

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY AND THE TOLEDO EDISON COMPANY’S MEMORANDUM
CONTRA THE JOINT MOTION OF OMAEG, OCC, ELPC, OEC, EDF AND SIERRA
CLUB FOR EXTENSION OF THE PROCEDURAL SCHEDULE**

I. INTRODUCTION

The Joint Motion for Extension of the Procedural Schedule (the “Motion”) filed on July 6, 2016, by Ohio Manufacturers’ Association Energy Group (“OMAEG”), The Office of the Ohio Consumers’ Counsel (“OCC”), Environmental Law and Policy Center (“ELPC”), Ohio Environmental Council (“OEC”), Environmental Defense Fund (“EDF”), and Sierra Club (collectively, the “Joint Movants”) is meritless.¹ The Joint Movants’ Motion rests on two deeply flawed claims. First, the Joint Movants argue that an extension of the procedural schedule is necessary because they need to conduct additional discovery. This supposedly pressing need allegedly arose when Staff, in testimony filed on June 29, 2016, set forth an alternative proposal to the modifications to Rider RRS (“Modified Rider RRS”) proposed by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively,

¹ Notably, the Joint Movants filed their motion on the very day that the Commission, in its Third Entry on Rehearing, summarily denied a similar request by other intervenors to stay the procedural schedule. *See* Case No. 14-1297-EL-SSO, Third Entry On Rehearing, p. 20 (July 6, 2016).

the “Companies”). The Joint Movants’ claim here, however, falls flat because the Commission’s rules exclude Staff from any discovery obligations. Thus, granting the Motion would enable the Joint Movants to improperly seek additional discovery only from the Companies regarding a proposal put forth by Staff. Second, the Joint Movants contend that the hearing should be continued because Staff filed its testimony *after* the Joint Movants filed theirs, and the Joint Movants thereby somehow have been deprived of a chance to respond. This claim too makes no sense, given that routine Commission practice is to allow Staff to file its testimony after the filing of testimony by other parties to Commission proceedings, subject to cross-examination at hearing. As demonstrated below, the Joint Movants’ Motion should be denied.

II. ARGUMENT

A. There Is No Basis In Law Or Logic To Extend The Procedural Schedule To Allow For Additional Discovery.

There is no basis in law or logic to continue the hearing to permit additional discovery or testimony regarding Staff’s alternative proposal to Modified Rider RRS. The Joint Movants claim that “additional discovery and supplemental testimony are necessary regarding Staff’s new proposal” that is set forth in the rehearing testimony of Staff witness Joseph M. Buckley (the “Buckley Testimony”) filed on June 29, 2016. Joint Movants’ Mem. in Support, p. 4. Nothing could be further from the truth. Moreover, this claim simply begs the question, “Discovery from whom?” Neither Staff nor the Companies are suitable candidates for additional discovery regarding “Staff’s new proposal.”

The Commission’s rules prohibit, without exception, any discovery directed at Staff. Rule 4901-1-16, entitled “General provisions and scope of discovery” specifically provides “Rules 4901-1-16 to 4901-1-24 of the Administrative Code do not apply to the commission staff.” Likewise, pursuant to Rule 4901-1-10(C), “the commission staff shall not be considered a

party to any proceeding” for the purposes of discovery. Accordingly, Staff is not subject to document requests (Rule 4901-1-20), interrogatories (Rule 4901-1-19), or requests for admission (Rule 4901-1-22). Indeed, Rule 4901-1-21, covering depositions, specifically provides: “Any party to a pending commission proceeding may take the testimony of any other party or person, *other than a member of the commission staff*, by deposition....” (emphasis added).

On multiple occasions, the Commission has expressly rejected recommendations to make Staff subject to the Commission’s discovery rules:

Although the Commission proposed no changes to [Rule 4901-10(C)], several of the comments include recommendations that the staff be considered a party for purposes of the discovery rules and the rules governing the filing of expert testimony. These recommendations must be rejected on both conceptual and practical grounds. They mistake the nature of the staff’s role in Commission proceedings and fail to recognize the impact that subjecting the staff to these rules, particularly the discovery rules, would have on the ability of the staff to discharge its responsibilities in all the numerous proceedings in which it must be involved.

