**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 Authority to Issue Phase-In-Recovery Bonds and Impose, Charge and Collect Phase-In-Recovery Charges and for Tariff and Bill Format Approvals Change. | :::::::: | Case No. 12-1465-EL-ATS |

**COMMENTS AND RECOMMENDATIONS**

SUBMITTED ON BEHALF OF THE STAFF OF

THE PUBLIC UTILITIES COMMISSION OF OHIO

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# INTRODUCTION

 The Staff’s role in this case is to provide the Commission and other interested par­ties with pertinent information sufficient to permit an appropriate determination.

 In this report, the Staff summarizes the results of the review the following three Divisions have performed.

* The Capital Recovery and Financial Analysis (CRFA) Division primarily reviewed the Estimated Up-front and Ongoing Financing Costs, Expected Use of Proceeds and Capitalization and the Indicative Transaction Structure and Expected Principal Repayment Schedule.
* The Accounting and Electricity (A&E) Division primarily reviewed the Estimated Deferral Balances Subject to Securitization and the Estimated Comparison of Existing Rate Making and Securitization.
* The Rates and Tariffs/Energy and Water (RT-EW) Division primarily reviewed the Rider PIR Reconciliation Mechanism and Rate Design Process, the Estimated Monthly Typical Bill Impacts, Proposed Tariffs Sheets for Rider PIR - Phase-In Recovery Rider.

The assumptions and conclusions of this report should not be misconstrued as binding upon or limiting the scope of Commission consideration.

# BACKGROUND

## A. Ohio Utility Securitization Law

 House Bill 364 (the Act), introduced in November 2011, was passed by the Ohio House of Representatives and the Ohio Senate in early December 2011. The bill became law in March 2012.

 Under the Act, electric utilities may use bonds to securitize certain costs which have been previously approved by the Commission. Utilities may securitize only certain types of costs called deferred assets. These assets include fuel costs, infrastructure costs, and environmental clean‐up expenses that the PUCO has allowed a utility to defer and collect from customers at a later date.

 Prior to proceeding with bond securitization, the utilities are required to apply to the PUCO for a financing order (Financing Order).

 There is a defined, deliberate process where interested parties can present their views in order for a securitization application to move forward and be approved.

 The PUCO has 135 days to approve, modify, suspend, or reject a utility’s applica­tion.

## B. Description of Proposed Transaction

 On May 3, 2012, Ohio Edison Company (Ohio Edison), The Cleveland Electric Illuminating Company (Cleveland Electric), and The Toledo Edison Company (Toledo Edison) (the Companies or Applicants), jointly filed an application (Application) for a Financing Order pursuant to the provisions of Sections 4928.23(C), (D)(2) and 4928.231, Revised Code. The Companies are seeking Commission authorization for the issuance of up to an aggregate principal amount of $555 million of the Phase-In-Recovery Bonds (the PIR Bonds), in one or more series and in one or more classes/tranches by securitizing deferred assets. The Companies propose to issue the PIR Bonds in amounts of $280 mil­lion for Cleveland Electric, $220 million for Ohio Edison and $55 million for Toledo Edison.

 Specifically, the Companies note that, in accordance with Section 4928.02, Revised Code, securitization is authorized provided the Commission finds, consistent with market conditions, that it measurably enhances cost savings to customers and miti­gates rate impacts to customers as compared with the Commission's previously-approved recovery methods.

 The Companies contend that the proposed securitization will benefit customers by providing both cost savings and rate mitigation through reducing the overall cost of these regulatory assets and the rates customers currently are paying toward their recovery. The Companies also contend that the securitization transaction is expected to significantly reduce the carrying charges over the recovery period for the phase-in costs resulting in customer savings through the issuance of phase-in recovery bonds. The Companies note that the recovery period will not exceed the overall recovery period under the existing cost recovery methodologies approved by the Commission for such regulatory assets.

 The Act provides for the electric distribution utilities to securitize certain previ­ously approved costs (Phase-in Costs, also referred here as deferred assets) through the issuance of the PIR Bonds pursuant to a Financing Order issued by the Commission. Section 4928.02, Revised Code, empowers the Commission to authorize the issuance of the PIR Bonds if such issuances result in, consistent with market conditions, measurably enhancing cost savings to customers and mitigate rate impacts to customers as com­pared with the Commission’s previously- approved recovery methods. These benefits to cus­tomers are reflected in a reduction in the expected amount payable by the customers on both a nominal and a net present value basis as compared with existing recovery mecha­nisms.

 The proceeds from the PIR Bonds will: (i) allow full collection of the associated financing costs, and (ii) compensate the Companies for Phase-in Costs at an effective interest rate (after taking into account upfront and ongoing Financing Costs) lower than each Company’s Commission authorized rate of return for such regulatory assets. Reduction of the carrying costs of the financed Phase-In Costs benefits customers by reducing the net present value of future payments by customers providing for the recov­ery of such costs. The securitization transaction is also expected to significantly reduce the carrying charges over the recovery period for these Phase-In Costs through the issu­ance of the PIR Bonds resulting in estimated nominal costs savings to customers of approximately $104 million in the aggregate as shown on Exhibit B of the Application.

 Exhibit D of the Application presents the Companies’ use of PIR Bond proceeds, and the current and pro forma capitalization in connection with the issuance of PIR Bonds.

 The Companies’ request for the Commission issuance of a Finance Order as pro­posed herein is consistent with Section 4928.02, Revised Code.

 The Companies request that the Commission:

(1) Approve the Companies' proposed securitization and, pursuant to the Act, issue a Financing Order granting any and all authorizations that may be required under Ohio law for the consummation of the transactions contemplated by the issuance of PIR Bonds and related matters, including, without limitation,

(a) The securitization transaction providing for the recovery of Phase-In-Recov­ery Costs and Financing Costs, through the issuance of up to an aggregate amount of $555 million of Phase-In-Recovery Bonds payable from collections from Phase-In-Recovery Charges, and the execution, delivery and performance of all documentation necessary to consummate the securitization transaction,

(b) The recovery of certain deferred Phase-In-Costs and Financing Costs,

(c) The imposition, charging, and collection of Phase-In-Recovery Charges,

(d) The creation of the Phase-In-Recovery Property (such creation to be simulta­neous with the sale of such Phase-In-Recovery Property to each of the special purpose entity (SPE) formed by the respective Companies, the establishment and adjustment from time to time of Phase-In-Recovery Charges from which PIR Bonds and ongoing Financing Costs will be paid and the adjustment mechanism to be used,

(e) The allocation of Phase-In-Recovery Charges among customer classes,

(f) The maximum term of the PIR Bonds,

(g) The organization and capitalization of each SPE to which Phase-In-Recovery Property will be sold,

(h) The servicing of Phase-In-Recovery Charges by the Companies as initial ser­vicers or any successor servicer under the servicing agreements,

