

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Power Company for Administration of the)
Significantly Excessive Earnings Test for) Case No. 15-1022-EL-UNC
2014 Under Section 4928.143 (F),)
Revised Code, and Rule 4901:1-35-10,)
Ohio Administrative Code.)

In the Matter of the Application of Ohio)
Power Company for Administration of the)
Significantly Excessive Earnings Test for) Case No. 16-1105-EL-UNC
2015 Under Section 4928.143 (F),)
Revised Code, and Rule 4901:1-35-10,)
Ohio Administrative Code.)

**TESTIMONY
OF
DANIEL J. DUANN, Ph.D.
IN OPPOSITION TO THE STIPULATION**

**On Behalf of
The Office of the Ohio Consumers' Counsel**
*10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485*

September 19, 2016

LIST OF ATTACHMENTS

Attachment DJD-1

1 ***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.***

2 ***A1.*** My name is Daniel J. Duann. My business address is 10 West Broad Street, Suite
3 1800, Columbus, Ohio, 43215-3485. I am a Principal Regulatory Analyst with
4 the Office of the Ohio Consumers' Counsel ("OCC").
5

6 ***Q2. ARE YOU THE SAME DANIEL J. DUANN WHO FILED DIRECT***
7 ***TESTIMONY IN THIS PROCEEDING ON AUGUST 15, 2016?***

8 ***A2.*** Yes.
9

10 ***Q3. WHAT IS THE PURPOSE OF THE TESTIMONY YOU FILED TODAY?***

11 ***A3.*** The purpose of my testimony filed today is to explain and support OCC's position
12 regarding the two proposed Stipulations and Recommendations ("Settlements")
13 filed by Ohio Power Company ("Ohio Power" or "the Utility") on September 1,
14 2016.¹ I recommend the Public Utilities Commission of Ohio ("Commission" or
15 "PUCO") not adopt the two proposed Settlements because they are unreasonable
16 and not in the public interest. The two proposed Settlements are the products of
17 secret negotiations between Ohio Power and the Staff of the PUCO ("Staff").

18 There was no serious bargaining with other capable and knowledgeable parties.

¹ See *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2014 under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No. 15-1022-EL-UNC, Stipulation and Recommendation (September 1, 2016) and *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2015 under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No. 16-1105-EL-UNC, Stipulation and Recommendation (September 1, 2016).

**Q4. DO THE TWO PROPOSED SETTLEMENTS FILED BY OHIO POWER
CHANGE THE ANALYSIS AND CONCLUSION IN YOUR DIRECT
TESTIMONY FILED ON AUGUST 15, 2016?**

A4. No. The two Settlements filed by Ohio Power do not change the analysis and conclusion of my direct testimony filed on August 15, 2016 (“Duann Direct Testimony”).² There I concluded that the Commission should affirm the 12% Return on Equity (“ROE”) threshold that was adopted by the PUCO in Case No. 11-346-EL-SSO, et al. (“ESP 2 Case”) and find Ohio Power did have significantly excessive earnings in 2014 and order Ohio Power to return \$20.293 million to its customers. The Duann Direct Testimony is incorporated here as Attachment DJD-1. The Settlement filed in PUCO Case No. 15-1022-EL-UNC is hereafter referred as the “2014 SEET Settlement,” and the settlement filed in PUCO Case No. 16-1105-EL-UNC as the “2015 SEET Settlement.”

**Q5. WHAT DO YOU RECOMMEND REGARDING THE TWO PROPOSED
SETTLEMENTS FILED BY OHIO POWER?**

A5. Based on my experience and knowledge as a regulatory analyst and my participation in many proceedings before the PUCO, I recommend that the PUCO not adopt the two proposed Settlements. Specifically, I conclude the two proposed Settlements do not meet the three-prong test used by the PUCO in evaluating and approving a settlement. They are not products of serious

² See PUCO Case No. 15-1022-EL-UNC et al., Direct Testimony of Daniel J. Duann, Ph.D. (August 15, 2016).

1 bargaining among capable and knowledgeable parties. They do not benefit
2 customers and the public interest. The two proposed Settlements, if adopted by
3 the PUCO, will violate important regulatory principles and practices.

4
5 Furthermore, if the PUCO were to adopt the two proposed Settlements, this action
6 will invalidate or disrupt the PUCO's long-standing policies in promoting
7 regulatory efficiency and in facilitating negotiation and settlement among parties
8 with diverse interests. The PUCO's adoption of the two flawed and unreasonable
9 Settlements will not resolve the two cases quickly, but will instead create
10 unnecessary delay and uncertainty regarding Ohio Power's 2014 and 2015 SEET
11 Applications. Because Ohio Power and Staff excluded all other parties in
12 settlement discussions and did not provide all parties a copy of the proposed
13 Settlements before they were filed, this violates long-standing settlement
14 principles and will likely create more prolonged litigation.

15
16 In addition to not adopting any of the recommendations contained in the two
17 proposed Settlements, I recommend the PUCO affirm its decision in the *ESP 2*
18 *Case* (PUCO Case No. 11-346-EL-SSO, et al.) adopting the 12% Return on
19 Equity ("ROE") threshold for Ohio Power's 2014 Significantly Excessive Earning
20 Test ("SEET").³ In affirming this 12% SEET ROE threshold, the PUCO should

³ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO et al. Opinion and Order at 37 (August 8, 2012).

1 find Ohio Power did have significantly excessive earnings in 2014 and should
2 order Ohio Power to return \$20.293 million to its customers.

3

4 **Q6. WHAT IS YOUR UNDERSTANDING OF THE THREE-PRONG TEST THAT**
5 **THE PUCO COMMONLY USES IN EVALUATING AND ADOPTING A**
6 **SETTLEMENT?**

7 **A6.** I understand that the PUCO typically analyzes a proposed settlement under a
8 three-prong test.⁴ Specifically, the PUCO will consider:

- 9 1. Is the proposed settlement a product of serious bargaining among
10 capable, knowledgeable parties?
- 11 2. Does the proposed settlement, as a package, benefit customers
12 (ratepayers) and the public interest?
- 13 3. Does the proposed settlement package violate any important
14 regulatory principle or practice?

15

16 If the PUCO determines that a proposed settlement does meet each and every one
17 of the three criteria outlined above, then the PUCO will adopt, often with some
18 modifications, the proposed stipulation.

⁴ See, for example, *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, PUCO Case No. 11-351-EL-AIR et al. Opinion and Order at 8-10 (December 14, 2011).