In the Matter of the Amendment of Chapter 4901-1 of the Ohio Administrative Code and the Rescission of Certain Provisions of Chapter 1551:1-7 of the Ohio Administrative Code, Case No. 87-84-AU-ORD, 1987 Ohio PUC LEXIS 49 at 5 (Oct. 14, 1987). *See also, In the Matter of Arctic Express, Inc., Notice of Apparent Violation and Intent to Assess Forfeiture*, Case No. 01-89-TR-CVF, 2001 Ohio PUC LEXIS 582 at *3 (Sept. 04, 2001) (“[D]iscovery may not be conducted on staff.”).

Thus, the Joint Movants cannot obtain discovery from Staff regarding Staff’s alternative proposal to Modified Rider RRS. The only other party from whom the Joint Movants may intend to seek discovery regarding “Staff’s new proposal” would be the Companies, which is improper. As detailed in the Companies’ Application for Rehearing and the Rehearing Testimony of Eileen M. Mikkelsen, the Companies are proposing minor modifications to Rider

RRS – which was approved by the Commission in its March 31, 2016 Opinion and Order. The Companies’ proposal bears absolutely no relation to Staff’s new proposal. In short, there is no discovery to be sought from the Companies concerning Staff’s new proposal for the simple fact that it is *Staff’s new proposal, not the Companies’* that is the subject of Staff’s rehearing testimony. Hence, there is no basis for continuing the hearing on such grounds.

Moreover, the Joint Movants already have had the opportunity to conduct significant, and certainly more than sufficient, discovery regarding Modified Rider RRS. Since the June 3, 2016 Entry in this proceeding that lifted the stay of discovery, the Companies have responded to over 300 discovery requests, and produced Company witness Mikkelsen for over eight hours of deposition, regarding all aspects of Modified Rider RRS. No additional discovery is needed on this subject. Thus, there is no reason for seeking to continue the hearing because “additional discovery” allegedly could be required from the Companies.

The Joint Movants’ attempt to latch onto the Companies’ confidential responses to *two* Staff data requests as an erstwhile justification for extending the procedural schedule several weeks goes nowhere. The Joint Movants falsely claim: “the Companies failed to timely provide to Joint Movants the discovery responses that underlie Staff Witness Buckley’s testimony.” Joint Movants’ Mem. in Support, p. 4. As the Companies explained in their Motion for Protective Order, filed on July 5, 2016, these responses originally were served on Staff on June 28, 2016, but not on other parties, under the Companies’ belief that the documents were being produced under a joint interest privilege. Once Staff disclosed a portion of one of the responses in testimony, the Companies provided them to the other parties. Further, the subject matter of those data requests – the credit metrics of the Companies and their corporate parent – already is the subject of numerous rehearing discovery requests from various intervenors and was

addressed at length by Ms. Mikkelsen during her eight-plus hours of deposition testimony.²

Thus, the timing of the Companies' service of confidential responses to two data requests from Staff that have nothing to do with Modified Rider RRS hardly provides a reason to delay, for several weeks, the start of the hearing.

B. The Timing Of The Filing Of Staff's Testimony Does Not Justify Extending The Procedural Schedule.

The Joint Movants also make the baseless argument that the procedural schedule should be extended "Because Staff's proposal was filed after the intervening parties' witnesses' testimony [and] no intervening party has had an opportunity to address this proposal." Joint Movants' Mem. in Support, p. 4. And further: "At this time, no witness has had the opportunity to evaluate and/or respond to Staff's new proposal as Staff's testimony was filed five days after intervenor testimony was filed." *Id.* Apparently, the Joint Movants want to extend the procedural schedule simply because Staff's testimony was filed after theirs. This entirely unremarkable fact hardly warrants delaying the start of the hearing for several weeks. The Commission should deny the Joint Movants' Motion accordingly.

It is routine Commission practice to have Staff file its direct testimony after every other party to a proceeding files theirs. Indeed, in the present proceeding, Staff filed twelve separate pieces of direct testimony on September 18, 2015 several days *after* the original hearing in this matter already had begun, on August 31, 2015, yet the hearing took place unabated. Indeed, the timing of the filing of Staff testimony does not provide a sufficient justification to continue a hearing, as the Joint Movants seek to do here. To no surprise, the Joint Movants cite no

² See, e.g., SC Set 15 INTs 269, 270, 217; SC Set 15 RPDs 176, 177 (attached hereto as Ex. A); Dep. Tr. of Eileen M. Mikkelsen, pp. 57-63 (June 29, 2016) (attached hereto as Ex. B).

authority to support their manufactured claim – because there is none. Indeed, Commission precedent points decidedly in the opposite direction.

