*Public Version*

**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. 14-1297-EL-SSO |

# SECOND SUPPLEMENTAL TESTIMONY OF LAEL CAMPBELL

## ON BEHALF OF

## CONSTELLATION NEWENERGY, INC.

## AND

## EXELON GENERATION COMPANY, LLC

**December 30, 2015**

## TABLE OF CONTENTS

***Introduction and Purpose***

**Q1. Please state your name and business address.**

**A1.** My name is Lael Campbell. My business address is 101 Constitution Avenue NW, Washington DC 20001.

**Q2. By whom are you employed and in what capacity?**

**A2.** I am employed by Exelon Corporation and my title is Director – Regulatory & Government Affairs.

**Q3. Are you the same Lael Campbell who provided testimony earlier in this proceeding?**

**A3.** Yes, and in response to the filing of the Third Supplemental Stipulation and Recommendation ("Stipulation"), I seek to supplement my prior testimony to address the new features being presented in the Stipulation.

**Q4. What are the new features in the Stipulation that you wish to address.**

**A4.** The Stipulation has changed the terms of the Rider RRS from 15 to 8 years, clarified some of the cost responsibilities of the merchant generator and the utility under the proposed PPA and the Rider RRS. The new Stipulation terms creates a whole new set of dynamics in terms of whether the Electric Security Plan IV ("ESP IV") is better than what is available in the market today.

**Q5. What is the purpose of your supplemental testimony?**

**A5.** The purpose of my supplemental testimony is to prove that the Stipulation will cost Ohio customers billions in above-market costs. Specifically, I will show that a guaranteed eight year offer from Exelon Generation Company ("Exelon Generation" or "ExGen") for 100% emissions-free power that we make today will provide well over $2 billion in savings to Ohio families and businesses as compared to the grossly lopsided deal offered by FirstEnergy Ohio ("FirstEnergy" or "FE"). ExGen will hold this offer open for 180 days and will bid into the competitive process at a price *no greater than* this offered price.

**Q6. Are you suggesting that the Commission should approve Rider RRS, but substitute ExGen for FirstEnergy Solutions as the Seller in the underlying term sheet?**

**A6.** No. Exelon is opposed to the Stipulation and Rider RRS in its entirety (including the proposed underlying power purchase agreement (PPA) between FE and its affiliate), and believes that the Commission should reject both outright. However, to the extent that the Commission decides to approve Rider RRS, we are providing a superior alternative to FirstEnergy's PPA with its affiliate. To be clear, ExGen is not suggesting that the Commission should substitute the ExGen PPA offer with the FirstEnergy PPA offer, although the Commission is free to do so if it so choses. Instead, if the Commission determines that Rider RRS is in the interest of Ohio electricity consumers, we urge the Commission to hold a competitive process and obtain a PPA to include in Rider RRS that provides the best value to Ohio customers.

**Q7. What are the benefits of a competitive process?**

A7. Ordering a competitive process is consistent with this Commission's recent orders directing all Ohio utilities to use competitive processes to procure energy. These processes have worked to lower energy costs and provide choice to millions of Ohio families and businesses. Ironically, FirstEnergy led the drive to competition and up until this proceeding took positions before this Commission and other agencies and public officials which embraced competition and retail choice. FirstEnergy was right then; it is wrong today. Competition will yield the best price.

A competitive process also will wash away the stain of this affiliate backroom deal where FirstEnergy has positioned its regulated utility to benefit its affiliate First Energy Solutions (FES) exclusively by coupling the proposed power purchase agreement with settlement "goodies" provided by the regulated utility in the form of (1) grid modernization investments, (2) pilots to evaluate new technologies, (3) carbon reduction goals not enforceable for over a quarter century (ExGen's offer would be 100% carbon free immediately), (4) commitments to procure renewables in Ohio, (5) standard rate design improvements typically included in previous ESP settlements, and (6) increases in energy efficiency, economic development, and low income program funding. These are all actions that the Commission can and has previously ordered FirstEnergy and other Ohio utilities to do directly as part of the authority they have under Ohio statute without the need to tie the actions to a long term PPA with an affiliate. In short, these concessions are nothing more than window dressing designed to hide from the public an out-of-market contract between FE and its affiliated merchant generation company.

**Q8. If Exelon opposes a power purchase agreement, why is it offering one today?**

**A8.** Exelon does not oppose power purchase agreements; Exelon opposes the FE PPA and a process where a company's regulated and unregulated businesses craft a self-serving agreement that is not tested by competition. Today we are taking the unprecedented step of committing to offer into that competitive process at a price level that will guarantee billions in savings so that no one can misunderstand the gravity of the harm that would occur to Ohio customers if the Commission approved the Stipulation without an appropriate competitive process. We are putting our money where our mouth is, and in so doing, we hope that the Commission Staff will recognize that this is not simply a battle between the experts about future energy prices. Staff cannot ignore actual competitive offerings that will guarantee billions of dollars in savings for Ohio customers as compared to the Stipulation. We urge Staff and other settling parties to reconsider their support for the Stipulation and to change course before the hearings commence.