(i) Implementation of the trust structure contemplated by paragraph 24 of this Application,

(j) Flexibility in establishing the terms and conditions for the PIR Bonds to accommodate changes in market conditions,

(k) The ability to issue PIR Bonds in one or more series and to effect correlated assignments, sales, pledges, or other transfers of Phase-in-Recovery Prop­erty,

(l) Approval of the Final Initial Tariff Sheets and associated adjustment mecha­nism,

(m) Approval of the change reflected in the proposed Bill Format, and,

(n) All of the determinations and descriptions required by §4928.232;

(2) Confirm, provide and include in the Financing Order each provision requested in the Application to be confirmed in the Financing Order including, without limita­tion to the following provisions:

(a) The irrevocability;

(b) State pledge;

(c) True sale;

(d) Successor utility;

(e) Security interest;

(f) Bankruptcy of the electric distribution utility;

(g) Non-bypassability;

(h) Third party billing agents;

(i) Validity of the Financing Order;

(j) Treatment of Phase-In-Recovery Charges; and,

(k) Property Right, as described in the Application.

(3) Find that the proposed securitization, consistent with market conditions, measura­bly enhances cost savings to customers and mitigates rate impacts to customers as compared to the existing cost recovery methods of each of the Companies;

(4) Make such other findings and issue such other orders as requested by the Compa­nies in this Application; and,

(5) Grant such other and further orders and approvals as it may deem necessary or proper under the circumstances.

 On May 25, 2012, the attorney examiner (AE) issued an Entry in this proceeding establishing a comment period to afford all interested persons the opportunity to provide comments on the Joint Application filed by Ohio Edison, Cleveland Electric, and Toledo Edison. The Entry stated that all initial comments and Reply comments should be filed with the Commission by no later than June 29, 2012, and July 9, 2012, respectively.

 On June 7, 2012, the Office of the Ohio Consumers’ Counsel filed a Motion to Inter­vene and Memorandum in support in this proceeding.

 On June 8, 2012, the AE issued an Entry suspending the automatic approval time frame regarding customer bill formats to allow for the Commission to fully review the Application in its totality and in order to fully consider the entire record in this matter, including the forth coming public comments.

# FINANCING TERMS AND COSTS REVIEW AND RECOMMENDATIONS

 For the purposes of the securitization transaction, each Company will form a sepa­rate, wholly-owned limited liability company, which is expected to be organized in Delaware, as a special purpose entity (SPE). Each Company will then transfer, sell or assign its Phase-In Recovery Property to its SPE. A structure/transaction flow chart has been provided as Exhibit J to the Application. Companies request that the financing Order confirm the formation of each SPE, the sale of Phase-In Recovery Property to each SPE, and the issuance by each SPE of PIR Bonds secured by the Phase-In-Recovery Property and other assets and property (subject to possible limited exceptions described in the Application) owned by such SPE.

 In order to accomplish the securitization, each Company will enter into several agreements with its respective SPE subsidiary, as more fully described in the Application. Such agreements will be substantially similar among each Company and its respective subsidiary.

 The PIR Bonds’ scheduled recovery period (and potential trenching resulting in multiple tranches of PIR Bonds with different maturity dates) will be determined with reference to rating agency considerations and market conditions. The Companies state that the overall scheduled recovery period of the PIR Bonds will not exceed the remain­ing recovery period under the Existing Riders.

 The expected issuance date for the PIR Bonds, assuming no material changes in market conditions, would be within 120 days of the Financing Order becoming the Final Financing Order. The indicative transaction structure and expected principal repayment schedule is provided in Exhibit E to the Application.

 At the time of the issuance of the PIR Bonds, certain of these Financing Costs are likely to vary from such estimated amounts as a result of the market conditions and other factors (e.g., the actual costs of redeeming or otherwise retiring existing long-term debt).

## A. The Estimated Up-front and Ongoing Financing Costs:

 Promptly upon final determination, a statement setting forth the final upfront Financ­ing Costs will be provided by the Companies. However, such Financing Costs recovera­ble through Phase-In Recovery Charges will not exceed the aggregate limit to be set forth in the Financing Order, which the Companies currently estimate to be $8.4 million, under the single combined issuance scenario, exclusive of debt retirement costs. An estimate of the upfront and ongoing Financing Costs related to each Company’s request is set forth in Exhibit C to the Application.

 The debt retirement costs may vary significantly in response to market conditions and as a result of the terms of the various debt securities to be retired. Regardless, each Company agrees to retire debt only in a manner that will permit the securitization trans­action to achieve enhanced cost savings to customers and mitigates rate impacts for cus­tomers.

 From the point of view of the Companies’ customers, the issuance of the PIR Bonds measurably enhances cost savings to customers as compared with recovery of such uncollected Phase-In Recovery Charges under the Existing Riders. In order for the PIR Bonds to have a relatively little credit risk, and, for investors to be willing to accept a rel­atively lower interest rate for the PIR Bonds, there are a number of other structural ele­ments, expressed regulatory authorizations and confirmations that are customarily required to be included in a Financing Order. These structural elements facilitate the PIR Bond ratings and their marketing purposes.

 Furthermore, consistent with most other transactions of this type, the Companies have engaged an investment banking firm, frequently involved in the underwriting of this type of securities to assist in the process of structuring the transaction.

## B. The Anticipated Use of the PIR Bond proceeds:

 The proceeds from the PIR Bonds will: (i) allow full collection of the associated financing costs, and (ii) compensate the Companies for Phase-in Costs at an effective interest rate (after taking into account upfront and ongoing Financing Costs) lower than each Company’s Commission authorized rate of return for such regulatory assets. Reduction of the carrying costs of the financed Phase-In Costs benefits customers by reducing the net present value of future payments by customers providing for the recov­ery of such costs. The securitization transaction is also expected to significantly reduce the carrying charges over the recovery period for these Phase-In Costs through the issu­ance of the PIR Bonds resulting in estimated nominal costs savings to customers of approximately $104 million in the aggregate as shown on Exhibit B to the Application.

 The Companies’ use of proceeds, the current and pro forma capitalization in connec­tion with the issuance of PIR Bonds is presented in Exhibit D of the Application.

## C. Detailed Review and Analysis:

 In their Joint Application, the Companies state that the securitization transaction is expected to significantly reduce the carrying charges over the recovery period for these Phase-In Costs through the issuance of the PIR Bonds resulting in estimated nominal costs savings to customers of approximately $104 million in the aggregate as shown on Exhibit B of the Application.

 The Staff applied the following tests and reviews to verify whether the proposed securitization transaction satisfied certain conditions:

1. The total revenue test,
2. The present value test,
3. The proceeds test,
4. Debt Retirement review, and
5. Bond Structuring and Pricing review.

