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

THE NORTHWEST OHIO AGGREGATION COALLITION'S AND NOAC COMMUNITIES' BRIEF IN REPLY

The NOAC Communities, like all local governments, work full time to benefit their entire communities from the smallest resident and small business owner to the largest industrial consumers.

The Toledo area is a major manufacturing center with energy intensive industries that were hard hit in the 2008-2009 recession. Northwest Ohio has seen improvement since the depth of the recession but manufacturing jobs and activity has yet to fully recover. Northwest Ohio is a concentrated microcosm of the national problems caused when good jobs in manufacturing plants end due to a plant closure. One thing everyone in our communities agrees on is the importance of economic development.

That is why the Staff's and Companies' proposal should be summarily rejected. Both the Staff and Companies proposals are "reverse economic development" that will harm our families, businesses and economic development. The Initial Briefs of both only reinforce what a truly bad deal their proposals are for Ohioans and Ohio employers.

1. The Staff Proposal and the Companies Proposals Turn Economic Development of Its Head and Results in Ohioans Subsidizing FirstEnergy's Plant Closures and Job Losses

Both the Staff's Brief and the Companies' Brief tout fictitious economic development benefits of their proposals.[1] The Staff's and the Company's proposals are, in fact, "reverse economic development."

In typical economic development efforts, a company considering a new plantthat creates jobs evaluates the various economic factors and receives various benefits, grants and subsidies in exchange for that investment and the subsequent creation of jobs. [2] The Staff's and Companies' proposals flip economic development on its head in two ways. First, the proposals would increase consumers' utility costs. This will harm Ohio's industries as Ohio Manufacturers Association and others correctly and forcefully point out.[3] Second, <u>the proposals reward FirstEnergy for closing Ohio plants and for firing Ohio workers.</u>

When FE Corp. closes a plant, it must write off the plant's value from its balance sheet. Staff's proposal directly <u>requires Ohioans to subsidize the Company's balance sheet. This</u>

[1] For example, the Staff Brief p. 1, states, "The grid modernization proposal submitted by the Staff of the Public Utilities Commission of Ohio (Staff) will launch a new era of economic development for northern Ohio." But, as set forth in the OCC/NOAC brief this is really a "Credit Support Rider" to benefit the parent corporation.
[2] There are also programs for plants expansions and in more limited instances job retention.
[3] This is especially true in a manufacturing regions such as the NOAC Communities. That is why Northwest Ohio's mainstay Cooper Tire, O-I, Ownes-Illinois), OC (Owens Corning), and Whirlpool have each written to the Commission in opposition. They are not blowing smoke, these proposed subsidies and higher electric rates will hurt our local economy.

rewards FirstEnergy for closing those plants. The Companies' proposals seek the same thing only in far larger amounts. The Companies argue the Staff proposal should be ten times higher when the companies' "adjustments" are made.[4] While the Company's Virtual PPA attempts to obfuscate the obvious, it does the same thing. Other than the difference in the price tags each amounts to a subsidy to FirstEnergy while it is closing plants.

Under any of these proposals, all the workers who received and will receive pink slips from FirstEnergy are forced to help subsidize FirstEnergy. All the suppliers who lost or will lose their supply contracts are being asked to help bail out FirstEnergy. Likewise, the communities and school districts that are suffering and will suffer the economic dislocation are required to subsidize FirstEnergy. Effectively every residential consumer and business would be forced to pay a hidden tax in their electric bills to bail out FirstEnergy.

Through the purchase of Allegheny Energy five years ago,[5] FirstEnergy decided and it shareholders agreed to increase their exposure to coal fired generation.[6] Now these proposals ask consumers and other employers to pay for their corporate decision.

In 2013, FirstEnergy closed four coal units at its Bayshore Plant in Lucas County. A month ago FE announced it was closing or selling the last unit still operating at Bayshore.[7] It had competitive choices to make and it made them. They could have reinvested in the plants. They could have converted the units to natural gas. But they didn't. Workers and suppliers lost

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[4] The Staff Brief at pages 14-16 reviews this and recommends that these adjustments be rejected.
[5] The Staff Brief recognizes that five years following the Allegheny merger is the appropriate period to look at cash flow issues. Staff Brief at 14: "In addition five years represents the entire period since the last significant restructuring of FEC, specifically the merger with Allegheny Energy."
[6] While the original ESP was allegedly was about "fuel diversity", this acquisition in no way diversified the FirstEnergy generation fleet. It essentially duplicated the Ohio generation assets. It added no significant natural gas generation nor any significant renewables
[7] Rehearing Tr. V at 1702.

jobs. The school districts and communities lost tax dollars. This is the opposite of economic development.

FirstEnergy's reverse economic development is not limited to Northwest Ohio. During the rehearing, FirstEnergy announced that in addition to closing the last Bayshore unit, it would close Sammis units 1-4.[8] These are some of the units the Company was telling us would benefit consumers through the RRS rider just a few months ago.