For example, in *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Administration of the Significantly Excessive Earnings Test Under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No. 10-1261-EL-UNC, 2010 Ohio PUC LEXIS 1032, *2-5 (Oct. 8, 2010), the Commission denied a motion to continue a hearing after Staff was granted an extension to file its testimony *one day prior* to the date that the hearing was supposed to begin. *See id.* at *3. The movant sought to have the start date of the hearing extended by ten days. *See id.* at *4. In its denial of the motion, the Commission found that there was no need for an extension and instead ordered that no Staff witness could take the stand until a week after Staff had filed its testimony. The Commission held that “This procedure will still afford the [movant] seven [calendar] days to prepare for the examination of Staff’s witness(es).” *Id.* at *5. *See also In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Rates*, Case No. 08-709-EL-AIR, 2009 Ohio PUC LEXIS 233 at *1-3 (Mar. 26, 2009) (granting Staff an extension to file testimony until one day prior to start of hearing while leaving hearing date unchanged and noting Staff’s claim that its proposed extension would “not delay the proceedings or prejudice any party because *staff’s testimony is typically presented last in the case*”) (emphasis added).

Here, Staff’s testimony was filed on June 29, 2016 – a full eleven days prior to the scheduled start of the hearing. Further, the earliest that any Staff witnesses (of which there are three) could take the stand likely is late afternoon on the second day of hearing, giving the Joint Movants additional time to prepare to cross-examine Staff over its alternative proposal. This is more than sufficient, especially as the Joint Movants are all represented by experienced counsel

who have participated in numerous Commission proceedings. The Joint Movants also will have the opportunity to brief this issue fully. Hence, the timing of Staff's filing of its testimony provides no reason to extend the procedural schedule. The Joint Movants' attempt to claim otherwise fails.

III. CONCLUSION

For the foregoing reasons, the Commission should deny the Joint Movants' Joint Motion for Extension of the Procedural Schedule.

Date: July 7, 2016

Respectfully submitted,

/s/ David A. Kutik

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ATTORNEYS FOR OHIO EDISON
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TOLEDO EDISON COMPANY

CERTIFICATE OF SERVICE

I certify that this Memorandum Contra Joint Movants' Joint Motion for Extension of the Procedural Schedule was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 7th day of July, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. Further, a courtesy copy has been served upon parties via electronic mail.

/s/ David A. Kutik
One of the Attorneys for the Companies

EXHIBIT A

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**SIERRA CLUB’S FIFTEENTH SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY**

Pursuant to Sections 4901-1-19, 4901-1-20, and 4901-1-22 of the Ohio Adm. Code, Sierra Club submits the following Interrogatories and Requests for Production of Documents, for response by the Cleveland Electric Illuminating Company, the Ohio Edison Company, and the Toledo Edison Company (collectively, “FirstEnergy” or “Companies”) in the above-captioned proceeding. Sierra Club seeks the responses within the time period required by the Public Utilities Commission of Ohio or its authorized representative. Please produce the requested documents in electronic format to:

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DEFINITIONS

As used in these discovery requests, these words and phrases have the following meanings:

- A. The term “FirstEnergy,” “Applicants,” or “Companies” means the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, including any predecessors-in-interest, employees, agents, and representatives.
- B. “ESP Application” means the *Application for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, which was filed by the Companies on August 4, 2014, in the above-captioned proceeding, and including all witness testimony and attachments thereto, all work papers filed by the Companies, and all Errata filed by the Companies. This definition includes, without limitation, the proposed Retail Rate Stability Rider.
- C. “Economic Stability Program” refers to the proposal, in the above-captioned proceeding, in which Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company would enter into a purchase power agreement with FirstEnergy Solutions Corp.; the costs and revenues would then be netted; and the outcome of the acquisition and sale of the generation (credit or cost) would be included in the proposed Retail Rate Stability Rider.
- D. “ESP IV” refers to the stipulated electric security plan that was approved by the Commission in Case No. 14-1297-EL-SSO on March 31, 2016.
- E. “ESP proposal” refers, without limitation, to both the ESP Application and the Economic Stability Program as defined above.
- F. “FES” refers to FirstEnergy Solutions Corp.