The cost/benefit analysis provided by the Companies demonstrates that the securitization meets the total revenue test, the tangible and quantifiable benefits test, and the present value test under either expected-case or worst-case assumptions. The total revenues from the PIR Charges will be less than the total revenue requirements under conventional util­ity financing methods in the expected case scenarios. In the expected case scenario, securitization will result in revenues of about $52 million for Cleveland Electric, $ 44 million for Ohio Edison and $8 million for Toledo Edison less than the revenues under the Commission’s previously- approved recovery methods/conventional financing meth­ods. (Source: Exhibit B to the Application)

 In the expected case scenario, the securitization will result in tangible and quantifia­ble benefits to consumers using the present value test. Retail consumers will pay $27 million for Cleveland Electric, $17 million for Ohio Edison and $2 million for Toledo Edison on a present value basis in the expected scenario than they would pay if the same balance were recovered through previously- approved recovery meth­ods/conventional financing methods.

 The proceeds test will be satisfied when the Companies primarily use the proceeds they receive from the issuance of PIR Bonds, in exchange for the sale of the PIR Property to retire their existing debt securities (Exhibit D).

 In case of Toledo Edison, in addition to using a portion of the PIR Bonds proceeds for retiring certain PIR debt securities, the Company proposes to use about $11 million for its other corporate purposes. (Exhibit D, Line 6 under Column H)

 In addition, the proposed securitization financing appears to have been designed and structured to ensure that the PIR Bonds receive the highest bond rating reasonably possible, consistent with the objective of obtaining the lowest overall cost of financing through securitized PIR Bonds.

### 1. The Total Revenue Test

 The total revenue test is intended to verify that the total amount of revenues to be collected under the Financing Order will be less than the revenue requirement that would be recovered using existing cost recovery/ratemaking methods.

 Table-1 below demonstrates that the total revenues from PIR Charges are signifi­cantly less than those that would be required from the existing cost recovery methodolo­gies demonstrate that the securitization meets the total revenue test.

 **TABLE-1**

|  |  |
| --- | --- |
| Phase-In Recovery Charges | $ 653,284,111 |
| Existing Cost Recovery/Ratemaking | $ 757,083,354 |
| Savings From Securitization | $ 103,799,243 |

\* Source: Exhibit B of the Joint Application.

 The total revenue from PIR Bonds includes the principal and interest payments to be made over the expected life of the PIR Bonds as shown in Exhibit B of the Joint Application. The PIR Charge also include the estimated annual, ongoing Financing Costs as shown in Exhibit B of the Joint Application, which are not included in the existing cost recovery case.

 The revenue under the existing cost recovery methods was determined using the same amount of recoverable balance as was used to compute the present value benefit from securitization, but recognized certain differences between the two recovery meth­ods. Specifically, the costs that relate solely to a securitization transaction, *e.g.,* the up-front Financing Costs of issuance and ongoing Financing Costs of supporting and ser­vicing the PIR Bonds, are not included in the computation of costs under the existing cost recovery methods. Costs recovered under the existing cost recovery methods assume recovery through 2035, using the pre-tax return on assets of 6.85%, as shown in Exhibit B of the Joint Application.

### 2. The Present Value Test

 The present value test is intended to ensure that the amount securitized may not exceed the present value of revenue requirements over the PIR Bond life discounted using the proposed interest rate on the PIR Bonds. The present value test uses the same calculation and assumptions as the quantifiable benefits test described above.

 The present value of revenue requirements under existing cost recovery methods is calculated to be $ 432,676,820 in the expected-case scenario. The present value of the revenue requirement of the estimated recovery under securitization is calculated to be $385,767,358 which does not exceed the present value of the revenue requirements under existing cost recovery methods and, therefore, satisfies this test requirement as illustrated in Table-2 below.

 **TABLE-2**

|  |  |
| --- | --- |
| Present Value | Expected Case\*(in millions) |
| Phase-In Recovery Charges | $ 385,767,358 |
| Existing Cost Recovery/Ratemaking | $ 432,676,820 |
| Savings From Securitization | $ 46,909,463 |

\* Source: Exhibit B of the Joint Application.

### 3. The Proceeds Test

 The proceeds test is intended to ensure that the proceeds from the PIR Bonds are primarily used for the purposes of the repayment of the existing long-term debt of the Companies and the impact on the Companies’ capitalization.

 As mentioned previously, the Companies propose to use the proceeds from the PIR Bonds to primarily repay their existing long-term debt. Proceeds will also be used to pay Financing Costs and for other corporate purposes.

 Exhibit D to the Joint Application presents the expected use of proceeds from the PIR Bonds and the pro forma capitalization after using the PIR Bond proceeds to repay the Companies’ long-term debt.

# DEBT RETIREMENT COSTS REVIEW

 Table-3 below provides a comparison of debt retirement costs to total debt retired by each Company.

 **TABLE-3**

|  |  |  |  |
| --- | --- | --- | --- |
| Description | CEI | OE | TE |
| Debt Retirement Costs(DRC) | $ 11,732,876 | $ 19,911,070 | $ 8,410,757 |
| Debt Retired (DR) | $234,657,526 | $165,264,613 | $25,487,141 |
| DRC as a % of DR | 5% | 12% | 33% |

\* Source: Exhibit D of the Joint Application.

 As illustrated in Table-4 above, the Companies will be incurring debt retirement costs of about $12 million for Cleveland Electric, $20 million for Ohio Edison and $8 million for Toledo Edison for retiring their debt. The debt retirement costs as a percent­age of the debt to be retired by the Companies appear to be reasonable for CEI and OE.

 However, Toledo Edison will be incurring debt retirement cost of about $8 million to retire about $25 million of its existing long-term debt. This is about 33% of the debt proposed to be retired.

 Although debt retirement cost of Toledo Edison is very high, to the extent it is part of a combined larger issuance of the PIR Bonds, it will still be able to realize certain cost savings. Toledo Edison may not be able to consummate the securitization transaction on a stand alone basis to achieve the cost savings.

 It should be noted that the debt retirement costs depend on, among other things, the premiums, if any, that the Companies would be required to pay to refund any series of their existing long-tern debt securities, the timing of refunding, etc.

 Nevertheless, the securitization transaction is expected to significantly reduce the carrying charges over the recovery period for the Phase-In Costs resulting in customer savings. The estimated cost savings (even after including applicable financing Costs) for the customers of Cleveland Electric Ohio Edison and Toledo Edison will be about $52 million, $44 million, and $8 million, respectively. (Exhibit B, Pages 1 of 3, Column M).

# BOND STRUCTURING AND PRICING REVIEW

 The structuring and pricing test is intended to ensure that the structuring and pric­ing of the PIR Bonds result in the lowest PIR charges consistent with market conditions and the terms of the Financing Order.