**Q7. ARE THE TWO PROPOSED SETTLEMENTS PRODUCTS OF SERIOUS
BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

A7. No. The two proposed Settlements (the 2014 SEET Settlement and the 2015 SEET Settlement) are not products of serious bargaining among capable, knowledgeable parties. Both the process of reaching the proposed Settlements and the Settlements themselves are flawed and unreasonable.

First, it should be noted that only Ohio Power and the PUCO Staff signed and supported the two proposed Settlements. The other parties including the OCC, the Ohio Energy Group (“OEG”), and the Ohio Manufacturers’ Association Energy Group (“OMAEG”) opposed and did not sign the two proposed Settlements. OCC, OEG, and OMAEG exclusively represent almost all the customers of Ohio Power. In other words, no customer group (residential, commercial, or industrial) supports the two proposed Stipulations.

Second, even though there is no explicit requirement by the PUCO that a settlement has to be supported by a large majority of the parties to be reasonable or in the public interest, a settlement has to be a product of serious bargaining or negotiation among capable and knowledgeable parties to be considered by the PUCO. In other words, all parties in a disputed case should be afforded the opportunity to be heard and to meaningfully participate in the settlement process. It is clear that there was no serious negotiation or bargaining between Ohio Power and any party other than the PUCO Staff.

1 As the analytical lead of OCC regarding Ohio Power's 2014 and 2015 SEET
2 Applications, I expect that I would be informed and participate in any serious
3 negotiation or bargaining among the parties about a possible stipulation or
4 settlement. I was not invited to attend any negotiation or bargaining meetings (if
5 there were any). I was never presented with a draft settlement document before
6 Ohio Power filed the proposed Settlement on September 1, 2016. I have reviewed
7 Ohio Power's response to Joint Intervenor's Discovery Request First Set in
8 PUCO Case No. 15-1022-EL-UNC and the Supplemental Testimony of William
9 A. Allen filed on September 13, 2016, and I am not convinced that there was
10 serious bargaining among capable, knowledgeable parties before the filing of the
11 proposed Settlements.

12
13 The PUCO has indicated serious bargaining could occur, "via in-person meetings,
14 telephone conferences, and e-mail exchanges, with all parties being invited to
15 attend these meetings and all issues raised by the parties being addressed in
16 reaching the Stipulation."⁵ I am aware that a "settlement offer" was proposed to
17 OCC over the phone on August 25, 2016. But that call came after a substantive
18 agreement had been reached with the PUCO Staff.

⁵ See *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates.*, PUCO Case No. 12-1682-EL-AIR et al. Opinion and Order at 11 (May 1, 2013).

**Q8. ARE THE TWO PROPOSED SETTLEMENTS PRODUCTS OF
REASONABLE COMPROMISE INVOLVING A BALANCE OF
COMPETING POSITIONS OF PARTIES?**

A8. No. In addition to the flawed process of reaching the two proposed Settlements in private, the end products themselves (the two proposed Settlements) are not products of reasonable compromise involving a balance of competing positions.

The two proposed Settlements do not have any provisions or terms that can be considered as “reasonable compromise involving a balancing of competing positions” claimed by Ohio Power and the PUCO Staff.⁶ The essential provisions and terms of the two proposed Settlements were largely a rehash of the positions already presented in the direct testimonies filed by Ohio Power in its 2014 and 2015 SEET Applications. The two proposed Settlements are at best the products of a deal negotiated in secret by the Utility and the PUCO Staff, who largely agree with each others’ positions. The positions of the customers, who will be directly affected by any proposed settlement (as represented by OCC, OEG, and OMAEG), are not addressed or represented in the two proposed Settlements. For example, the proposed 2014 Settlement recommended a 2014 SEET ROE threshold of 16.04%.⁷ This has always been Ohio Power’s position (as represented in Allen’s Direct Testimony)⁸ and is considerably higher than the

⁶ See PUCO Case No. 15-1022-EL-UNC, Stipulation and Recommendation at 1 (September 1, 2016) and PUCO Case No. 16-1105-EL-UNC, Stipulation and Recommendation at 2 (September 1, 2016).

⁷ See PUCO Case No. 15-1022-EL-UNC, Stipulation and Recommendation at 5 (September 1, 2016).

⁸ See PUCO Case No. 15-1022-EL-UNC, Direct Testimony of William A. Allen at 6 (June 1, 2015).

1 2014 SEET ROE threshold of 12% recommended by OCC⁹, 12.05% by OEG¹⁰,
2 and 15.04% by PUCO Staff¹¹. This is just one example showing that the
3 proposed 2014 Settlement is not a reasonable compromise representing competing
4 positions among the parties.

5
6 This requirement of a settlement being a reasonable compromise involving a
7 balance of competing positions in order to be adopted by the Commission is
8 important because the terms of a settlement with broad-based support are
9 typically accorded substantial weight by the PUCO.¹² Consequently, as the two
10 proposed Settlements are not the products of reasonable compromise of
11 competing positions, the PUCO should give little weight if any to the two
12 proposed Settlements.

13

14 ***Q9. ARE THE TWO PROPOSED SETTLEMENTS PRESENTING NEW AND***
15 ***USEFUL INFORMATION TO THE RECORD AND CONTRIBUTING TO***
16 ***AN EFFICIENT AND FAIR RESOLUTION TO THESE TWO CASES?***

17 ***A9.*** No. The two proposed Settlements do not contribute anything new or useful to
18 the record of this proceeding or offer any innovative and efficient solution to a
19 disputed case. The two proposed Settlements represent mostly cumulative and
20 repetitive arguments of one party, Ohio Power. The testimonies filed in the cases

⁹ See Duann Direct Testimony at 5.

¹⁰ See PUCO Case No. 15-1022-EL-UNC, Direct Testimony of Lane Kollen at 6 (August 15, 2016).

¹¹ See PUCO Case No. 15-1022-EL-UNC, Prefiled Testimony of Joseph P. Buckley at 3 (August 15, 2016).

¹² See *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates*, Case No. 12-1682-EL-AIR et al. Opinion and Order at 10 (May 1, 2013).

