

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	Case No. 14-1297-EL-SSO
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.)	
)	

**INITIAL POST-REHEARING BRIEF OF
THE INDEPENDENT MARKET MONITOR FOR PJM**

Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (“Market Monitor”), hereby submits this initial post-rehearing brief on the request for rehearing of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively “FirstEnergy”).¹ FirstEnergy seeks rehearing on the order of Commission issued March 31, 2016, approving its revised fourth electric security plan and its Retail Rate Stability Rider (“Rider RRS”) (“March 31st Order”) on the grounds that the March 31st Order does not reflect an order of the Federal Energy Regulatory Commission (FERC) issued April 27, 2016 (“FERC Order”) and does not reflect the terms of a new proposal developed by FirstEnergy in response to the FERC Order (“New Proposal”). FirstEnergy arguments have no merit and should be rejected.

The Market Monitor objects to the New Proposal for same reasons that it objected to the original filing in its testimony and briefs submitted December 22, 2014, December 30, 2015, February 12, 2016 and February 26, 2016. FirstEnergy should not be permitted on

¹ See Ohio Edison company, The Cleveland Electric Illuminating Company and The Toledo Edison Company Application for Rehearing (“FirstEnergy AFR”), including Rehearing Testimony of Eileen M. Mikkelsen on behalf of Ohio Edison company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (May 2, 2016) (“Mikkelsen”).

rehearing to reconstitute its request for noncompetitive subsidies in order to avoid FERC regulatory review designed to protect Ohio customers.

Approval of the Rider RRS was not in the interests of Ohio customers and fundamentally conflicted with Ohio regulatory policy.² The New Plan does not serve the interests of Ohio customers and remains in conflict with Ohio regulatory policy. Competition should be protected because it benefits Ohio customers.

Under the New Proposal, fixed subsidies go to the FirstEnergy's distribution company.³ FirstEnergy pledges not to transfer the subsidies to its unregulated generation affiliate but has failed to explain how revenues are not fully fungible within a single corporation.⁴ FirstEnergy has not explained how this arrangement is consistent with promoting "rate stabilization" and "fuel diversity," the arguments on which FirstEnergy previously relied.

FirstEnergy AFR states (at 19): "Operational and market performance for any particular generation facilities would be rendered irrelevant for purposes of the modified Rider RRS." Although the subsidies are still tied to the RRS Assets, it would be up to the Commission to initiate a proceeding to reduce the Rider RRS charge/credit.⁵ FirstEnergy has recently announced the retirement of units at the W.H. Sammis Plant.⁶

FirstEnergy's primary justification for the New Proposal, that it will allow FirstEnergy to avoid regulatory review by the FERC on whether the arrangement proposed

² See Ohio Rev. Code § 4928.143(C)(1).

³ The Rider RRS is meant to ensure FirstEnergy's recovery of costs for generation assets, including the Davis-Besse Nuclear Power Station; the W.H. Sammis Plant; and FirstEnergy's share of the output of the Kyger Creek Plant in Cheshire, Ohio, and the Clifty Creek Plant in Madison, Indiana, which are owned and operated by Ohio Valley Electric Corporation (collectively, "RRS Assets")

⁴ Mikkelsen at 11:22–23.

⁵ See Mikkelsen at 15:8–14.

⁶ Rehearing Tr. V at 1702.

under the original Rider RSS between its affiliates is competitive,⁷ is a reason for rejection rather than acceptance of the New Proposal.

The interests of Ohio consumers in competitive markets and the benefits of low energy prices should be preserved in this proceeding. Ohio customers should not be forced to pay subsidies to sustain particular generators in the PJM market and to shoulder investment risks properly placed on investors. The Rider RSS was a bad bargain for Ohio customers and not in the public interest. The New Plan is no better, and it should not be approved.

The Market Monitor respectfully requests that the Commission afford due consideration to this brief as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



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⁷ FirstEnergy at 13–14.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by email the foregoing document upon persons with email addresses listed below.

Dated at Eagleville, Pennsylvania, this 15th day of August, 2016.



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Summary: Brief Initial Post Rehearing Brief electronically filed by Ms. Suzette N Krausen on behalf of Monitoring Analytics, LLC and Mayes, Jeffrey Mr.