC
Ohio Edison	89-1001-EL-AIR	1990	OCC
Indiana American Water	Cause No. 39595	1993	Indiana
Office of the Utility Consumer Counsel			
Ohio Bell	93-487-TP-CSS	1994	OCC
Ohio Power	94-996-EL-AIR	1995	OCC
Toledo Edison	95-299-EL-AIR	1996	OCC
Cleveland Electric Illuminating	95-300-EL-AIR	1996	OCC
Cincinnati Gas & Electric	95-656-GA-AIR	1996	City of Cincinnati, OH

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