As a result, the Staff urges that the Companies' Revised Rider RRS be rejected because of this:

> Indeed, FirstEnergy Corporation (FEC) has already announced the closure of several of the Sammis units. While the closure of Ohio units may or may not be an economically sensible decision from FEC's perspective, the retention of those units, with their local economic and resource diversity benefits, was a significant reason that the Commission approved the original Rider RRS. The absence of these benefits in the Modified Rider RRS means the Commission should reject it. (At 2, 3. Citations omitted.)

NOAC concurs with the Staff in that regard. This is one of many reasons to reject the Modified Rider RRS proposed by the Company. Unfortunately the Staff does not apply the same standard to its own proposal that would provide at least $393 million dollars to FirstEnergy while it is closing these plants. The Staff's logic should be applied to its own proposal. FEC should not be rewarded from the checkbooks of consumers while they are closing plants.

A fair reading of the Moody's and Standard and Poor's reports attached to Staff Witness Buckley's testimony is that FirstEnergy is a holding company. It has good, profitable regulated transmission and distribution subsidiaries. But FirstEnergy also owns generation facilities that are currently uneconomic to operate and harm the balance sheet due to market forces. FE clearly understands that fact since they requested the RRS. There is no question that Wall Street also understands and is pressuring FirstEnergy to end, or at least greatly reduce, its exposure to its generation assets.[9]

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[8] Rehearing Tr. V at 1702.

[9] See, also PS/EPSA Exhibit 21, OCC Exhibit 47, Direct Energy Exhibit 1, and OMAEG Exhibit 33.

On June 29, 2016 the Staff proposed a $131 million dollar a year cash infusion for FirstEnergy. On July 22, 2016 FirstEnergy announced the new plant closures. While the original RRS was pitched as saving Ohio jobs, the Staff proposal not only allows the plant closures, it bails the Company out. In absolute effect, the Staff proposal subsidizes the closures.

What conceivable rationale is there for rewarding FirstEnergy for closing Ohio plants and cutting Ohio jobs? There is none. But, that is exactly what requiring Ohioans to repair FirstEnergy's balance sheet or cash flow does. Company management made the decisions that led to their current situation. Shareholders, not customers, approved them. Now customers are being asked to pay.

Almost bizarrely but certainly brazenly, FirstEnergy counters the Staff proposal by asking for $558 million per year plus up to another $568 million per year more for keeping its headquarters in Akron.[10] At the same time, more jobs will be lost in Lucas and Jefferson Counties, adding to those already lost in Lucas County, Cuyahoga County, and Lake County. Akron management will apparently keep their positions. Corporate shareholders will still receive $600 million in dividends this year. Ohioans will pay for reverse economic development.

The Staff calculates that the Companies—always a cash cow—should be responsible for 22% of the cost of bailing out the Parent Corporation and Generating Subsidiaries.[11] This is $131 million per year for "credit support."[12] But, the Staff never points out that under that logic, the Companies are also responsible for 22% of the $600 million that their Parent Company pays in dividends, or roughly $132 million per year. That money ultimately comes from rate payers.

Plain and simple, these subsidies for plant closures are shameful policy and unlawful transition costs, despite the assertions in the Staff's brief and the Companies' brief to the

[10] Mikkelsen Rehearing Rebuttal Test. at 9 and following.
[11] See written testimony of Staff Witness Buckley
[12] See both written testimony and cross examination of Staff Witness Buckley.

contrary. Rewarding FirstEnergy these generation transition costs encourages FirstEnergy to close Ohio plants and fire Ohio workers.

At the same time, these proposals are anti-competitive. The proposals underwrite FirstEnergy in a way unavailable to its competitors. This harm competing energy suppliers or generators that are investing in Ohio's economy. The anti-competitive harm is significant. Today, just a mile or so away from the closed Bayshore units, a new state of the art natural gas fired electric plant is under construction. Oregon Clean Energy believed in our region. This organization evaluated the market, saw an opportunity and secured investments to install a state of the art combined cycle natural gas plant. Oregon Clean Energy is investing over $800 million in Northwest Ohio, as FirstEnergy was announcing the closure of facilities. It saw opportunity and is risking their investors' money not ratepayers. This is economic development and an example of a competitive market.

FirstEnergy could have been making this investment. It chose not to. Rather, FirstEnergy's response is not figuring out how to compete directly but seeking a subsidy that will impose a massive rate hike on consumers.

Again this is not a question limited to Northwest Ohio. At least four other new gas fired plants are under construction or in the planning stages. Oregon Clean Energy, RESA and Direct Energy have spoken out for a level playing field. Many competitive generators have facilities here in Ohio and are investing in Ohio. These competitors are engaged in economic development; not closing plants.

2. The Staff and Companies' Proposals Enrich Just One Company FirstEnergy At the Expense of Ohio's Families and Seniors

When all the jargon is stripped away, the Staff and Companies proposals require regular people to pay an additional tax in their electric bills. It is not for the electricity that they use. Instead, money that people could spend on school clothes or medical co-pays will go to bail out only FirstEnergy. This is simply wrong.