1 are sufficient for the PUCO to have a record, in addition to those in the *ESP2*
2 *Case*, in reaching a fair, reasonable, and efficient resolution regarding Ohio
3 Power's 2014 and 2015 SEET Applications.
4

5 The filing of the two proposed Settlements by Ohio Power has in fact
6 unnecessarily delayed the process and resolution of these two cases. The
7 evidentiary hearing of these two cases would have likely already ended¹³ had
8 Ohio Power not filed the two proposed Settlements.
9

10 If the PUCO were to adopt the two proposed Settlements, this action will certainly
11 invalidate or disrupt the PUCO's long-standing policies in promoting regulatory
12 efficiency and in facilitating negotiation and settlement among parties with
13 diverse interests. If a settlement without serious bargaining among parties can be
14 approved by the PUCO without substantial modification, the parties to a disputed
15 case in the future will be less inclined to engage in serious and meaningful
16 negotiation and bargaining. There will be less incentive for the utilities and other
17 parties to "resolve issues in a manner economical to customers and public
18 utilities."¹⁴

¹³ Entry at 3 "The evidentiary hearing shall commence on September 13, 2016" (June 22, 2016).

¹⁴ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distributions Rates*, Case No. 11-351-EL-AIR et al. Opinion and Order at 9 (Dec. 14, 2011).

1 Last, any PUCO order adopting these two proposed Settlements (which are not
2 products of serious bargaining among parties) will likely be subject to further
3 review. Having worked as a regulatory analyst before the PUCO for more than
4 eight years, I understand the importance of meeting the three-prong test, and in
5 this case, that test was ignored. The two proposed Settlements are clearly not the
6 products of serious bargaining among capable and knowledgeable parties. Thus,
7 a PUCO decision adopting the two proposed Settlements may not resolve the two
8 SEET cases quickly and efficiently. It will instead create unnecessary delay and
9 uncertainty regarding Ohio Power's 2014 and 2015 SEET Applications.

10
11 ***Q10. DOES THE PROPOSED 2014 SEET SETTLEMENT BENEFIT***
12 ***CUSTOMERS AND THE PUBLIC INTEREST?***

13 ***A10.*** No. The 2014 SEET Settlement does not benefit customers and the public
14 interest. As discussed in my Direct Testimony, Ohio Power did have significantly
15 excessive earnings in 2014 and \$20,293,206 should be returned to customers
16 through either a credit on their bills or a reduction in consumer monies owed to
17 Ohio Power.¹⁵ However, the proposed 2014 SEET Settlement recommends the
18 PUCO adopt a new SEET ROE threshold of 16.04% for 2014 and find Ohio
19 Power did not have significantly excessive earnings in 2014. If the proposed
20 2014 SEET Settlement is adopted by the PUCO, Ohio Power's customers would
21 not receive any SEET refund or credit from the Utility for its 2014 earnings.

¹⁵ See Attachment DJD-1 at 11-12.

1 There is no other benefit to customers under the proposed 2014 SEET Settlement
2 that can offset the forbearance of a SEET refund the customers are entitled.

3
4 Ohio Power's witness Allen alleges that the two proposed Settlements "benefit
5 customers and the public interest by resolving these cases timely, with judicial
6 efficiency and in a manner consistent with past PUCO decisions."¹⁶ This is
7 simply not true. As discussed earlier in my testimony, the filing of the two
8 proposed Settlements (including the 2014 SEET Settlement) will actually delay
9 the conclusion of the hearing in these cases. The proposed 2014 SEET Settlement
10 does not contribute to regulatory and judicial efficiency or benefit the customers
11 and the public interest.

12
13 ***Q11. DOES THE PROPOSED 2015 SEET STIPULATION BENEFIT***
14 ***CUSTOMERS AND THE PUBLIC INTEREST?***

15 ***A11.*** No. The proposed 2015 SEET Settlement does not benefit customers and the
16 public interest. Ohio Power could not demonstrate or quantify any specific
17 benefits to the customers and the public interest if the proposed 2015 SEET
18 Settlement were adopted by the PUCO. It could only allege that the two proposed
19 Stipulations (including the 2015 SEET Settlement) would resolve the two SEET
20 cases timely, with judicial efficiency and in a manner consistent with past PUCO
21 decisions.¹⁷ As discussed earlier, the filing of the proposed 2015 SEET

¹⁶ See PUCO Case No. 15-1022 –EL-UNC et al., Supplemental Testimony of William A. Allen at 6 (September 13, 2016).

¹⁷ Id.

1 Settlement will create undue delay and uncertainty and it does not contribute to
2 regulatory and judicial efficiency or benefit the customers and the public interest.
3

4 ***Q12. DO THE TWO PROPOSED SETTLEMENTS VIOLATE ANY IMPORTANT***
5 ***REGULATORY PRINCIPLE, PRACTICE, AND STATE POLICY?***

6 ***A12.*** Yes. The two proposed Settlements do violate important regulatory principle,
7 practice and state policy. For example, as a result of resetting an ROE threshold
8 at much higher and unreasonable level than that set by the PUCO in the *ESP2*
9 *Case*, the customers of Ohio Power are deprived a significant benefit
10 (approximately \$20.3 million from Ohio Power's 2014 earnings) in the form of
11 either a refund or a credit to their monthly bills that they are entitled. This
12 violates the fundamental regulatory principle that the rates of regulated utility
13 services must be just and reasonable. The two proposed Settlements, as a result of
14 making customers to pay more than just and reasonable rates, also violate state
15 electric services policy regarding: (1) the availability to consumers of adequate,
16 reliable, safe, efficient, non-discriminatory, and reasonably priced retail electric
17 service; (2) the protection of at-risk populations; and (3) the state's effectiveness
18 in the global economy.¹⁸

¹⁸ See Ohio Revised Code 4928.02 (A), (L), and (N).

1 In addition, I conclude that several Recommendations in the two proposed
2 Settlements are unreasonable and inconsistent with sound regulatory practices and
3 prior PUCO actions. They are related to the reversal of an accounting provision
4 for 2014 SEET refund (Recommendation E in the 2014 SEET Settlement) and the
5 spread of revenues increases or decreases, from several cases as remanded by the
6 Supreme Court of Ohio, over the entire collection period (Recommendation F in
7 the 2014 SEET Settlement and Recommendation E in the 2015 SEET
8 Stipulation).

9
10 ***Q13. WHAT IS YOUR UNDERSTANDING OF THE 2016 REVERSAL OF AN***
11 ***ACCOUNTING PROVISION AS REFERENCED IN RECOMMENDATION***
12 ***E OF THE 2014 SEET SETTLEMENT?***

13 ***A13.*** It is my understanding that Ohio Power booked for accounting purposes a
14 preliminary amount (later adjusted slightly upward) of expected SEET refund,
15 that is the estimated revenue associated with the earnings between the 12%
16 threshold and the actual earnings in 2014.¹⁹ This \$20.157 million accounting
17 provision for potential SEET refund was deducted from the reported 2014
18 earnings of Ohio Power.²⁰ If the proposed 2014 SEET Settlement was adopted,
19 there would be no refund from Ohio Power for its 2014 SEET Application. There
20 would be a reversal of the accounting provision in 2016 and the reported earnings
21 of Ohio Power in 2016 will increase.