**Q9. You mentioned Commission Staff, are you aware of any independent economic analysis by Commission Staff regarding the consumer value of the PPA?**

**A9.** No.

**Q10. Is that surprising to you?**

**A10.** It is extremely surprising to me that the Commission Staff would not conduct its own independent economic analysis in a case of this magnitude, where the proposed PPA involves billions of dollars in electricity charges and threatens the competitive market in Ohio that the Commission has worked so hard to foster over the years. Regardless, Exelon Generation's competing offer plainly demonstrates that competitive offerings will save billions of dollars for customers in Ohio.

***<u>Rider RRS and the underlying PPA, Will Needlessly Cost Ohio Families and Businesses Billions of Dollars in Above-Market Charges</u>***

**Q11. What is the structure of Rider RRS?**

**A11.** Under Rider RRS, FirstEnergy seeks approval to enter into a new eight-year inter-affiliate purchase power agreement (PPA) between FirstEnergy and FES, through which FirstEnergy would purchase the output from more than 3,000 MW of generation owned by FES. The generation being purchased by FirstEnergy under the PPA includes FES's 900MW Davis Bessie nuclear facility, the 2100 MW Sammis coal-fired facility, and FES's 100MW interest in the Ohio Valley Electric Cooperative's (OVEC's) coal units. Under the proposed Rider RRS, FirstEnergy seeks authority to pass through to customers the differential between the market revenues from energy, capacity and ancillary services received by these units, and the full cost of service value of the units including a return on and of equity to the benefit of FES. FirstEnergy will sell the PPA-acquired generation into the PJM Interconnection LLC ("PJM") markets, and the non-bypassable PPA Rider will either credit or charge both shopping and non-shopping customers the difference between the cost of the inter-affiliate PPA and the revenues FirstEnergy receives for the generation output in the market.

**Q12. What is troubling about Rider RRS as it has been revised under the Stipulation?**

**A12.** FirstEnergy claims that Rider RRS will benefit Ohioans by providing "rate stability" to shopping and non-shopping customers and a purported "hedge" from volatile market prices. However, to the extent that Rider RRS will provide a rate-stabilizing hedge to the market, it will stabilize them at above-market charges for the next eight years. In so doing, FirstEnergy proposes to recapture customers that are shopping in Ohio through a non-bypassable surcharge that is in violation of Ohio and Federal law as will be set forth in our brief.

**Q13. Explain Exelon Generation's offer?**

**A13.** I requested that ExGen develop a quote for an eight year bundled fixed price for energy and capacity delivered to ATSI from 100% zero carbon resources, with ExGen maintaining 100% of the PJM capacity performance risk. I requested a maximum fixed price to which ExGen would commit for a fixed quantity product of anywhere up to 3000MW (the combined nameplate capacity of the Davis Bessie and Sammis plants) of unforced capacity ("UCAP") and around-the-clock ("ATC") energy for the same eight-year period. The capacity product included in the offer is the PJM Capacity Performance product.

**Q14. Have you calculated the benefit that ExGen's competitive offer would provide relative to the proposed First Energy PPA?**

**A14.** Yes, ExGen's competitive offer will provide well-over $2 billion in savings for Ohio families and businesses. [redacted]

[redacted]

**Q15. Is ExGen willing to make a commitment regarding the air pollution emissions profile of the assets it will use to supply the power?**

**A15.** Yes. ExGen commits to making an offer to FirstEnergy for a 100% carbon free package of energy and capacity from nuclear, hydro, solar and wind assets in PJM

**Q16. What about unit performance risks including capacity performance penalties?**

**A16.** ExGen will take 100 percent of the capacity performance penalty risk, not FirstEnergy customers.

**Q17. Does the FirstEnergy offer commit to zero-carbon energy?**

**A17.** No, only as to the output of Davis Bessie. The bulk of the electricity is from carbon-emitting coal-fired resources.

---

[1] The FirstEnergy projected costs were obtained from the public Mikkelsen workpaper dated November 30, 2015.
[2] The projected output of the FirstEnergy PPA plants was obtained from the Lisowski confidential workpapers.