- G. “Modified Rider RRS” refers to the rider proposed in the Companies’ May 2, 2016 Application for Rehearing in this proceeding and as described in the May 2, 2016 Rehearing Testimony of Eileen Mikkelsen.
- H. “PPA” refers to the purchase power agreement between the Companies and FES upon which the charges and credits for Rider RRS (as approved in the Commission’s March 31, 2016 Order) would be based.
- I. “AEP Ohio Order” refers to the Opinion and Order issued by the Public Utilities Commission of Ohio in Case Nos. 13-2385-EL-SSO, 13-2386-EL-AAM on February 25, 2015.
- J. “Stipulation” refers to the Stipulation and Recommendation filed in Case No. 14-1297-EL-SSO on December 22, 2014.
- K. “Third Stipulation” refers to the Third Supplemental Stipulation and Recommendation filed in Case No. 14-1297-EL-SSO on December 1, 2015.
- L. “Staff” refers to the Public Utilities Commission of Ohio Staff.
- M. “Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical, or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software, and includes all copies, drafts, proofs, both originals and copies either (1) in the possession, custody, or control of the Companies regardless of where located, or (2) produced or generated by, known to or seen by the Companies, but now in their possession, custody, or control, regardless of where located whether or still in existence.

Such “documents” shall include, but are not limited to, applications, permits, monitoring reports, computer printouts, contracts, leases, agreements, papers, photographs, tape recordings, transcripts, letters or other forms of correspondence, folders or similar containers, programs, telex, TWX and other teletype communications, memoranda, reports, studies, summaries, minutes, minute books, circulars, notes (whether typewritten, handwritten or otherwise), agenda, bulletins, notices, announcements, instructions, charts, tables, manuals, brochures, magazines, pamphlets, lists, logs, telegrams, drawings, sketches, plans, specifications, diagrams, drafts, books and records, formal records, notebooks, diaries, registers, analyses, projections, email correspondence or communications and other data compilations from which information can be obtained (including matter used in data processing) or translated, and any other printed, written, recorded, stenographic, computer-generated, computer-stored, or electronically stored matter, however and by whomever produced, prepared, reproduced, disseminated or made.

Without limitation, the term “control” as used in the preceding paragraphs means that a document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual possession thereof. If a document is responsive to a request, but is not in your possession or custody, identify the person with possession or custody. If any document was in your possession or subject to your control, and is no longer, state what disposition was made of it, by whom, the date on which such disposition was made, and why such disposition was made.

For purposes of the production of “documents,” the term shall include any copies of all documents being produced, to the extent the copies are not identical to the original, thus requiring the production of copies that contain any markings, additions or deletions that make them different in any way from the original

- N. To “identify” a document means to describe by reference to:
1. The title, heading, or caption of such document, if any;
 2. The identifying number(s), letter(s), or combination thereof, if any, and the significance or meaning of such number(s), letter(s), or combination thereof;
 3. The date appearing on such document and if no date appears thereon, the answer shall so state and shall give the date, or approximate date, on which each document was prepared;
 4. The general nature or description of such document (*i.e.*, whether it is a letter, memorandum, minutes of a meeting, etc.) and the number of pages of which it consists;
 5. The name of the person who signed such document and if it was not signed, the answer shall so state and shall give the name of the person or persons who prepared it;
 6. The name of the person to whom such document was addressed and the name of each person, other than such addressee, to whom such document, or a copy thereof, was sent;
 7. The name of the person who has custody of such document.
- O. To “identify” a person means to state the person’s name, address, and business relationship (e.g., “employee”) to FirstEnergy.
- P. “And” and “or” shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these interrogatories and requests for production of documents any information which might be deemed outside their scope by another construction.