¹⁹ See PUCO Case No. 15-1022-EL-UNC, Direct Testimony of Thomas E. Mitchell at 7. William A. Allen at 7 (June 1, 2015).

²⁰ Id. at 8.

**Q14. WHY IS THE RECOMMENDATION TO EXCLUDE THE REVERSAL OF
AN ACCOUNTING PROVISION FOR BOOKED 2014 SEET REFUND IN
OHIO POWER'S 2016 SEET EARNINGS UNREASONABLE?**

A14. This recommendation is unreasonable and premature. If the PUCO adopts this 2014 SEET Settlement, it is prejudging Ohio Power's 2016 SEET earnings and an application that has not yet been filed. This Recommendation E in the 2014 SEET Settlement should not be adopted.

At this time, we do not know the outcome of Ohio Power's 2014 SEET Applications. If the PUCO decides that Ohio Power did not have significantly excessive earnings in 2014 and is not required to return money to customers, then the 2014 SEET refund provisions can be reversed in 2016. Then the increased earnings as a result of the reversal of prior accounting provision would and should be a part of Ohio Power's 2016 earnings for accounting purposes and for SEET purposes. It is unreasonable to reverse a 2014 accounting provision for whatever purpose, increase the company's reported earnings in 2016, and not include the earnings as part of the 2016 earnings for SEET purposes. If the PUCO finds Ohio Power did have significantly excessive earnings in 2014 and orders Ohio Power to return money to customers, then the accounting provision for 2014 SEET refund previously booked by Ohio Power does not need to be reversed. Then Ohio Power's 2016 reported earnings and earnings for SEET purposes will not be affected by the prior accounting provision.

**Q15. WHAT IS YOUR OPINION REGARDING SPREADING ANY ADDITIONAL
REVENUE INCREASE OR DECREASE TO OHIO POWER THAT MAY
RESULT FROM THE REMAND CASES OVER THE ENTIRE COLLECTION
PERIOD?**

A15. This proposal was made in both Recommendation F of the 2014 SEET Settlement and Recommendation E of the 2015 SEET Settlement. I oppose these two Recommendations. These two Recommendations are essentially the same except for the time periods (2014 vs. 2015). These two Recommendations are ambiguous and unreasonable and they should not be adopted.

First of all, it is not known if the Signatory Parties wish to revisit the 2014 and 2015 SEET cases if the amounts of additional revenues granted under the Remand cases do exceed the “limits” identified in the two proposed Settlements (approximately \$90 million related to 2014 and \$128 million related to 2015).

Second, and more important, if these two Recommendations were adopted a significant amount of additional revenues increases (earnings) or decreases that may be granted under the Remand Cases will not be accounted for. For example, if the amounts of additional revenues from the PIRR Cases and the Retail Stability Rider or the Capacity Charges were indeed spread over the entire collection period, a very significant amount of these “revenue adjustments” would be allocated to 2012 and 2013. Ohio Power’s 2012 and 2013 SEET Applications have long been decided. It is unreasonable to allocate these newly and later

1 collected or credited revenues to those time periods. A better approach is to treat
2 these “revenue adjustments” as earnings or reductions in earnings in the time
3 period after the Remand Cases are resolved and the “revenue adjustments” at the
4 time they are actually collected. By doing so, if there are additional revenue
5 increases or decreases given to Ohio Power under the Remand Cases, there is no
6 need to revisit the 2014 and 2015 SEET cases.

7

8 ***Q16. DOES THIS CONCLUDE YOUR TESTIMONY?***

9 ***A16.*** Yes. However, I reserve the right to supplement my testimony in the event that
10 additional testimony is filed, or if new information or data in connection with this
11 proceeding becomes available.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Daniel J. Duann, Ph.D. In Opposition to the Stipulation on Behalf of the Office of the Ohio Consumers' Counsel*, was served via electronic transmission to the persons listed below on this 19th day of September 2016.

/s/ Jodi Bair
Jodi Bair
Assistant Consumers' Counsel

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OCC EXHIBIT NO. _____

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Power Company for Administration of the)
Significantly Excessive Earnings Test for) Case No. 15-1022-EL-UNC
2014 Under Section 4928.143 (F),)
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2015 Under Section 4928.143 (F),)
Revised Code, and Rule 4901: 1-35-10,)
Ohio Administrative Code.)

**DIRECT TESTIMONY
OF
DANIEL J. DUANN, Ph.D.**

**On Behalf of
The Office of the Ohio Consumers' Counsel**
*10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485*

August 15, 2016

LIST OF ATTACHMENTS

Attachment DJD-1

Attachment DJD-2

Attachment DJD-3

Attachment DJD-4

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of The Office of the Ohio Consumers' Counsel,
PUCO Case No. 15-1022-EL-UNC et al.*

1 ***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.***

2 ***A1.*** My name is Daniel J. Duann. My business address is 10 West Broad Street, Suite
3 1800, Columbus, Ohio, 43215-3485. I am a Principal Regulatory Analyst with
4 the Office of the Ohio Consumers' Counsel ("OCC").
5

6 ***Q2. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND***
7 ***PROFESSIONAL EXPERIENCE.***

8 ***A2.*** I received my Ph.D. degree in Public Policy Analysis from the Wharton School,
9 University of Pennsylvania. I also have a M.S. degree in Energy Management
10 and Policy from the University of Pennsylvania, and a M.A. degree in Economics
11 from the University of Kansas. I completed my undergraduate study in Business
12 Administration at the National Taiwan University, Taiwan, Republic of China. I
13 was conferred by the Society of Utility and Regulatory Financial Analysts as a
14 Certified Rate of Return Analyst in April 2011.
15

16 I was a Utility Examiner II in the Forecasting Section of the Ohio Division of
17 Energy, Ohio Department of Development, from 1983 to 1985. The Forecasting
18 Section was later transferred to the Public Utilities Commission of Ohio
19 ("Commission" or "PUCO"). From 1985 to 1986, I was an Economist with the
20 Center of Health Policy Research at the American Medical Association in
21 Chicago. In late 1986, I joined the Illinois Commerce Commission as a Senior
22 Economist at its Policy Analysis and Research Division. I was employed as a
23 Senior Institute Economist at the National Regulatory Research Institute

*Direct Testimony of Daniel J. Duann, Ph.D.
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1 ("NRRI") at The Ohio State University from 1987 to 1995. My work at NRRI
2 involved many areas of utility regulation and energy policy. I was an independent
3 business consultant from 1996 to 2007.