**Q18. Does the FirstEnergy offer shield customers from capacity performance risk?**

**A18.** No. Earlier testimony from FirstEnergy witness Ruberto indicates that customers would bear the burden of any penalty risk for non-performance under CP,[3] and the Stipulation affords FirstEnergy's customers little, if any, protection from that risk. The Stipulation states, "[t]he Companies, not their customers, would be responsible for the adjustments made to rider RRS based on actions deemed to be unreasonable by the Commission including any costs (after proper consideration of such costs and netting of any bonus payments) associated with performance requirements in PJM's market." The "netting" provision indicates that customers will be responsible for paying CP penalties to the extent those penalties are not offset by CP bonuses. As written penalties themselves can never be deemed unreasonable and disallowed independent of bonus payments, thus improperly denying Ohio customers the ability to receive the full value of all capacity revenues under Rider RRS. Moreover, if penalties exceed bonus payments those costs may only be adjusted following a "reasonableness" determination. There is a disconnect here between the "reasonableness" standard in the Stipulation and the strict liability of CP in PJM where non-performing units will be assessed a non-performance charge regardless of the reasons as to why the unit did not perform. Furthermore, resources are committed to PJM's CP auctions three years in advance but the language in the Stipulation would allow FirstEnergy to argue that a CP penalty should flow through to customers because FirstEnergy did not know that the plant would experience an outage when it committed the resources three years prior.

---

[3] Cross examination of FirstEnergy witness Ruberto, FirstEnergy Volume XIII page 2809 lines 6-12.

**Q19. How long are you willing to commit to keep such an offer open?**

**A19.** ExGen will maintain this commitment for the earlier of 180 days or until the Stipulation that includes the FE inter-affiliate PPA is approved by the Commission.

**Q20. Why are you making this commitment?**

**A20.** It is easy to offer projections, particularly projections that do not have to be backed up. The most dramatic way to demonstrate that the proposed PPA is above market is to offer to provide the same or better service for less. The ExGen offer is just one potential offer out of what is hopefully many others. ExGen's offer will save Ohioans billions compared to FirstEnergy's own projected costs under the proposed PPA that FirstEnergy seeks to include in Rider RRS. Just one competing offer shows the benefits of competition, and moreover shows just how bad a deal the FirstEnergy proposal is for Ohio.

**Q21. FE projects that there will be a credit to customers of $500 million over the proposed eight -year term. Would there be a credit to customers under the competitively-bid PPA?**

**A21.** Yes, and based on FirstEnergy's own projections, if a competitively-bid PPA were included in Rider RRS instead of the current inter-affiliate PPA, Ohio customers would receive billions more in credits, in addition to receiving superior rate stability and protection from risk. The logic here is simple: if FirstEnergy predicts a $500 million credit to customers under its proposed PPA, a competitively-bid PPA at ExGen's offer price that costs at least $2 billion less will result in a credit to customers in excess of $2.5 billion.

*A competitively bid PPA will result in a superior product for Ohio even if it is from out of state resources*

**Q22. The ExGen offer would include power from out-of-state resources. Does that matter?**

**A22.** No it does not. What matters is what Ohio customers end up paying. The billions of dollars in competitive savings will occur in Ohio, where families and businesses will enjoy lower electricity costs.

*The ExGen offer would have the added benefit of being sourced from zero carbon resources*

**Q23. You mentioned that ExGen is committed to making an offer that would be sourced from zero carbon resources. Should the competitive bidding process require that the product include certain environmental attributes?**

**A23.** It can, but that would be a policy decision for the Commission to weigh. The Stipulation appears to reflect a desire to move Ohio toward a lower carbon future. In prior testimony, Exelon has recognized that zero carbon resources like Davis-Bessie have value to Ohio and its clean energy future. Even if the Commission does not require the product procured through the competitive bidding process to include any specific environmental attributes, offers from low carbon resources still should receive a preference in the competitive process over offers that do not contain a certification of being sourced from zero carbon resources.

***Exelon would not stand in the way of a zero carbon contract for Davis-Bessie***

**Q24. Does your recommendation for a competitive process to procure an alternative PPA mean that Exelon would not be supportive of, or is seeking to supersede, a PPA for the zero carbon-emitting Davis-Bessie nuclear plant?**

**A24.** No, Exelon supports efforts to preserve zero-carbon emitting nuclear resources. In its direct and supplemental testimony, Exelon supported measures such as a clean energy standard or low carbon portfolio standard as a means to provide additional revenue to resources with low-carbon attributes. Exelon recognizes the value to Ohio of in-state nuclear plants like Davis Bessie to EPA compliance and the overall reduction of carbon emissions.

**Q25. Why does Exelon still believe that a low carbon portfolio standard is the optimal solution?**

**A25.** We believe PPAs, even to preserve nuclear assets, should be a last resort. As I indicated in prior testimony, Exelon's preferred approach to preserve vital low carbon resources like Davis-Bessie is a market-based approach, such as a low carbon portfolio standard ("LCPS") that recognizes the low carbon attributes of nuclear and provides value for these attributes.