- Q. “Any” means all or each and every example of the requested information.
- R. “Communication” means any transmission or exchange of information between two or more persons, whether orally or in writing, and includes, without limitation, any conversation or discussion by means of letter, telephone, note, memorandum, telegraph, telex, telecopy, cable, email, or any other electronic or other medium.
- S. To describe “in detail” means to describe by reference to the underlying specific facts rather than by reference to the ultimate facts or conclusions of law, and wherever possible to use quantitative descriptors in place of qualitative descriptors.
- T. “Intervenor” means any party intervening in Case No. 14-1297-EL-SSO other than the Companies.
- U. “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.
- V. 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.
- W. The term “reconcile,” when used with respect to two items, means to state whether the two items are the same.
- X. “Relating to” or “concerning” means and includes pertaining to, referring to, or having as a subject matter, directly or indirectly, expressly or implied, the subject matter of the specific request.
- Y. The “testimony” of a witness means the witness’s testimony in the above-captioned case, unless a different case number is specified.
- Z. “Work papers” are defined as original, electronic, machine-readable, unlocked, Excel format (where possible) with formulas intact.
- AA. “You,” and “Your,” or “Yourself” refer to the party requested to answer interrogatories or produce documents, including any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.
- BB. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
- CC. 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.

INSTRUCTIONS FOR ANSWERING

- A. All information is to be divulged which is in your knowledge, possession, or control, or within the knowledge, possession, or control of your attorney, agents, or other representatives of yours or your attorney.
- B. 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.
- C. 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.
- D. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
- E. 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.
- F. 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.
- G. 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.
- H. 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 June 4, 2012, through and including the date of your response.

- I. Responses must be complete when made, and must be supplemented with subsequently acquired information at the time such information is available.
- J. 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.
- K. Wherever the response to a request consists of a statement that the requested information is already available to Sierra Club, provide a detailed citation to the document that contains the information. This citation shall include the title of the document, relevant page number(s), and to the extent possible paragraph number(s) and/or chart/table/figure number(s).
- L. In the event that any document referred to in response to any request for information has been destroyed, specify the date and the manner of such destruction, the reason for such destruction, the person authorizing the destruction, and the custodian of the document at the time of its destruction.
- M. All references to the testimony of a witness includes both that witness's written testimony as well as any attachments to the testimony.
- N. Sierra Club reserves the right to serve supplemental, revised, or additional discovery requests as permitted in this proceeding.

INTERROGATORIES

263. Identify the date on which the Companies provided to the Staff the Companies' responses to PUCO-DR-34 and -35.

RESPONSE:

264. Identify all formal or informal data requests that the Companies have received from the Staff since March 31, 2016.

RESPONSE:

265. Identify the date, subject matter, and participants of each meeting or conference call between the Companies and the Staff (including any individual member of the Staff) since March 31, 2016, at which any of the following were discussed:
- Modified Rider RRS
 - The Distribution Modernization Rider proposal referenced in the Rehearing Testimony of Staff witnesses Joseph Buckley, Tamara Turkenton, and Hisham Choueiki, filed in this proceeding on June 29, 2016
 - The Rehearing Testimony filed by Staff in this proceeding on June 29, 2016, including any drafts of such testimony
 - The Companies' credit metrics or ratings, or financial outlook
 - FirstEnergy Corp.'s credit metrics or ratings, or financial outlook

RESPONSE:

266. Identify the date, subject matter, and participants of each meeting or conference call between any employee of FirstEnergy Service Corp. acting on behalf of the Companies and the Staff (including any individual member of the Staff) since April 27, 2016, at which any of the following were discussed:
- Modified Rider RRS
 - The Distribution Modernization Rider proposal referenced in the Rehearing Testimony of Staff witnesses Joseph Buckley, Tamara Turkenton, and Hisham Choueiki, filed in this proceeding on June 29, 2016
 - The Rehearing Testimony filed by Staff in this proceeding on June 29, 2016, including any drafts of such testimony
 - The Companies' credit metrics or ratings, or financial outlook
 - FirstEnergy Corp's credit metrics or ratings, or financial outlook

RESPONSE:

267. Refer to page 12, lines 1-7 of the Rehearing Testimony of Eileen Mikkelsen. With regards to the "cash projected to be collected in the first few years of Rider RRS":
- State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if such cash were used only within the Companies.
 - If so, explain why.
 - If not, explain why not.
 - State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if such cash were distributed to FirstEnergy Corp. through dividends or any other means.
 - If so, explain why.
 - If not, explain why not.
 - State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if the Commission issued an

order requiring that all such cash be specifically earmarked for grid modernization.