 The Companies have designed and structured the proposed securitization financ­ing to ensure that the PIR Bonds receive the highest bond rating reasonably possible, consistent with the objective of obtaining the lowest overall cost of financing through securitized PIR Bonds.

 The Companies state that at the time of issuance of the PIR Bonds, certain Upfront and Ongoing Financing Costs are likely to vary from such estimate as a result of changes in market conditions and other factors (e.g., the actual costs of redeeming or oth­erwise retiring existing long-term debt), none of which can be determined at this time.

 The actual investor market-clearing interest rates for the PIR Bonds will be deter­mined through the marketing and price discovery process. Through an issuance advice letter, including a certification (as discussed below), each of the Companies will provide a confirmation to the Commission that the PIR Bonds in fact have been priced to be sold at the lowest market-clearing rates consistent with market conditions on the day of pric­ing. This will allow the Companies to achieve the lowest PIR bond charges consistent with the market conditions and the terms of the Financing Order.

# STAFF COMMENTS AND RECOMMENDATIONS REGARDING FINANCING COSTS

 The Staff reviewed the Companies’ securitization application and concurs that the financing terms and costs projected by the Companies appear to be in conformance with general mar­ket conditions and are therefore reasonable. In order to ensure that the actual financing terms and costs incurred by the Companies reflect the projected financing terms and costs, the Staff recommends that the Commission condition its approval of the Com­panies’ securiti­zation financing costs of the PIR Bonds at an amount not to exceed 105% of the projections provided for in FE’s application.

 In order to ensure the above, the Staff recommends that the Commission should require the Companies to confirm that the actual terms of the PIR Bonds will result in compliance with the above mentioned issuance standards as discussed below.

1. **Issuance Advice Letter:** Because the actual structure and pricing of the PIR Bonds will not be known at the time the Financing Order is issued, the Staff rec­ommends that the Commission should require the Companies to file an issuance advice letter, including a certification from the Companies, with the Commission for each series of PIR Bonds following the determi­nation of the final terms of the PIR Bonds and prior to the issuance of the PIR Bonds. The issuance advice letter should be filed with the Commis­sion no later than the end of the first business day after the pricing date for that series of PIR Bonds.

The issuance advice letter for each series of PIR Bonds should be com­pleted to report the actual dollar amount of the initial Phase-In Recovery Charges and other information specific to the PIR Bonds to be issued. Companies’ issuance advice letter for each series of PIR Bonds is intended to update the benefit analysis to verify that the final amount securitized by that series satisfies the standards of issuance discussed in Paragraph (1) above.

The issuance advice letter should reflect the final structure of the PIR Bonds and include the best estimate of total ongoing Financing Costs.

The initial PIR Charges and the final terms of the PIR Bonds are set forth in the issuance advice letter and will become effective on the date of issuance of the PIR Bonds unless prior to noon on the fourth business day after pricing, the Commis­sion issues a Supplemental Financing Order finding that the proposed issuance does not comply with the requirements of the Financing Order.

A draft form of the Staff proposed issuance advice letter (Draft Advice Letter), including the certification from the Companies, is provided for the Commission’s consideration in Staff Exhibit A.

Compliance with the terms of the Financing Order and the filing of the Issuance Advice Letter, including the certification from the Companies, will ensure that no PIR Bonds are issued unless they result in the lowest PIR Charges consistent with the market conditions and the terms of the Financing Order. Therefore, at the time the PIR Bonds are issued, satisfac­tion of the structuring and pricing test will be confirmed.

1. **Fixed Interest Rates:** According to the Companies, the recommended tranches with initial principal amount, the first scheduled principal payment dates, expected maturity dates, final legal maturity dates and average lives of PIR Bonds are based upon marker conditions as of the date of filing the Application as shown in Exhibit E of the Joint Application.

The Joint Application and the Exhibits demonstrate that the proposed securitiza­tion transaction will result in cost savings to customers based on the assumption that the PIR Bonds will be issued with fixed interest rates. However, the Com­panies’ requests do not preclude them from issuing the PIR Bonds with floating interest rates. The Staff is of the opinion that fixed interest rates are necessary to ensure the consumers benefit from the securitization. The Staff also believes that the floating rate bonds do not outweigh the potential risks it would impose on con­sumers due to the volatile market conditions. Therefore, the Staff recommends that the Commission should not permit the Companies to issue the PIR Bonds with floating interest rates.

1. **Use of Proceeds:** The Companies intend to use the proceeds from the PIR Bonds to primarily repay their existing long-term debt. Proceeds will also be used to pay Financing Costs, including all required credit enhancement, and may also be used for other corp­orate purposes.

Exhibit D of the Joint Application presents the expected use of proceeds from the PIR Bonds and the pro forma capitalization after using the PIR Bond proceeds to repay Companies’ long-term debt.

Table-4 below summarizes the Companies Sources and Uses of Funds.

**TABLE-4**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **CEI** | **OE** | **TE** |
| **Sources:**PIR Bonds Issued | $250,680,890 | $168,353,837 | $45,762,713 |
| **Uses:**Issuance Expense + }Debt Retirement Costs + } Debt Retired } | $250,680,890 | $168,353,837 | $34,839,652 |
| Other Corporate Purposes | -0- | -0- | $10,923,061 |
| Total Uses | $250,680,890 | $168,353,837 | $45,762,713 |

\* Source: Exhibit D of the Joint Application.

The Cleveland Electric Company and Ohio Edison were able to match the Sources of Funds (PIR Bond proceeds) to their expected Uses of Funds (Issuance Expense + Debt Retirement Costs + Debt Retired). However, Toledo Edison will have about $11 million of PIR Bond proceeds even after its debt retirement. TE is proposing to use the $11 mil­lion for other corporate purposes which may include investing in the FirstEnergy Utility Money Pool on a short-term basis.

 Staff recommends that Toledo Edison should consider investing the $11 million in other types of short-term investments comparable to the Money Pool, if the interest rates for such investment alternatives are greater than the interest rate that it would realize by investment in the money pool.

# PIR DEFERRED BALANCES ESTIMATION AND RECONCILIATION MECHANISM REVIEW AND RECOMMENDATION

## A. Estimated Deferral Balances Subject to Securitization

 The Staff reviewed and verified the deferred balances as of May 2012, including carry­ing charges, associated with Riders DGC, RER1, and DFC. Additionally, the Staff verified the beginning principal balances and monthly activity to date through May 2012 associated with Riders DGC, RER1, and DFC.

## B. Securitization Structure and Documentation

 The Companies have requested the flexibility in establishing the terms and condi­tions for the Phase-In-Recovery Bonds to accommodate changes in market condition, including repayment schedules, interest rates, Financing Costs, collateral requirements, required debt service and other reserves, and the ability of each of the Applicants, at its option, to effect a series of issuances of Phase-In-Recovery Bonds and correlated assign­ments, sales, pledges, or other transfers of Phase-In-Recovery Property.