4
5 I joined the OCC in January 2008 as a Senior Regulatory Analyst. I was
6 promoted to my current position in November 2011. My responsibilities are to
7 assist the OCC by participating in various regulatory proceedings before the
8 PUCO. These proceedings include rate cases, alternative regulation, standard
9 service offer, fuel cost recovery, cost of capital, and other types of proceedings by
10 Ohio's electric, gas, and water utilities.

11

12 ***Q3. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY OR TESTIFIED***
13 ***BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO?***

14 ***A3.*** Yes. I have submitted expert testimony on behalf of the OCC before the PUCO in
15 a number of cases. A list of these cases is included in Attachment DJD-1.

16

17 ***Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***
18 ***PROCEEDING?***

19 ***A4.*** The purpose of my testimony is to explain and support OCC's position regarding
20 the 2014 Significantly Excessive Earnings Test ("SEET") Application

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of The Office of the Ohio Consumers' Counsel,
PUCO Case No. 15-1022-EL-UNC et al.*

1 (“Application”) and supporting testimonies filed by Ohio Power Company (“Ohio
2 Power” or “the Utility”) on June 1, 2015.¹

3

4 ***Q5. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.***

5 ***A5.*** Based on my review of the 2014 SEET Application and relevant material, I
6 recommend the following:

- 7 (1) The Commission should affirm the 12% Return on Equity (“ROE”)
8 threshold for SEET that was adopted by the PUCO in Case No. 11-
9 346-EL-SSO, et al. (“*ESP 2 Case*”).² This 12% SEET ROE
10 threshold should be applied to Ohio Power’s 2014 earnings;
11 (2) The Commission should find Ohio Power did have significantly
12 excessive earnings in 2014 and order Ohio Power to return
13 \$20.293 million to its customers assuming the ROE threshold of
14 12% is still applicable.³

¹ See *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2014 under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No. 15-1022-EL-UNC (June 1, 2015).

² See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO et al. Opinion and Order at 37 (August 8, 2012).

³ The calculation of the 2014 SEET refund is discussed further in a later part of my testimony and summarized in Attachment DJD-4.

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of The Office of the Ohio Consumers' Counsel,
PUCO Case No. 15-1022-EL-UNC et al.*

**Q6. WHAT ARE OHIO POWER'S 2014 SEET-ADJUSTED EARNINGS AND
RETURN ON EQUITY?**

A6. In Ohio Power witness Thomas E. Mitchell's testimony, he indicated the Utility had an adjusted net income of \$230,126,000, an adjusted average shareholders' equity of \$1,809,589,000, and a SEET-adjusted, return-on-equity of 12.7170%.⁴ He also determined the revenue value of the potential excessive earnings above the ROE threshold of 12% to be \$20.157 million.⁵ However, in responses to OCC's discovery requests, Ohio Power stated there should be an additional \$155,083 provision or reserve for potential 2014 SEET refund.⁶ This would increase the total 2014 SEET refund provision (reserve) from \$21,288,908 to \$21,443,992.⁷ It is my understanding that an increase in the SEET refund provision, and not reducing the per-book earnings at the same time, would increase the SEET-adjusted earnings, year-end shareholder's equity, and resulting ROE. Ohio Power further stated that the increase of \$155,083 in the 2014 SEET refund provision will be reflected in revised testimony in any future 2014 SEET hearing.⁸ But Ohio Power has not filed any revised testimony regarding its 2014 SEET Application.

I performed my own calculation to account for the effects on the earnings and ROE resulting from an increase in Ohio Power's 2014 SEET refund provision.

⁴ See Case No. 15-1022-EL-UNC, Direct Testimony of Thomas E. Mitchell, Exhibit TEM-1, page 1 of 1 (June 1, 2015).

⁵ See Direct Testimony of Mitchell at 8.

⁶ See Attachment DJD-3.

⁷ Id.

⁸ Id.

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1 See Attachment DJD-4. Based on my calculation, which is similar to the
2 calculation done by Ohio Power Mitchell in his testimony, Exhibit TEM 1, the
3 SEET-adjusted earnings would increase from \$230,126,000 to \$230,219,061, the
4 average shareholders' equity from \$1,809,589,000 to \$1,809,636,031, and the
5 SEET-adjusted ROE from 12.7170% to 12.7218%.

6
7 ***Q7. DO YOU SUPPORT USING 12% ROE AS A THRESHOLD FOR***
8 ***DETERMINING WHETHER OHIO POWER'S EARNINGS (OR PROFITS)***
9 ***ARE SIGNIFICANTLY EXCESSIVE AND SHOULD BE RETURNED TO***
10 ***CUSTOMERS?***

11 ***A7.*** Yes. I do. I believe the 12% ROE threshold adopted by the Commission
12 in the *ESP 2 Case* is reasonable and should be applied to Ohio Power's
13 2014 SEET Application.

14
15 It is my understanding as a regulatory economist, that the recent Ohio
16 Supreme Court ("Court") decision concerning Ohio Power's *ESP 2 Case*
17 does not invalidate the 12% SEET ROE threshold.⁹ The 12% SEET ROE
18 threshold adopted in the *ESP2 Case*, along with other issues, has been
19 remanded to the Commission for further consideration. Setting aside any
20 legal argument, I conclude the use of the 12% ROE threshold in the 2014
21 SEET Application is sound regulatory policy and will produce an outcome
22 that is reasonable and fair to all parties.

⁹ See *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2015-521 at ¶ 66 (April 21, 2016).

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**Q8. PLEASE EXPLAIN YOUR UNDERSTANDING OF THE PURPOSE AND
BASIC MECHANISMS THAT ARE PART OF THE ANNUAL SEET
REVIEW.**

A8. Before explaining my specific reasons for supporting the 12% SEET ROE threshold, it is useful to discuss the purpose and basic mechanisms that are part of the SEET statutes and rules. As envisioned by the Ohio General Assembly, the annual SEET review provides an important and essential protection for Ohio's electricity customers. The annual SEET review is intended to ensure that any significantly excessive earnings resulting from an ESP will be returned to customers who paid these excessive rates in the first place. The annual SEET review is a customer protection tool mandated to the Commission to essentially "rectify" a prior ESP decision that resulted in significantly excessive earnings received by the regulated utility.

