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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application )  
Of Ohio Edison Company, The Cleveland )  
Electric Illuminating Company, and The )  
Toledo Edison Company for Approval )  
Of a Generation Charge Adjustment Rider )

Case No. 05-704-EL-ATA

In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric )  
Illuminating Company, and The Toledo )  
Edison Company for Authority to )  
Modify Certain Accounting Practices )  
And for Tariff Approvals )

Case No. 05-1125-EL-ATA  
05-1126-EL-AAM  
05-1127-EL-UNC

REBUTTAL TESTIMONY

OF

WILLIAM D. BYRD

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1   **Q.   Please state your name and address for the record.**

2   A.   My name is William D. Byrd and my business address is 76 South Main  
3       Street, Akron, Ohio 44308.

4  
5   **Q.   Are you the same William D. Byrd that previously filed direct**  
6       **testimony in this proceeding?**

7   A.   Yes.

8  
9   **Q.   What is the purpose of your rebuttal testimony in this proceeding?**

10  A.   The purpose of my testimony is to address, and correct in certain  
11       instances, and respond to selected points raised in the testimonies of  
12       witnesses Smith, on behalf of Constellation Energy Commodities Group,  
13       Inc., and Brock, on behalf of Constellation NewEnergy, Inc., filed on  
14       November 8, 2005 in this proceeding.

15  
16  **Q.   Please describe your general observations regarding these**  
17       **testimonies.**

18  A.   It appears that the purpose of these testimonies is to increase the price  
19       charged to retail customers by Ohio Edison, Cleveland Electric  
20       Illuminating, and Toledo Edison ("Companies"), thereby creating the  
21       opportunity for competitive suppliers to charge customers a higher price  
22       for generation. Mr. Smith does so through advocating increases in the

1 Commission-determined “price to beat” in the competitive bid process.  
2 Mr. Brock does so in two ways, first by advocating immediate increases to  
3 customers that will also have the effect of increasing the shopping credit  
4 for competitive suppliers, and second, by eliminating the shopping credit  
5 caps established in the previously-approved rate stabilization plan.  
6

7 **Q. Are you criticizing Mr. Smith and Mr. Brock for seeking higher prices**  
8 **for customers as you described above?**

9 A. No, as employees of competitive suppliers, they are simply seeking ways  
10 to enhance their profit margins, which their recommendations would allow  
11 them to do. The Rate Certainty Plan, however, was designed to allow  
12 customers to avoid increases in electricity prices during the plan period, in  
13 light of the substantial increases in natural gas and oil prices. If  
14 Constellation's recommendations are adopted, customers will see  
15 immediate increases in the amount they pay for generation from the  
16 Companies, and, due to inflating the “price to beat,” will pay more than  
17 they otherwise would have if the auction results are accepted.  
18

1   **Q.   Turning to Mr. Smith's testimony, has he correctly characterized the**  
2       **increased fuel costs being passed through to Companies' customers**  
3       **under the fuel recovery mechanism in the RCP?**

4   **A.   No. In reference to Mr. Smith's testimony (page 4, lines 22-24), his**  
5       comparison is incorrect. While Mr. Smith correctly states that the  
6       \$303,904,000 is the change in total fuel expense between the 2002  
7       baseline and 2006, it is *not* the amount of fuel costs recoverable from the  
8       Companies' customers under the RCP. The \$303,904,000 amount is the  
9       expected total increase in fuel cost for all of FirstEnergy generation. But  
10      only that fraction of that total cost associated with usage by the  
11      Companies' retail customers will be recoverable from those customers.  
12      The RCP proposes that \$75 million of increased fuel costs will be  
13      recovered in 2006 through a fuel recovery mechanism. In 2007, the  
14      amount is \$77 million, and in 2008 the amount is \$79 million. To the  
15      extent actual increased fuel costs exceed those amounts, the Companies  
16      will defer the excess amount. To the extent actual increased fuel costs  
17      are less than those amounts, Distribution Deferrals will be reduced. This  
18      critical component of the RCP allows customers to avoid increases during  
19      the RCP period.

20

21      The \$75 million figure Mr. Smith uses in calculating his 25% value at page  
22      4 of his testimony should have been based upon usage associated only

1 with the Companies' customers. But he mistakenly based his calculation  
2 on the 81,315,785 MWh usage level, and thereby the \$303,904,000  
3 amount, which in turn led to his erroneous conclusion that only one-fourth  
4 of the pass through amount was actually being passed through to  
5 customers. Confusing the total cost with that portion associated with the  
6 Companies' customers' usage grossly understates what Mr. Smith  
7 represents as "25% of the actual increase" (page 4, line 23). Mr. Smith's  
8 suggestion to include the total increase in cost, some \$300 million dollars,  
9 to only the Companies' customers would be highly inappropriate and  
10 should not be adopted by the Commission.