 The Staff recommends that this flexibility be approved with the understanding that such flexibility exists solely prior to the issuance in order to achieve a savings to custom­ers in comparison to the traditional recovery mechanism. The flexibility is required at the time of issuance in order to capture the optimal financing structure and to achieve the greatest savings. The Staff recommends the flexibility that is requested not be available to the Companies after the bond issuance in order to guarantee cost savings to customers and the mitigation of rate impacts.

## C. Securitization Structure and Documentation - (Accumulated Deferred Income Tax)

 Staff agrees to the Companies’ proposal that each Applicant will be authorized to recover its average long term debt rate without reduction for accumulated deferred income taxes on its respective SPE’s capitalization amount as an ongoing Financing Cost.

 The reason for the Staff’s support of this proposal is that the current recovery mecha­nisms for Riders DFC, DGC, and RER1 include carrying charges at the Com­panies’ weighted average cost of long-term debt, without reduction for accumulated deferred income taxes. Once the phase-in costs are securitized, there will no longer be regulatory assets on the Companies’ regulatory books associated with these phase-in costs (subject to final reconciliation), at which time there will no longer be carrying charges on these deferred balances. The capitalization amounts represent investments made by the Com­panies into their respective SPEs associated with recovery of the phase-in costs, once securitized. Accordingly, the return on the Companies’ investment is appropriately aligned with the return they would otherwise be earning under the existing recovery mechanisms absent securitization, i.e., carrying costs at the Companies’ average cost of long-term debt, applied to amounts without reduction for accumulated deferred income taxes.

## D. Estimated Comparison of Existing Rate Making and Securitiza­tion

 The securitization structure as illustrated on Exhibit B of the Application demon­strates the bene­fits to customers of the lower effective interest rate versus the current authorized rate of return are reflected in a reduction in the expected amount payable by customers on both a nomi­nal and a net present value basis as compared with existing recovery mecha­nisms. The proposal is expected to significantly reduce the carrying charges over the recovery period for these Phase-In Costs resulting in customer savings through the issu­ance of the Phase-In Recovery Bonds (even after including applicable Financing Costs). The recovery period will not exceed the overall recovery period under the existing cost recovery meth­odologies approved by the Commission for such regula­tory assets, result­ing in estimated nominal costs savings to customers of approximately $104 million in the aggregate. In addition, the proposed securitization is expected to mitigate rate impacts to customers by flowing the cost savings through to customers annually in a manner that yields lower associated rates compared to the traditional cost recovery mechanisms pre­viously approved by the Commission. This expectation for rate mitigation is based on current interest rates, market conditions and rates currently approved by the Commission.

 The Staff has reviewed Schedule B of the Application, which compares by com­pany the existing rate mak­ing structure with the securitization structure, and believes the rate development methodology is reasonable as long as the financing structure results in a reduction of amount payable by customers on both a nominal and a net present value basis as com­pared with existing recovery mechanisms.

 Due to the fact that the financing order must be reasonably expected to result in cost savings to customers and reasonably expected to mitigate rate impacts as compared with traditional financing or recovery methods, the Staff recommends the Companies seek Commission approval after pricing of the bonds occurs should the up-front financing cost and/or the ongoing financing cost exceed the estimated cost as illustrated in Exhibit C of the Application by 105%. This recommendation is due to the fact the financing costs could substantially impact the savings to customers should the actual cost vary sig­nificantly from the esti­mated cost.

## E. Rider PIR Reconciliation Mechanism

 The Companies have proposed a formula-based mechanism for making expedi­tious periodic adjustments in the Phase-In- Recovery Charges that each Company’s cus­tomers would be required to pay under the Financing Order, as illustrated in Exhibit F.

Specifically, the initial update to each Company’s Rider PIR will be up to 12 months after the issuance date for the Phase-In- Recovery Bonds. Thereafter, each Company’s Rider PIR shall be updated semiannually with the exception of the last year may require monthly case updates for each series of Phase-In-Recovery Bonds outstanding. Other­wise, no later than November 1st and May 1st of each year, the Companies will file with the Commission a request for approval of these adjusted Phase-In-Recovery Charges which, unless otherwise ordered by the Commission, shall become effective on a service rendered basis on the succeeding January 1st and July 1st, respectively.

 The Companies have proposed that the review of such a request would be limited to determining whether there is any mathematical error in the application of the formula-based mechanism relating to the appropriate amount of any over-collection or under-col­lection of Phase-In-Recovery Charges and the amount of an adjustment. These adjust­ments will also cover increases or decreases in trustee and servicing costs, rating agency surveillance fees, legal and accounting fees and other ongoing Financing Costs as well as adjustments for dealing with differences between estimated and actual costs. These adjustments will ensure the recovery of adequate revenues sufficient to provide for the payment of Phase-In Costs, principal, interest, and redemption premiums on the Phase-In-Recovery Bonds, any payments under an ancillary agreement, any amounts required to fund or replenish a reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the Phase-In-Recovery Bonds, any costs of retiring or refunding any existing long-term debt of the Applicants with the proceeds from the Phase-In-Recovery Bonds, and any other Financing Costs and other fees, costs, and charges in respect of Phase-In-Recovery Bonds approved under the proposed Financing Order. The adjustments will also take into account revised projec­tions of electricity consumption and customer payment information (e.g., uncollectibles, lags between customer billing and collection).

 Finally, the adjustment mechanism will provide for any changes or updates to the Proposed Tariff Sheets compared with the Final Initial Tariff Sheets necessary to reflect the terms of the Financing Order pursuant to R.C. 4928.232(H).

 In regards to the semi-annual review, the Staff believes that a semiannual review is appropriate given that the review mirrors the existing rider mechanisms for Rider RER1, DGC and DFC which are updated and reconciled on a periodic basis, the most frequent (RER1) on a semi-annual basis.  Semi-annual adjustments would be consistent with semi-annual payments on the PIR bonds, reduce volatility in the rider and better reflect sea­sonal or other impacts on sales.  Both semi-annual and annual adjustment mechanisms have been used by others in the past with annual being more common.  However, semi-annual would be viewed as useful in rating agency negotiations.

 In regard to the   workpapers / schedules that the Companies anticipate filing in support of their semi-annual filings, the Companies have stated that the schedules are based on Exhibit F - Attachment 1 included in the Companies’ filing, along with some additional supporting workpapers showing the calculation of the billing lag. The Com­panies also plan to include amortization/principal repayment schedules of the bonds by Company and tranche as well as support for the various categories of ongoing financing costs, when available. (See lines 1-34 on page 1 to Exhibit F – Attachment 1 in the Com­panies’ filing for an example of the items that the Companies plan to support in their semi-annual filings.) The Staff is of the opinion that this aspect of the proposal is appro­priate and reasonable.