- i. If so, explain why.
 - ii. If not, explain why not.
- d. State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if the Commission issued an order requiring that all such cash be held in a segregated account from which funds could only be disbursed for projects benefiting FirstEnergy's customers.
 - i. If so, explain why.
 - ii. If not, explain why not.
- e. State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if the Commission required that all such cash be specifically earmarked for the initiatives described on page 12, lines 4-7 of Ms. Mikkelsen's Rehearing Testimony.
 - i. If so, explain why.
 - ii. If not, explain why not.
- f. State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if the Commission approved Modified Rider RRS with the condition that any cash collected under the Rider could not be transferred to FirstEnergy Corp.
 - i. If so, explain why.
 - ii. If not, explain why not.
- g. State whether the Companies' collection of such cash would have any impact on the credit metrics or rating of FirstEnergy Corp. if the Commission approved Modified Rider RRS with the condition that any cash collected under the Rider could not factor into the Companies' decisions about whether to provide a dividend to FirstEnergy Corp. or the amount of such dividend.
 - i. If so, explain why.
 - ii. If not, explain why not.

RESPONSE:

268. State whether the Companies have evaluated, or reviewed any evaluation of, the impact that ESP IV with the proposed Modified Rider RRS would have on the Companies' credit metrics or ratings, or financial outlook.
- a. If so, explain the results of such evaluation, and identify any documents reflecting such evaluation.
 - b. If not, explain why not.

RESPONSE:

269. State whether the Companies have evaluated, or reviewed any evaluation of, the impact that ESP IV with the proposed Modified Rider RRS would have on FirstEnergy's credit metrics or ratings, or financial outlook.

- a. If so, explain the results of such evaluation, and identify any documents reflecting such evaluation.
- b. If not, explain why not.

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

165. Produce any documents identified or referenced in response to any of the following interrogatories: SC-INT-263 through SC-INT-269.
166. Produce all documents that contain any information used, reviewed, or relied on in preparing your responses to any of the following interrogatories: SC-INT-263 through SC-INT-269.
167. Produce any communications between the Companies and the Staff (including any individual member of the Staff) regarding:
 - a. Modified Rider RRS
 - b. The Distribution Modernization Rider proposal referenced in the Rehearing Testimony of Staff witnesses Joseph Buckley, Tamara Turkenton, and Hisham Choueiki, filed in this proceeding on June 29, 2016
 - c. The Rehearing Testimony filed by Staff in this proceeding on June 29, 2016, including any drafts of such testimony
 - d. The Companies' credit metrics or ratings, or financial outlook
 - e. FirstEnergy Corp's credit metrics or ratings, or financial outlook
170. Produce any communications between any employee of FirstEnergy Service Corp acting on behalf of the Companies and the Staff (including any individual member of the Staff) regarding:
 - a. Modified Rider RRS
 - b. The Distribution Modernization Rider proposal referenced in the Rehearing Testimony of Staff witnesses Joseph Buckley, Tamara Turkenton, and Hisham Choueiki, filed in this proceeding on June 29, 2016
 - c. The Rehearing Testimony filed by Staff in this proceeding on June 29, 2016, including any drafts of such testimony
 - d. The Companies' credit metrics or ratings, or financial outlook
 - e. FirstEnergy Corp's credit metrics or ratings, or financial outlook

171. Produce any documents provided to the Staff (including any individual member of the Staff) by the Companies, or by any employee of FirstEnergy Service Corp. acting on behalf of the Companies, regarding:
 - a. Modified Rider RRS
 - b. The Distribution Modernization Rider proposal referenced in the Rehearing Testimony of Staff witnesses Joseph Buckley, Tamara Turkenton, and Hisham Choueiki filed in this proceeding on June 29, 2016.
 - c. The Rehearing Testimony filed by Staff in this proceeding on June 29, 2016, including any drafts of such testimony
 - d. The Companies' credit metrics or ratings, or financial outlook
 - e. FirstEnergy Corp's credit metrics or ratings, or financial outlook
172. Produce any reports, analyses, credit opinions, research updates, or other documents issued since January 1, 2016, by Standard & Poor's Ratings Services or Moody's Investors Service regarding the Companies' credit rating, credit metrics, or financial outlook.
173. Produce any reports, analyses, credit opinions, research updates, or other documents issued since January 1, 2016, by Standard & Poor's Ratings Services or Moody's Investors Service regarding FirstEnergy Corp.'s credit rating, credit metrics, or financial outlook.
174. Produce copies of any formal or informal data requests from Staff to the Companies since March 31, 2016, including a copy of PUCO-DR-34 and -35 as received by the Companies.
175. Produce copies of any responses by the Companies to formal or informal data requests from Staff since March 31, 2016.
176. Produce any evaluation, study, or other document regarding the impact that ESP IV with the Modified Rider RRS would have on the Companies' credit metrics or ratings, or financial outlook.
177. Produce any evaluation, study, or other document regarding the impact that ESP IV with the Modified Rider RRS would have on FirstEnergy Corp's credit metrics or ratings, or financial outlook.
178. Produce the Excel spreadsheet created by the rates personnel that evaluated the Companies' credit metrics over the life of ESP IV and that was discussed by Ms. Mikkelsen at her June 29, 2016 deposition.