Furthermore, the annual SEET review examines the total earnings (with the possibility of certain exclusions) of a regulated electric utility considering all the rates, service terms, and conditions approved in an ESP. It is not an examination of the earnings from one specific provision, such as a rate increase, a rider, or a deferral, approved under an ESP. In reality, it also would be difficult, if not impossible, to identify and quantify the earnings of a specific ESP provision or the exact source of the money ("earnings") for the SEET refund.

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**Q9. SHOULD THE 12% ROE THRESHOLD BE MODIFIED WHEN PART OF
THE RETAIL STABILITY RIDER IS DISALLOWED BY THE OHIO
SUPREME COURT?**

A9. No. As a regulatory economist, I do not believe the recent decision by the Ohio Supreme Court in disallowing the non-deferral part of the Retail Stability Rider ("Rider RSR")¹⁰ will make the Commission's action in choosing the 12% ROE threshold for SEET purposes in the *ESP 2 Case* bad regulatory policy. The 12% ROE threshold for SEET purposes as previously decided by the Commission is reasonable and does not need to be modified in this proceeding. In the Ohio Power *ESP2 Case*, the Commission cited the adoption of the Rider RSR as one factor in setting the SEET ROE threshold of 12%.¹¹ But the elimination of part of the Rider RSR does not make the 12% SEET ROE threshold unreasonable. Specifically, at this time, Ohio Power has already collected the full amount of the 2014 revenues associated with the Rider RSR and has not restated its 2014 earnings to account for the Court's decisions on Rider RSR. Consequently, a change from the previously-set ROE threshold of 12% to another ROE threshold for SEET purposes at this time would result in a mismatch between the reported earnings (which include the full revenues collected under Rider RSR) and a newly proposed ROE for

¹⁰ See *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2015-521 at ¶ 40 (April 21, 2016).

¹¹ See Case No. 11-346-EL-SSO et al., Opinion and Order at 37 (August 8, 2012).

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1 SEET purposes (which may exclude the consideration of the revenue
2 collected under Rider RSR).

3

4 ***Q10. SHOULD THE 12% ROE THRESHOLD FOR SEET PURPOSES BE***
5 ***MODIFIED TO ACCOMMODATE THE NEED TO COMPARE OHIO***
6 ***POWER'S EARNINGS WITH THE EARNINGS OF COMPARABLE***
7 ***PUBLICLY-TRADED COMPANIES DURING THE SAME PERIOD OF***
8 ***TIME?***

9 ***A10.*** No. This is unnecessary. From a regulatory policy perspective, there is no
10 inconsistency between a 12% ROE threshold applicable during the entire ESP
11 period and the need of comparing Ohio Power's ROE with the ROEs of
12 comparable publicly traded companies during the same period of time. Clearly,
13 the SEET reviews in general, and this proceeding in particular, are an *annual*
14 comparison of Ohio Power's earnings with those of comparable public
15 companies. However, an annual review does not mean that the ROE threshold for
16 SEET purposes should be re-set annually. As long as the ROE threshold, such as
17 the 12% decided in the *ESP 2 Case*, is deemed reasonable and applicable during
18 the entire ESP period, there is no need to re-set the ROE threshold every year.

19

20 In a distribution rate case, the ROE decided by the regulatory agency in
21 calculating the annual revenue requirement is set based on the regulatory principle
22 that the return earned by the regulated utility should be comparable to the returns
23 earned by other comparable businesses with similar risks ***at the same time period.***

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1 Nevertheless, the ROE set in a rate case is not re-set every year. The ROE
2 decided in a rate case does not change until a new rate case is filed and decided at
3 a later date. The same regulatory principal used in a rate case can be applied
4 when establishing an ROE threshold for SEET purposes. The Commission
5 certainly has the option to re-set the ROE threshold for SEET purposes annually,
6 but it is not required to do so. It is not advisable to do so in this proceeding
7 because the 12% ROE threshold was already decided in the *ESP 2 Case* and any
8 change now will create the mismatch problem I discussed earlier.

9

10 ***Q11. ARE THERE ADDITIONAL FACTORS THE COMMISSION SHOULD***
11 ***CONSIDER WHEN DETERMINING WHETHER TO USE A 12% ROE***
12 ***THRESHOLD IN THIS PROCEEDING?***

13 ***A11.*** Yes. There are two factors the Commission should consider. First, Ohio
14 Power set aside and recorded a SEET refund provision (reserve) of
15 approximately \$21.289 million in its 2014 financial statements based on
16 the SEET ROE threshold of 12%.¹² Furthermore, Ohio Power intends to
17 include an additional 2014 SEET refund provision of \$155,083 to account
18 for a rounded pre-tax provision adjustment.¹³ By doing so, it seemed Ohio
19 Power was expecting, at least for accounting purposes, that approximately
20 \$21.289 million or more be refunded or credited to its customers as a result
21 of the 2014 SEET Application. A SEET refund of approximately that

¹² See Direct Testimony of Mitchell, Exhibit TEM-1, Page 1 of 1.

¹³ See Attachment DJD-3.

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1 amount would not negatively affect the 2014 per-book earnings of Ohio
2 Power. If no refund or credit is ordered in this proceeding, Ohio Power's
3 2014 earnings will actually increase by approximately \$21,289 million or
4 more. Second, there is no indication that Ohio Power's ability to provide
5 reliable distribution services to its customers, to make capital investments,
6 and to meet all other commitments would be diminished or negatively
7 affected by this SEET refund based on a 12% SEET ROE threshold.

8
9 ***Q12. IS IT NECESSARY OR APPROPRIATE FOR OHIO POWER TO PROPOSE***
10 ***A NEW SEET ROE THRESHOLD OF 16.04% IN ITS 2014 SEET***
11 ***APPLICATION?***

12 ***A12.*** No. It is not necessary or appropriate to propose a new ROE threshold for
13 SEET purposes at this time. The Commission has already set an ROE
14 threshold of 12%, which it has determined to be fair and reasonable. The
15 Court's decision in the *ESP 2 Case* does not invalidate the 12% SEET
16 ROE threshold. A newly-proposed SEET ROE threshold of 16.04% by
17 Ohio Power at this time is irrelevant and should not be considered in this
18 proceeding.