# RATES AND TARIFFS REVIEW

 The Companies propose to establish a new rider, Rider PIR (Phase-In Recovery Rider) to recover securitized costs associated with current riders RER1, DGC, and DFC. Rider RER1 (Residential Electric Heating Recovery Rider) currently applies only to resi­dential customers of Ohio Edison and CEI and is expected to be withdrawn approxi­mately June 2014 when full recovery of the deferral balance is anticipated. Rider DGC (Deferred Generation Costs) applies only to customers of CEI; full recovery of the deferred costs associated with this rider is expected about May 2021. Rider DFC (Deferred Fuel Cost) applies to all customers; full recovery of the deferred costs associ­ated with this rider is scheduled for December, 2035. Once Rider PIR is approved and effective, Riders RER1, DGC, and DFC would be withdrawn.

 The Companies propose to develop a revenue requirement for Rider PIR based on the on-going securitization costs of each Company’s unregulated subsidiary Special Pur­pose Entity. The revenue requirement is allocated to rate schedule, by company, based on each rate schedules’ expected sales levels and the current, commission-approved rates for each rate schedule. The allocated revenue requirement is then divided by expected kWh sales to arrive at proposed PIR rates. Once approved, these rates would appear in the tariff of the regulated utility. These rates would be in effect until the next scheduled update.

 The Staff believes the PIR rate development methodology, as illustrated in Exhibit F, Attachment 1, of the Application is reasonable. It efficiently and fairly consolidates the three current riders into one rider, while capturing the savings attributable to the securitization process.

 As regards third party billing agents, the Companies state that current law requires the electric distribution utility to bill and collect the PIR Charges directly from customers. If, and to the extent that, the Commission subsequently allows any third parties to bill and/or collect any PIR Charges (separately, or as one bill­ing component that may be levied upon the customer), the Companies request the Commission to take certain steps, as described in the Section IV paragraph 21(h), pp. 24-25 of their Application.

 Current law requires the PIR Charges be col­lected by the electric distribution util­ity, Section 4928.239, Revised Code.  As mentioned above, the Application requests that the Commission establish certain parameters that would apply should this requirement change.  At a minimum this request is premature.  It is not a useful exercise to attempt to anticipate in what form a hypothetical statutory change might take.  Should the Ohio General Assembly decide to reverse itself and permit others to collect the PIR Charges, the General Assembly will provide its own parameters for the activity.  As the proposal can have no effect under the current state of the law and it cannot now be determined if the proposal would conflict with a hypothetical change in the law, this aspect of the Companies’ proposal should be rejected. To the extent that, at some point in the future, a third party billing obligation is imposed on the Applicants, the Commission should take such steps as are necessary to retain the ratings for the securities issued.

# SUMMARY OF STAFF COMMENTS AND RECOMMENDATIONS

 The Companies have demonstrated that the proposed securitization will benefit customers by providing cost savings and rate mitigation. The Staff recommends that the Commission should approve the Companies' proposed securitization, incorporating the Staff recommendations listed herein, and issue a Financing Order for the following:

1. Consummation of the transactions contemplated by the issuance of PIR Bonds, the securitization transaction providing for the recovery of PIR Costs and Financing Costs, through the issuance of up to an aggregate amount of $555 million of PIR Bonds payable from collections from PIR Charges;
2. Enter into and execute, deliver and perform all documentation necessary to consummate the securitization transaction;
3. The recovery of certain deferred of PIR Charges;
4. The creation of the PIR Property (such creation to be simultaneous with the sale of such PIR Property to each SPE);
5. The establishment and adjustment from time to time of PIR Charges from which PIR Bonds and ongoing Financing Costs will be paid and the adjustment mechanism to be used;
6. The allocation of Phase-In-Recovery Charges among customer classes;
7. The maximum term of the Phase-In-Recovery Bonds;
8. The organization and capitalization of each SPE to which Phase-In-Recov­ery Property will be sold;
9. the servicing of Phase-In-Recovery Charges by Companies as initial ser­vicers or any successor servicer under the servicing agreements;
10. Implementation of the trust structure contemplated in the Joint Application;
11. Flexibility in establishing the terms and conditions for the Phase-In-Recov­ery Bonds to accommodate changes in market conditions;
12. The ability to issue PIR Bonds in one or more series and to effect correlated assignments, sales, pledges, or other transfers of Phase-in-Recovery Prop­erty;
13. Approval of the Final Initial Tariff Sheets and associated adjustment mecha­nism;
14. Approval of the change reflected in the proposed Bill Format; and,
15. Find that the proposed securitization, consistent with market conditions, measurably enhances cost savings to customers and mitigates rate impacts to customers as compared to the existing cost recovery methods of each of the Companies; and
16. After pricing of the PIR bonds occurs, the Companies should seek Commis­sion approval if the upfront financing costs and/or the on-going financing costs exceed the estimated costs by 105%, as illustrated in Exhibit C of the Application.

# CONCLUSION

 The Staff respectfully requests that the Commission make the above-referred adjust­ments in its order in this case.

Respectfully submitted,

**Michael DeWine**

Ohio Attorney General

**William L. Wright**

Section Chief

/s/ Thomas W. McNamee

**Thomas W. McNamee**

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# PROOF OF SERVICE

 I hereby certify that a true copy of the foregoing **Comments and Recommenda­tions** submitted on behalf of the Staff of the Public Utilities Commis­sion of Ohio,was served via electronic mail upon the following Parties of Record, this 25th day of June, 2012.

/s/ Thomas W. McNamee

**Thomas W. McNamee**

Assistant Attorney General

**Parties of Record:**

|  |  |
| --- | --- |
| James W. BurkFirstEnergy Service Company76 South Main StreetAkron, OH 44308burkj@firstenergycorp.comKyle L. KernAssistant Consumers’ CounselOffice of the Ohio Consumers’ Counsel10 West Broad StreetSuite 1800Columbus, OH 43215614.466.8574 (telephone)614.466.9475 (fax)kern@occ.state.oh.us | James F. LangLaura C. McBrideCalfee, halter & Griswold1405 East Sixth StreetCleveland, OH 44114jlang@calfee.comlmcbride@calfee.com |

**\_\_\_\_\_\_\_\_day \_\_\_\_\_\_ \_\_, 2013**

**Case No. 12-1465-EL-ATS**

**The Public Utilities Commission of Ohio**

**SUBJECT: ISSUANCE ADVICE LETTER FOR PHASE-IN RECOVERY BONDS**

Pursuant to the Financing Order issued *In the Matter of the Joint Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Impose, Issue Phase-In-Recovery Bonds and Charge and Collect Phase-In-Recovery Charges and For Tariff Approvals in Case No.**12-1465-EL-ATS (the Financing Order),* each Applicant hereby submits, no later than the end of the first business day after the pricing of this series of PIR Bonds, the information referenced below. The issuance Advice Letter is for the PIR Bonds series\_\_\_\_, tranches\_\_\_\_\_\_\_\_. Any capitalized terms not defined in this letter shall have the meanings ascribed to them in the Financing Order.