**Q26. Does the current Rider RRS ensure that customers would receive the benefits of any future revenues from an LCPS?**

**A26.** This is a very important question that the Commission must clarify. As noted above, Davis-Bessie has a zero carbon value that is currently not being recognized in the market.

However, if a LCPS or similar standard were adopted in Ohio, then Davis-Bessie would be receiving additional revenues for its environmental attributes. If Rider RRS is approved using the FirstEnergy PPA, then it must be made clear that any revenues for environmental attributes are included in the revenues received from the market that offset the PPA cost to determine the charge (or credit) to customers under Rider RRS. Although the proposed FirstEnergy PPA term sheet states that FES will convey to FirstEnergy the environmental attributes of the units, it is unclear whether revenues from environmental attributes will flow through to customers under the Rider. To the extent that the Commission approves the Stipulation and Rider RRS, the Commission must ensure that customers receive all benefits from environmental attributes and any other revenue source related to the resources covered under the Rider.[4]

**Q27. The Stipulation includes a number of Grid Modernization and Renewables Initiatives which appear to be in Exchange for Rider RRS. Is this a good deal for Ohio?**

**A27.** The Commission may very well determine that grid modernization and renewables initiatives have some benefit for FirstEnergy ratepayers, but that is not a reason to link a no-bid PPA with FE's affiliate to utility infrastructure matters like grid modernization or renewable procurement. The Commission may order FirstEnergy as a monopoly to implement these initiatives without tying them to the PPA. Initiatives like these are deserving of their own dockets and stakeholder proceedings to ensure that the initiatives are best for Ohio. As an alternative the Commission could consider utilizing the billions

[4] The direct testimony of FirstEnergy witness Mikkelsen identifies only revenues from Energy, Capacity and Ancillary services flowing through the Rider RRS.

in savings that a competitive PPA procurement should bring, and use those savings to fund some of these initiatives if they are in the best interest of ratepayers. FirstEnergy should not be permitted to use its monopoly commitments to create a package that requires the PPA with its affiliate.

**Q28. Does this complete your testimony?**

**A28.** Yes, though I reserve the right to supplement if necessary.

## CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons below via electronic mail this 30th day of December, 2015.

Gretchen L. Petrucci

burkj@firstenergycorp.com
cdunn@firstenergycorp.com
jlang@calfee.com
talexander@calfee.com
dakutik@jonesday.com
cmooney@ohiopartners.org
drinebolt@ohiopartners.org
tdoughtery@theoec.org
ghull@eckertseamans.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
larry.sauer@occ.ohio.gov
Maureen.grady@occ.ohio.gov
joliker@igsenergy.com
myurick@taftlaw.com
schmidt@sppgrp.com
ricks@ohanet.org
tobrien@bricker.com
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
jfinnigan@edf.org
wttpmlc@aol.com
mkl@smxblaw.com
gas@smxblaw.com

lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
meissnerjoseph@yahoo.com
trhayslaw@gmail.com
lesliekovacik@toledo.oh.gov
cynthia.brady@exeloncorp.com
david.fein@exeloncorp.com
lael.campbell@exeloncorp.com
christopher.miller@icemiller.com
gregory.dunn@icemiller.com
jeremy.grayem@icemiller.com
BarthRoyer@aol.com
athompson@taftlaw.com
Marilyn@wflawfirm.com
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
kryan@city.cleveland.oh.us
bojko@carpenterlipps.com
gkrassen@bricker.com
dstinson@bricker.com
dborchers@bricker.com
mkimbrough@keglerbrown.com
mfleisher@elpc.org
matt@matthewcoxlaw.com
todonnell@dickinsonwright.com
jeffrey.mayes@monitoringanalytics.com
twilliams@snhslaw.com
sechler@carpenterlipps.com
gpoulos@enernoc.com

mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
thomas.mcnamee@puc.state.oh.us
thomas.lindgren@puc.state.oh.us
sfisk@earthjustice.org
msoules@earthjustice.org
tony.mendoza@sierraclub.org
laurac@chappelleconsulting.net
gthomas@gtpowergroup.com
stheodore@epsa.org
mdortch@kravitzllc.com
rparsons@kravitzllc.com
dparram@taftlaw.com
charris@spilmanlaw.com
dwolff@crowell.com
rlehfeldt@crowell.com
dfolk@akronohio.gov
Kevin.moore@occ.ohio.gov
William.michael@oc.ohio.gov
rsahli@columbus.rr.com
ajay.kumar@occ.ohio.gov
callwein@keglerbrown.com
mkimbrough@keglerbrown.com
ghiloni@carpenterlipps.com
jennifer.spinosi@directenergy.com
kristin.henry@sierraclub.org
rkelter@elpc.org