179. Produce any reports, workpapers, or other documents created or reviewed by the Companies' energy delivery management team, identified by Ms. Mikkelsen in her June 29, 2016 deposition, regarding the Modified Rider RRS proposal.
180. Produce any reports, workpapers, or other documents created or reviewed by the treasury department, identified by Ms. Mikkelsen in her June 29, 2016 deposition, regarding the Modified Rider RRS proposal.
181. Produce any reports, workpapers, or other documents created or reviewed by the president of the utilities group in approving the Modified Rider RRS proposal, as discussed by Ms. Mikkelsen in her June 29, 2016 deposition.

July 1, 2016

Respectfully submitted,

s/ Shannon Fisk

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Fifteenth Set of Interrogatories and Requests for Production of Documents to Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company* has been served upon the following parties via electronic mail on July 1, 2016:

/s/ Shannon Fisk

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EXHIBIT B

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 : Case No. 14-1297-EL-SSO
Authority to Provide for :
a Standard Service Offer :
Pursuant to R.C. 4928.143 :
in the Form of an Electric:
Security Plan. :

- - -

DEPOSITION

of Eileen M. Mikkelsen, taken before me, Karen Sue
Gibson, a Notary Public in and for the State of Ohio,
at the offices of FirstEnergy Corporation, 76 South
Main Street, Akron, Ohio, on Wednesday, June 29,
2016, at 9:00 a.m.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
FAX - (614) 224-5724

- - -

1 Q. Do you know whether the companies have
2 evaluated how credit rating agencies may react if the
3 proposal -- may react with regards to FirstEnergy
4 Corp.'s credit rating if the proposal were approved?

5 THE WITNESS: May I ask that you reread
6 the question, please, ma'am.

7 (Record read.)

8 MR. KUTIK: Objection.

9 A. Well, if the proposal is approved, there
10 would be more funds from operations which is one of
11 the metrics that credit rating agencies look at in
12 relation to debt.

13 Q. Okay. And have you -- do you know, have
14 the companies evaluated how the credit rating
15 agencies may react to the availability of more funds
16 from operations?

17 A. The companies' credit metrics would be
18 improved in the early years if the proposal is
19 accepted.

20 Q. Okay. And which credit metrics are those
21 that would be improved?

22 A. FFO to debt or FCO to debt.

23 Q. Okay. Any others?

24 A. Not that I'm aware of.

1 Q. Okay. And if the proposal were approved
2 and the credit to customers from 2019 through May 31,
3 2024, that the companies are projecting end up
4 occurring, would the companies' credit metrics over
5 that time frame then worsen?

6 MR. KUTIK: Objection.

7 A. As I said before, when the companies
8 evaluated the proposal as it relates to rider RRS, it
9 evaluated that in the context of the entirety of the
10 ESP IV, not in isolation.

11 Q. Okay. But would the projected reduction
12 in cash that the companies would receive from 2019
13 through May 31, 2024, have a downward effect on the
14 companies' credit metrics?

15 MR. KUTIK: Objection.

16 A. Again, the company would have evaluated
17 the credit metric -- pardon me. The company would
18 have evaluated ESP IV in its entirety over the
19 period, not one isolated element of the ESP IV.

20 Q. Did the companies include an evaluation
21 of the tax credit metrics in that evaluation?

22 A. Well, as we talked about, the cash into
23 the company in the early years will improve the
24 utilities' credit metrics as will cash over the

1 period associated with other elements of the ESP. So
2 in total you have improved credit metrics early and
3 stabilization of credit metrics over the term.

4 Q. And who -- who performed -- who performed
5 that evaluation for the company?

6 MR. KUTIK: Objection.

7 A. The analysis that -- the discussion we're
8 having about the impact on the credit metrics was
9 based on a summary look at the different elements of
10 the ESP and expected associated cash rising from or
11 being utilized due to the provisions of the ESP.