11

12 **Q. Do you agree with Mr. Smith's recommendation (page 6, line 2) that**  
13 **the Stipulation be revised to require the Commission to adopt a**  
14 **specific formula to be used in the competitive bidding process to**  
15 **reflect increased fuel costs?**

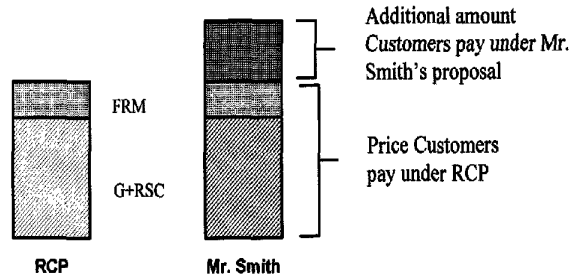
16 **A.** No, the Companies disagree with Mr. Smith's recommendation that the  
17 Stipulation be revised to impose a specific "price to beat" calculation on  
18 the Commission. As the Stipulation recognizes, that determination is  
19 within the discretion of the Commission. The RCP stipulation offers its  
20 own recommendation for a "price-to-beat," which is supported by the  
21 Companies and other signatory parties, that will maintain comparability  
22 between RSP pricing and auction pricing. That proposal would increase

1 the "price to beat" by \$77 million for 2007 and the actual level of increases  
2 that occurred in 2007 would be used to increase the "price to beat" in  
3 2008. Keep in mind, the amount that the Companies would be authorized  
4 under the RCP to recover as increased fuel costs during the 2007-2008  
5 period is a total of \$156 million (\$77 million in 2007 and \$79 million in  
6 2008).

7

8 **Q. Please provide your observations related to Mr. Smith's proposal to**  
9 **use actual fuel costs for the competitive bidding price for both 2007**  
10 **and 2008, and the impact of his proposal on the Companies'**  
11 **customers.**

12 **A.** If Mr. Smith's proposal were to be accepted by the Commission,  
13 customers will end up paying more for generation than under the RCP  
14 during the plan period. As an example, under the RCP proposal for the  
15 competitive bid auction, the "price-to-beat" is defined as the  $g + RSC$   
16 charges plus the fuel recovery mechanism ("FRM") revenues for 2007. If  
17 Mr. Smith's proposal were adopted, the "price to beat" will be higher, as  
18 illustrated in the following chart.



1  
 2 Under the RCP, customers will pay the price represented by  
 3 "g+RSC"+"FRM". (Of course under the RCP, the FRM amount is  
 4 completely offset by a decrease in the RTC rate component.) However,  
 5 Mr. Smith proposes to add an additional amount to this price. If the  
 6 auction resulted in a price less than the amount represented by the bar on  
 7 the right, but greater than the bar on the left, the Commission may well  
 8 feel compelled to accept that price, and customers would end up paying  
 9 more than they will pay under the RCP. While this outcome may benefit  
 10 winning bidders, it could only result in a higher generation price for  
 11 customers.

12  
 13 **Q. Do you agree with Mr. Brock that the Commission should reject the**  
 14 **RCP and, instead, accept the Generation Charge Adjustment Factor?**

15 **A.** No, I believe the Commission should approve and adopt the RCP  
 16 Stipulation and Supplemental Stipulation as filed by the Companies and  
 17 Signatory Parties. The Companies acknowledge Mr. Brock's support for

1 the GCAF, but the use of deferrals is also a recognized regulatory  
2 treatment for the recovery of costs. As explained in my previous  
3 testimony, the RCP is "designed to provide customers with lower, more  
4 certain, and more stable rate levels during the plan period than would  
5 otherwise be available under the RSP" (page 2, lines 19-21). The GCAF  
6 would raise customers' bills and lead to "varying levels of rates otherwise  
7 expected to occur" (page 3, lines 1-2) because of three different GCAF  
8 charges in three years. Further, rejection of the RCP would also cause all  
9 of the additional benefits of the RCP to be lost. Such benefits, by way of  
10 example, include the continuation of the existing distribution rate levels,  
11 extension of residential rate credits, and demand side management  
12 programs.

13

14 **Q. Is Mr. Brock's proposal to modify the shopping credit, as proposed**  
15 **in the RCP, acceptable to the Companies?**

16 **A.** No. Mr. Brock believes that the total actual fuel costs should be added to  
17 the shopping credits, which will raise the level of the shopping credits. His  
18 rationale for this proposal is that it will help competition in Ohio. But if the  
19 increase in the shopping credit is simply passed through to customers,  
20 then that will provide no encouragement for new suppliers to enter the  
21 market. If the supplier retains the increase in the shopping credit, which  
22 occurs if the supplier uses a percent off of the shopping credit as its price



1 structure, then that will provide no incentive for more customers to shop.  
2 The RCP was designed to balance increasing fuel costs, RTC recovery  
3 periods, accelerated application of regulatory liabilities, and delaying  
4 distribution rate proceedings in an effort to avoid increases for customers  
5 during the plan period. Increasing shopping credits are part of the RCP as  
6 well -- they will increase by \$75 million in 2006 alone.

7

8 **Q. What is your response to Mr. Brock's testimony about suspending**  
9 **the shopping credit caps to help offset the "competitive**  
10 **disadvantage" that the CRES will have offering generation?**

11 A. The shopping credit caps have already been established by the  
12 Commission in the Companies' previous rate stabilization plan, Case No.  
13 03-2144-EL-ATA. The shopping credit caps were approved in recognition  
14 of the Companies' RSP to stabilize generation rates and in recognition of  
15 historic ratemaking treatment. The shopping credit caps are not part of  
16 the RCP filing or Stipulations. Therefore, suspending or adjusting the  
17 shopping credit caps to offset Mr. Brock's so-called "competitive  
18 disadvantage" would amount to a substantial modification to the  
19 Commission's carefully crafted and balanced decision in the RSP case.

20

21 **Q. Does this conclude your rebuttal testimony at this time?**

22 A. Yes, it does.

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Rebuttal Testimony of William D. Byrd was delivered via regular U.S. Mail to the following this 15<sup>th</sup> day of November, 2005:

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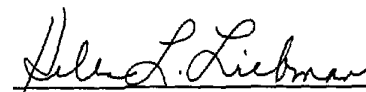
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