FirstEnergy Corp is a publically traded company. It can raise cash in the market by several methods.[13] It can issue shares of new stock. In which case, the new shareholder becomes an owner and is entitled to dividends when declared and the value of the stock when sold. Or it can issue debt. In which case, the debtholder gets interest and a repayment of principle.

What do Ohioans get for their investment? For their coerced cash infusion into FirstEnergy? Nothing. They do not share in the good fortune.

Staff Witness Buckley makes clear that Ohio rate payers should not be coerced into investing in FirstEnergy:

> A. If the question is asking could the ratepayers act as an investor in the company, I don't know that that's an appropriate thing to do to the ratepayers. I think the ratepayers should decide what they want to invest in. I don't think they should be forced to invest in the company in any way. That's -- that's their choice if they want to invest in a racehorse, you know. They should be able to do that if they so choose. (Vol. 3, p. 733 underline added.)

Both the staff's proposal and the companies' proposals force consumers to subsidize FirstEnergy, an investment without return.

Most of our families and seniors would never choose to "invest in race horses." Our citizens need the money from their paychecks and social security payments to live. The most recent Ohio Jobs and Family Services reports (June 2016) reports that the median family income

[13] See, for example, testimony and rebuttal testimony of OMAEG Witness Lause.

in Lucas County in $42,399 or about $7,000 less than Ohio as a whole.[14] Taking even one dime from hard pressed families to bailout FirstEnergy is wrong.

Being economically challenged is widespread in our communities and across America. The U.S. Commerce Department in May 2015 report on American households devotes a section to "Economic Fragility and Emergency Savings."[15] This section's introduction highlights that economic hardship is widespread across many income classes:

> A key consideration regarding household finances and overall economic well-being is the ability to withstand financial disruption. Almost a quarter of respondents indicate that they experienced some form of financial hardship in the year leading up to the survey, and the results demonstrate that households throughout the income distribution struggle to maintain a financial safety net that could minimize the repercussions from such events. This lack of a financial safety net is reflected in economic behaviors, as respondents report leaning on friends or family to overcome financial hardships or report going without medical treatment due to an inability to pay. (P. 17)

This reflects what the NOAC Communities see every day. The new reality is that many middle class Americans must guard every dollar.

This is often called the "$400 problem." It means that a family lacks the resources to raise $400 to deal with a small emergency. The Federal Reserve Board reports that 47% of Americans cannot raise $400 for modest emergencies like a car or home repair or minor medical procedure:

> The [Federal Reserve] survey results reveal a lack of economic preparedness among many adults. Only 53 percent of respondents indicate that they could cover a hypothetical emergency expense costing $400 without selling something or borrowing money. Thirty-one percent of respondents report going without some form of medical care in the past year because they could not afford it. (May 2015).[16]

Mr. Buckley is correct, "ratepayers should decide what they want to invest in." Families want to invest in clothes, food, and raising children; seniors in co-pays, rent and necessities.

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[14] http://jfs.ohio.gov/County/QuickView/County-QuickView-June2016.stm. The data reported is from 2014.

[15] https://www.federalreserve.gov/econresdata/2014-report-economic-well-being-us-households-201505.pdf The Commission may take judicial notice of this report at any stage in the proceedings and judicial notice was routinely given to official government reports.

[16] http://jfs.ohio.gov/County/QuickView/County-QuickView-June2016.stm

Ratepayers do not want to subsidize FirstEnergy. Tens of thousands have written to the PUCO against the subsidies. NOAC and the NOAC Communities, NOPEC, and the OCC all representing Ohio's residential customers have forcefully advocated against it.

Our residents should not be taxed in their electric bills to bail out FirstEnergy, especially for nothing in return.[17] Our families are already paying enough to fund a healthy dividend to shareholders.

3. The PUCO Should Reject the ESP4 in Favor of an MRO

NOAC and the NOAC Communities strongly urge the Commission to reject the Staff's proposal and each of the Companies' proposals. The right step is for the Commission to entirely reject all of ESP4.

The Commission needs to protect our families and employers by letting the market work and free competition prevail.

Respectfully submitted on behalf of the Northwest Aggregation Coalition and the NOAC Communities,

/s/Thomas R. Hays
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/s/ Leslie Kovacik
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[17] Throughout this process the Staff and the Companies (and even in the Commission's original decision) have not included any negative impact of the tax (costs above competitive rate) on residents and businesses. It has wrongly been treated as a "zero." But it is not a zero. The funds come out of the local economy and are not available to be spent there.

Service List

I certify that the following parties were served a copy of this 29th day of August, 2016.

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Summary: Motion REply Brief of NOAC and the NOAC Communities electronically filed by Mr. Thomas R. Hays on behalf of NOAC and Lucas County Board of Commissioners and City of Toledo and City of Sylvania and Village of Ottawa Hills and City of Perrysburg and City of Northwood and City of Maumee and The Village of Holland and The Village of Waterville and Lake Township Board of Trustees