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1 **Q13. DID OHIO POWER HAVE SIGNIFICANTLY EXCESSIVE EARNINGS AS**
2 **A RESULT OF THE ELECTRIC SECURITY PLAN RATES PAID FOR BY**
3 **CUSTOMERS IN 2014?**

4 **A13.** Yes. Based on my calculation, Ohio Power did have significantly
5 excessive earnings in 2014 because it had a SEET-adjusted ROE of
6 12.7218%,¹⁴ which exceeded the ROE threshold of 12% set by the
7 Commission in the *ESP 2 Case*. Even by the Utility's own calculation,
8 Ohio Power's 2014 adjusted SEET ROE was 12.7170%,¹⁵ which also
9 exceeded the 12% SEET ROE threshold set by the Commission in the *ESP*
10 *2 Case*. Although the Utility claimed that it did not have significantly
11 excessive earnings in 2014,¹⁶ there is no plausible or reasonable
12 explanation provided by Ohio Power to support that claim.

13
14 **Q14. HOW MUCH MONEY SHOULD BE RETURNED TO OHIO POWER'S**
15 **CUSTOMERS BASED ON THE SIGNIFICANTLY EXCESSIVE 2014**
16 **EARNINGS OF OHIO POWER?**

17 **A14.** Ohio Power has calculated the amount of earnings (after tax) exceeding
18 the 12% ROE to be \$12,974,760.¹⁷ The pre-tax earnings (revenue
19 collection), assuming an effective tax rate of 35.63%, becomes

¹⁴ See Attachment DJD-4.

¹⁵ See Direct Testimony of Mitchell at 6.

¹⁶ See Direct Testimony of Allen at 15-16.

¹⁷ See Direct Testimony of Mitchell at Exhibit TEM-1, Page 1 of 1. In its responses to OCC discovery requests, Ohio Power indicated that "The Calculations on Exhibit TEM-1, Page 1 of 1 relating to Line 57 (\$20.157 million) should be disregarded. But Ohio Power did not provide any updated calculation. See Attachment DJD-3.

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1 \$20,156,530.¹⁸ As explained earlier in my testimony, Ohio Power did not
2 provide revised testimony to account for an increase of \$155,083 in its
3 2014 SEET refund provision. My recalculation indicates that Ohio Power
4 would have a SEET-adjusted ROE of 12.7218% and an average SEET-
5 adjusted shareholders' equity of \$1,809,636,031.¹⁹ The excessive earnings
6 above the 12% ROE threshold would be \$13,062,737 and the pre-tax
7 revenue collection would be \$20,293,206.²⁰ This is the amount of money
8 that should be returned to customers through either a credit on their bills,
9 or a reduction in money owed to the Utility by customers.

10

11 ***Q15. DOES THIS CONCLUDE YOUR TESTIMONY?***

12 ***A15.*** Yes. However, I reserve the right to supplement my testimony in the event that
13 additional testimony is filed, or if new information or data in connection with this
14 proceeding becomes available.

¹⁸ Id.

¹⁹ See Attachment DJD-4.

²⁰ Id.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Daniel J. Duann, Ph.D. on Behalf of the Office of the Ohio Consumers' Counsel's*, was served via electronic transmission to the persons listed below on this 15th day of August 2016.

/s/ Jodi Bair
Jodi Bair
Assistant Consumers' Counsel

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ATTACHMENT DJD-1

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Daniel J. Duann, Ph.D.
List of Testimonies Filed Before PUCO

1. *Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 08-1094-EL-SSO (January 26, 2009).
2. *Application of Ohio American Water Company to Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area*, Case No. 09-391-WS-AIR (January 4, 2010).
3. *Application of Aqua Ohio, Inc. for Authority to Increase its Rates and Charges in its Masury Division*, Case No. 09-560-WW-AIR (February 22, 2010).
4. *Application of Aqua Ohio, Inc. for Authority to increase its Rates and Charges in its Lake Erie Division*, Case No. 09-1044-WW-AIR (June 21, 2010).
5. *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company*, Case Nos. 09-872-EL-FAC and 09-873-EL-FAC (August 16, 2010).
6. *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Asset (Remand)*, Case Nos. 08-917-EL-SSO et al (June 30, 2011).
7. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Modify and further Accelerate its Pipeline Infrastructure Replacement Program and to Recover the Associated Costs et al.*, Case Nos. 11-2401-GA-ALT and 08-169-GA-ALT (July 15, 2011).
8. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code in the Form of an Electric Security Plan (ESP)*, Case Nos. 11-346-EL-SSO, et al (July 25, 2011).
9. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Merge and Related Approval (ESP Stipulation)*, Case Nos. 10-2376-EL-UNC, et al (September 27, 2011).
10. *In the Matter of the 2010 Annual Filing of Columbus Southern Power Company and Ohio Power Company Required by Rule 4901:1-35-10, Ohio Administrative Code*, Case Nos. 11-4571-EL-UNC and 11-4572-EL-UNC (October 12, 2011).
11. *In the Matter of the Application of Ohio American Water Company to Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area*, Case No. 11-4161-WS-AIR (March 1, 2012).

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12. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code in the Form of an Electric Security Plan (Modified ESP), Case Nos. 11-346-EL-SSO, et al (May 4, 2012).*
13. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form Of an Electric Security Plan, Case No. 12-1230-EL-SSO (May 21, 2012).*
14. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, et al. Case Nos. 12-1682-EL-AIR (February 19, 2013).*
15. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates, Case Nos. 12-1685-GA-AIR, et al (February 25, 2013).*
16. *In the Matter of the Application of Dayton Power & Light Company for Authority to Establish a Standard Service Offer in the Form Of an Electric Security Plan Pursuant to R.C. 4928.143, Case No. 12-426-EL-SSO et al. (March 1, 2013).*
17. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover of Certain Storm-related Service Restoration Costs, Case Nos. 12-3062-EL-RDR, et al. (January 31, 2014).*
18. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover of Certain Storm-related Service Restoration Costs, Case Nos. 12-3062-EL-RDR, et al. (May 23, 2014).*
19. *In the Matter of the Application of Aqua Ohio, Inc. to Increase Its Rates and Charges for Its Waterworks Service, Case No. 13-2124-WW-AIR (August 4, 2014).*
20. *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Ride, Case No. 14-1693-EL-RDR, et al. (September 11, 2015).*
21. *In the matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternative Rate Plan Pursuant to R.C. 4929.05, Revised Code, for an Accelerated Service Line Replacement Program, Case No. 14-1622-GA-ALT (November 6, 2015).*
22. *See In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.141 in the Form of an Electric Security Plan, Case No. 14-1297-EL-SSO (June 22, 2016).*

ATTACHMENT DJD-2
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Daniel J. Duann, Ph.D.
List of Professional Publications

Journal Articles

Regulation, The Cato Review of Business & Government, "Turning up the Heat in the Natural Gas Industry," Vol. 19, 1996, (with Kenneth W. Costello).