**PURPOSE:**

This filing establishes the following:

1. The total amount of Phase-In Recovery Charges being securitized;
2. Confirmation of compliance with issuance standards;
3. The actual terms and structure of the PIR Bonds being issued;
4. The initial Phase-In-Recovery Charges for retail users; and
5. The identification of the SPE

**PHASE-IN RECOVERY CHARGES BEING SECURITIZED:**

The total amount of Phase-In Recovery Charges being securitized (the Securitized Phase-In Recovery Charges) is presented in Attachment-1.

**COMPLIANCE WITH ISSUANCE STANDARDS**

The Financing Order requires Applicants to confirm, using the methodology approved therein, that the actual terms of the Phase-In Recovery (PIR) Bonds result in compliance with the standards set forth in the Financing Order. These standards are:

1. The total amount of revenues to be collected under the Financing Order is less than the revenue requirement that would be recovered using traditional cost recovery mechanisms (See Exhibit-A, Attachment 2, Schedule C and D);

2. The amount securitized will not exceed the present value of traditional cost recovery mechanisms revenue requirement over the life of the proposed PIR Bonds associated with the Securitized PIR; (See Exhibit-A, Attach­ment 2, Schedule D);

3. The PIR Bonds will be issued in one or more series comprised of one or more tranches having final maturities of \_\_\_years and legal final maturities not exceeding \_\_\_ years from the date of issuance of such series (See Exhibit-A, Attachment 2, Schedule A).

 The structuring and pricing of the PIR Bonds is certified by the Applicants to result in the lowest PIR bond charges consistent with market conditions and the terms (including the amortization structure ordered by the Commission, if any) set out in the Financing Order (See Exhibit-A, Attachment 3).

**ACTUAL TERMS OF ISSUANCE**

PIR Bond Series: \_\_\_\_\_\_\_\_\_\_\_

PIR Bond Issuer: [SPE}

Trustee:

Closing date: \_\_\_\_\_\_\_, 2013

Bond ratings: S&P AAA, Fitch AAA, Moody’s Aaa

Amount Issued: $ \_\_\_\_\_\_\_\_\_\_\_

PIR Bond Issuance Costs: See Attachment\_\_\_\_\_\_\_\_ Schedule\_\_\_

PIR Bond Support and Serving: See Attachment \_\_\_\_\_\_ Schedule \_\_\_

|  |  |  |  |
| --- | --- | --- | --- |
| Tranche | Coupon Rate | Expected FinalMaturity | Legal FinalMaturity |
| A-1 |  | \_\_/\_\_ /\_\_\_\_ | \_\_/\_\_ /\_\_\_\_ |
| A-2 |  | \_\_/\_\_ /\_\_\_\_ | \_\_/\_\_ /\_\_\_\_ |
| A-3 |  | \_\_/\_\_ /\_\_\_\_ | \_\_/\_\_ /\_\_\_\_ |

|  |  |
| --- | --- |
| Effective Annual Weighted Average Interest Rate of the PIR Bonds | \_\_\_% |
| Life of Series: | \_\_\_years |
| Weighted Average Life of Series: | \_\_\_years |
| Call Provisions (including premium, if any): |  |
| Target Amortization Schedule:  |  |
| Target Final Maturity Dates: |  |
| Legal final Maturity Dates: |  |
| Payments to Investors: | SemiannuallyBeginning \_\_\_\_\_\_\_\_ \_\_, 2013 |
| Initial annual Servicing Fee as a percent of original PIR Bond principal balance: | \_\_\_\_% |

**INITIAL PHASE-IN RECOVERY CHARGES**

Table I below shows the current assumptions for each of the variables used in the calcu­lation of the initial Phase-In Recovery Charges.

|  |
| --- |
| **TABLE I** |
| **Input Values For Initial Phase-In Recovery Charges** |
| Applicable period: from\_\_\_\_\_\_, \_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_, \_\_\_\_\_ |
| Forecasted retail kWh/kW sales for the applicable period: | \_\_\_\_\_\_\_\_ |
| PIR Bond debt service for the applicable period: | $\_\_\_\_\_\_\_\_ |
| Percent of billed amounts expected to be charged-off | % |
| Forecasted % of Billing Paid in the Applicable Period: | % |
| Forecasted retail kWh/Kw sales billed and collected for the applicable period: |  |
| Current PIR Bond outstanding balance: | $\_\_\_\_\_\_. \_\_ |
| Target PIR Bond outstanding balance as of \_\_/\_\_/\_\_\_\_\_ | $\_\_\_\_\_\_\_\_\_ |
| Total Periodic Billing Requirement for applicable period: | $\_\_\_\_\_\_\_\_\_ |

**ATTACHMENT-1
SCHEDULE A**

**CALCULATION OF SECURITIZED PHASE-IN RECOVERY CHARGES**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | OE | CEI | TE | Total |
| Amount permitted to be securitized by Financing Order | **$** | **$** | **$** | **$** |
| **TOTAL SECURIT­IZED PHASE-IN RECOVERY CHARGES** | **$** | **$** | **$** | **$** |

**ATTACHMENT-1
SCHEDULE B**

 **ESTIMATED UP-FRONT FINANCING COSTS**

|  |  |  |
| --- | --- | --- |
|  |  | **AMOUNT[[1]](#footnote-1)** |
| 1 | Accountant’s/Auditor’s Fees |  |
| 2 | Fee for Applicants’ Structuring Advisor |  |
| 3 | Legal Fees and Expenses for Applicants/Issuer’s Counsel |  |
| 4 | Legal Fees and Expenses for Trustee’s Counsel |  |
| 5 | Legal Fees and Expenses for Underwriter’s Counsel |  |
| 6 | Printing and Filing Fees |  |
| 7 | Rating Agency Fee[[2]](#footnote-2) |  |
| 8 | SEC Registration Fees[[3]](#footnote-3) |  |
| 9 | Servicer Set-up Costs[[4]](#footnote-4) |  |
| 10 | Trustee Payments |  |
| 11 | Underwriting Costs[[5]](#footnote-5) |  |
| 12 | Miscellaneous[[6]](#footnote-6) |  |
| 13 | Subtotal Issuance Expenses (Sum Lines 1-12) |  |
| 14 | Debt Retirement Costs[[7]](#footnote-7) |  |
| 15 | **TOTAL ESTIMATED UP-FRONT FINANCING COSTS**(Lines 13 + Line 14) |  |