12 Q. And who did that summary look?

13 A. It was performed by the rate department.

14 Q. Okay. And did they document that summary
15 look in any way?

16 A. May I ask you to rephrase the question,
17 please?

18 Q. What do you find confusing?

19 A. "Document."

20 Q. Did they put that -- did they create any
21 written document about that summary outlook -- strike
22 that.

23 Did the -- did they create any written
24 document regarding that summary look at the ESP?

1 A. If by written document you mean
2 narrative, no.

3 Q. Any written document at all.

4 A. Yes.

5 Q. And what sort of document did they
6 create?

7 A. An Excel spreadsheet.

8 Q. And have you seen that Excel spreadsheet?

9 A. Yes.

10 Q. Okay. And did you rely on that Excel
11 spreadsheet in your -- for your testimony?

12 A. No, not in the preparation of my
13 testimony.

14 Q. Did you see the Excel spreadsheet before
15 you drafted your testimony?

16 A. No.

17 Q. Do you know who in particular created the
18 Excel spreadsheet?

19 A. Rates personnel.

20 MR. FISK: I'm sorry, what? Can I have
21 that answer read back.

22 (Record read.)

23 Q. Okay. Thank you. Do you know who in
24 particular in rates created that spreadsheet?

1 A. No.

2 Q. And have you personally evaluated whether
3 the companies' credit metrics would stabilize over
4 the long term under the ESP?

5 A. Not beyond what we've already discussed.

6 Q. And that was reviewing the Excel
7 spreadsheet; is that correct?

8 A. Yes.

9 Q. Okay. Anything else besides that?

10 A. May I ask you to rephrase the question,
11 please?

12 Q. Have you done anything else besides
13 review the Excel spreadsheet to evaluate whether the
14 companies' credit metrics would stabilize over the
15 term of the ESP?

16 A. No.

17 Q. And have the companies evaluated how the
18 ESP would -- with the proposal would impact
19 FirstEnergy Corporation -- FirstEnergy Corp.'s credit
20 metrics?

21 A. I'm sorry. You broke up in the mid
22 there.

23 THE WITNESS: May I ask you to reread the
24 question if you got it.

1 (Record read.)

2 A. No.

3 Q. Okay. Do you have any opinion as to how
4 the ESP with the proposal would affect FirstEnergy
5 Corp.'s credit metrics?

6 A. Yes.

7 Q. Okay. What is your opinion?

8 A. That improvement in the companies' credit
9 metrics could result in improvement in FirstEnergy
10 Corp.'s credit metrics.

11 MS. WILLIS: May I have that answer
12 reread, please.

13 MR. KUTIK: I'm sorry. Had you finished
14 your answer?

15 MS. WILLIS: I didn't mean to interrupt.

16 MR. KUTIK: I didn't know whether she had
17 or not.

18 (Record read.)

19 Q. And how would improvement in the
20 companies' credit metrics result in improvement in
21 FirstEnergy Corp.'s credit metrics?

22 A. By consolidating the improved metrics
23 into the FirstEnergy Corp. view.

24 Q. And have you personally evaluated how the

1 stabilization of the companies' credit metrics over
2 the long term of the ESP would affect FirstEnergy
3 Corp.'s credit metrics?

4 MR. KUTIK: Objection.

5 A. No.

6 Q. Do you have any opinion as to how the
7 companies' stabilization of the companies' credit
8 metrics over the long term of the ESP would affect
9 FirstEnergy Corp.'s credit metrics?

10 A. No.

11 Q. Do you know if the FE companies have
12 evaluated that question?

13 A. I'm not aware of that analysis.

14 Q. Okay. As a general matter, the companies
15 have allocated dividends to FirstEnergy Corp.; is
16 that correct?

17 A. May I ask you to rephrase the question,
18 please?

19 Q. What do you find confusing?

20 A. "As a general matter," I am not sure what
21 that means.

22 Q. Well, I guess I just mean generally the
23 companies can pay dividends to FirstEnergy Corp. I
24 am not talking about specifically in this case, but

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Case No(s). 14-1297-EL-SSO

Summary: Memorandum Contra Joint Motion for Extension of the Procedural Schedule electronically filed by MR. DAVID A KUTIK on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company