Managerial And Decision Economics, "Designing a Preferred Bidding Procedure for Securing Electric Generating Capacity," Vol. 12, 1991.

The Journal of Energy and Development, "Direct Gas Purchases by Local Distribution Companies: Supply Reliability and Cost Implications," Vol. 14, 1989.

Public Utilities Fortnightly, "Alternative Searching and Maximum Benefit in Electric Least-Cost Planning," December 21, 1989.

Research Reports and Presentations

The National Regulatory Research Institute, *Pricing Local Distribution Services in a Competitive Market*, 1995.

Ninth NARUC Biennial Regulatory Information Conference, Ohio State University, *The Unbundling and Restructuring of Local Distribution Services in the Post-636 Gas Market*, 1994.

The National Regulatory Research Institute, *A Survey of Recent State Initiatives on EPACT and FERC Order 636*, 1994 (with Belle Chen).

The National Regulatory Research Institute, *Restructuring Local Distribution Services: Possibilities and Limitations*, 1994.

The National Regulatory Research Institute, *The FERC Restructuring Rule: Implications for Local Distribution Companies and State Public Utilities Commissions*, 1993.

The National Regulatory Research Institute, *A Synopsis of the Energy Policy Act of 1992: New Tasks for State Public Utility Commissions*, 1993.

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International Symposium on Energy, Environment & Information Management, Argonne National Laboratory, *Natural Gas Vehicles: Barriers, Potentials, and Government Policies*, 1992.

The National Regulatory Research Institute, *Natural Gas Vehicles and the Role of State Public Service Commissions*, 1992 (with Youssef Hegazy).

The National Regulatory Research Institute, *Incentive Regulation for Local Gas Distribution Companies under Changing Industry Structure*, 1991 (with Mohammad Harunuzzaman, Kenneth W. Costello, and Sung-Bong Cho).

The National Regulatory Research Institute, *Discussion Papers on Competitive Bidding and Transmission Access and Pricing issues in the Context of Integrated Resource Planning*, 1990 (with Robert E. Burns, Kenneth Rose, Kevin Kelly, and Narayan Rau).

The National Regulatory Research Institute, *Gas Storage: Strategy, Regulation, and Some Competitive Implications*, 1990 (with Peter A. Nagler, Mohammad Harunuzzaman, and Govindarajan Iyyuni).

The National Regulatory Research Institute, *State Gas Transportation Policies: An Evaluation of Approaches*, 1989 (with Robert E. Burns and Peter A. Nagler).

The National Regulatory Research Institute, *Direct Gas Purchases by Gas Distribution Companies: Supply Reliability and Cost Implications*, 1989, (with Robert E. Burns and Peter A. Nagler).

The National Regulatory Research Institute, *Competitive Bidding for Electric Generating Capacity: Application and Implementation*, 1988 (with Robert E. Burns, Douglas N. Jones, and Mark Eifert).

ATTACHMENT DJD-3

OHIO POWER COMPANY'S RESPONSES TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL DISCOVERY REQUESTS
PUCO CASE NO. 15-1022-EL-UNC
FIRST SET

INTERROGATORY

INT-1-001 Referring to the Exhibit TEM-1, Page 1 of 1, Line 27, please explain the calculation regarding the Preliminary Pre-Tax 2014 SEET Provision Recorded Adjustment of \$21,289,000.

RESPONSE

In September and October 2014, preliminary pre-tax 2014 SEET provisions were recorded on OPCo's ledger. The estimated provisions were based actual OPCo earnings through July 2014, projected earnings through the remainder of 2014, the average of OPCo's equity balances as of July 31, 2014 and December 31, 2013 and the calculated 12% threshold of OPCo's net-of-tax earnings as a percentage of average equity. Final true-ups to the 2014 SEET provision were recorded in December 2014 based on OPCo's final 2014 net-of-tax earnings and OPCo's average equity for 2014 and 2013.

The net provision of \$21,288,908 included a rounded pre-tax provision adjustment resulting in an average ROE of 12.0052%. If the December 31, 2014 SEET provision adjustment had not been rounded, the total pre-tax provision would have been \$21,443,992, which would have resulted in a return on average equity of exactly 12%. The difference of \$155,083 will be reflected in revised testimony of witness Mitchell in any future OPCo 2014 SEET hearing.

The calculations on Exhibit TEM-1, Page 1 of 1 relating to Line 57 (\$20.157 million) should be disregarded.

ATTACHMENT DJD-4**Revised 2014 SEET Earnings and Return on Equity**

(1)	Actual 2014 Earnings Attributable to Common Shareholder	\$ 216,422,000
(2)	Revised Pre-Tax 2014 SEET Provision	\$ 21,443,992
(3)	Less: Income Tax Impact (35.63% Effective Tax Rate)	\$ 7,636,931
(4)	Revised Net-of-Tax 2014 SEET Provision: (2) – (3)	\$ 13,797,061
(5)	Revised 2014 SEET Earnings: (1) + (4)	<u>\$ 230,219,061</u>
(6)	Total Common Shareholder's Equity – 12/31/2014	\$ 1,980,210,000
(7)	Revised Net-of-Tax 2014 SEET Provision	\$ 13,797,061
(8)	Revised Total Common Shareholder's Equity – 12/31/2014: (6) + (7)	\$ 1,994,007,061
(9)	Total Common Shareholder's Equity – 12/31/2013	\$ 1,625,265,000
(10)	Revised 2014 Average Shareholder's Equity: ((8) + (9)) / 2	<u>\$ 1,809,636,031</u>
(11)	Revised 2014 ROE for SEET: (5) / (10)	12.7218%
(12)	2014 SEET ROE Threshold	12.0000%
(13)	ROE above 12%: (11) – (12)	<u>0.7218%</u>
(14)	Revised 2014 Average Common Shareholder's Equity	\$ 1,809,636,031
(15)	ROE above 12%	0.7218%
(16)	2014 Earnings above 12%: (14) * (15)	<u>\$ 13,062,737</u>
(17)	Income Tax (35.63% Effective Tax Rate): ((16) / (1 – 0.3563)) * (16)	\$ 7,230,469
(18)	2014 Pre-Tax Earnings above 12% ROE: (16) + (17)	<u>\$ 20,293,206</u>

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Case No(s). 15-1022-EL-UNC, 16-1105-EL-UNC

Summary: Testimony Testimony of Daniel J. Duann, Ph.D., in Opposition of the Stipulation on behalf of the Office of the Ohio Consumers' Counsel electronically filed by Ms. Gina L Brigner on behalf of Bair, Jodi Ms.