**ATTACHMENT-2
SCHEDULE-A**

**PHASE-IN RECOVERY BOND REVENUE REQUIREMENT INFORMATION**

|  |
| --- |
| **SERIES\_\_\_\_\_\_\_\_, TRANCHE\_\_\_\_\_\_\_\_** |
| PaymentDate | Principal Balance | Interest | Principal | TotalPayment |
|  |  |  |  |  |
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|  |
| --- |
| **SERIES\_\_\_\_\_\_\_\_, TRANCHE\_\_\_\_\_\_\_\_** |
| PaymentDate | Principal Balance | Interest | Principal | TotalPayment |
|  |  |  |  |  |
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| --- |
| **SERIES\_\_\_\_\_\_\_\_, TRANCHE\_\_\_\_\_\_\_\_** |
| PaymentDate | Principal Balance | Interest | Principal | TotalPayment |
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**ATTACHMENT-2
SCHEDULE-B**

**ONGOING FINANCING COSTS**

|  |  |
| --- | --- |
|  | **ANNUAL AMOUNT[[8]](#footnote-8)** |
| Ongoing Servicer Fee (The Companies as Servicer)[[9]](#footnote-9)(0.10% of issuance amount)**OR**Ongoing Servicer Fee (Third Party as Servicer) (\_\_\_% of issuance amount) |  |
| Administration Fees and Expenses |  |
| Trustee Fees and Expenses |  |
| Legal Fees |  |
| Accounting Fees |  |
| SPE Independent Manager’s Fees |  |
| Rating Agency Fees[[10]](#footnote-10) |  |
| Reporting and SEC Filing Fees |  |
| Miscellaneous |  |
| Return on Capital Account[[11]](#footnote-11) |  |
| Dealers in Intangible Tax[[12]](#footnote-12) |  |
| **TOTAL ONGOING FINANCING COSTS** |  |

**Note: The amounts shown for each category of operating expense on this attach­ment are the expected expenses for the first year of the transition bonds. Phase-In Recovery Charges will be adjusted at least semi-annually to reflect any changes on Ongoing Financing Costs through the true-up process described in the financing Order.**

**ATTACHMENT-2
SCHEDULE-C**

**CALCULATION OF PHASE-IN RECOVERY CHARGES**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Year****(a)** | **Transition Bond****Payments[[13]](#footnote-13)****(b)** | **Ongoing****Costs[[14]](#footnote-14)****(c)** | **Total nominal Phase-In Recovery Charge****Requirement[[15]](#footnote-15)****(b)+(c)** **(d)** | **Present Value of** **Phase-In Recovery Charges[[16]](#footnote-16)****(e)** |
|  |  |  |  |  |
|  |  |  |  |  |
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**ATTACHMENT-2
SCHEDULE-D**

**COMPLIANCE WITH THE PRESENT VALUE STANDARD[[17]](#footnote-17)**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Conventional Financing****Through[[18]](#footnote-18)** | **Securitization** **Financing[[19]](#footnote-19)** | **Savings/(Cost) of****Securitization****Financing** |
| **Nominal** | **$\_\_\_\_\_\_\_\_\_\_** | **$\_\_\_\_\_\_\_\_\_\_** | **$\_\_\_\_\_\_\_\_\_\_** |
| **Present Value** | **$\_\_\_\_\_\_\_\_\_\_** | **$\_\_\_\_\_\_\_\_\_\_** | **$\_\_\_\_\_\_\_\_\_\_** |

**ATTACHMENT-3**

**CERTIFICATION OF COMPLIANCE**

[FE Companies Letterhead]

Date:\_\_\_\_\_\_\_\_ \_\_, 2013

Re: Joint Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, Case No. 12-1465-EL-ATS

Applicants, Ohio Edison, Cleveland Electric, and Toledo Edison submit this Certification pursuant to Ordering Paragraph No\_\_\_ of the Financing Order *In the Matter of the Joint Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Impose, Issue Phase-In-Recovery Bonds and Charge and Collect Phase-In-Recovery Charges and For Tariff Approvals in Case No.**12-1465-EL-ATS (the Financing Order).* All capitalized terms not defined in this letter shall have the meanings ascribed to them in the Financing Order.

In its issuance advice letter dated \_\_\_\_\_\_\_ \_\_, 2013, the Applicant has set forth the fol­lowing particulars of the PIR Bonds:

Name of PIR Bonds: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PIR Bond Issuer:

SPE}

Trustee:

Closing date: \_\_\_\_\_\_\_, 2013

Amount Issued: $ \_\_\_\_\_\_\_\_\_\_\_

Expected Amortization Schedule: See Attachment 2, Schedule A to the Issuance Advice Letter

Distributions to Investors (quarterly or semi-annually):

Weighted Average Coupon Rate: \_\_\_%

Weighted Average Yield: \_\_\_%

The following actions were taken in connection with the design, structuring and pricing of the PIR Bonds:

<*Insert actions actually taken here*>

Based upon the information reasonably available to its officers, agents, and employees of the Applicants, the Applicants hereby certify that the structuring and pricing of the PIR Bonds, as described in the issuance advice letter, will result in the lowest PIR bond charges consistent with market conditions and the terms of the Financing Order (includ­ing the amortization structure, if any, ordered by the Commission). [Applicants further certify that they reasonably expect the small amount of original issue discount associated with the PIR Bonds to provide benefits greater than its costs.]

The forgoing certifications do not mean that lower PIR Bond charges could not have been achieved under different market conditions, or that structuring and pricing the PIR Bonds under conditions not permitted by the financing Order could not also have achieved lower PIR Bond charges.

The Applicants are delivering this Certification to the Commission solely to assist the Commission in establishing compliance with the aforementioned standard. The Appli­cants specifically disclaims any responsibility to any other person for the contents of this Certification, whether such person claims rights directly or as third-party beneficiary.

Respectfully submitted,

OHIO EDISON COMPANY

THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

THE TOLEDO EDISON COMPANY

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Up-front financing costs expected to be allocated based upon Phase-in Cost amounts assuming a SEC-registered

 single combined offering, unless otherwise noted. [↑](#footnote-ref-1)
2. Based upon current fee schedules applied to issuance amounts which change from time to time. [↑](#footnote-ref-2)
3. Based upon current fee level of $0.0000393 applied to issuance amounts [↑](#footnote-ref-3)
4. Assumes $100,000 per utility. [↑](#footnote-ref-4)
5. Based upon fee level of 0.50% applied to issuance amounts. [↑](#footnote-ref-5)
6. Unforeseen expenses, if any, will be descried in the Final Financing Order following the issuance of the Phase-in

 Recovery Bonds. [↑](#footnote-ref-6)
7. Will vary depending upon market conditions and timing method of debt retirement. [↑](#footnote-ref-7)
8. Ongoing financing costs expected to be allocated rateably based upon issuance amount assuming a SEC-registered

 single combined offering. [↑](#footnote-ref-8)
9. Assumes each Applicant acts as servicer and earns annual servicing fees equal to 0.10% of issuance amount. [↑](#footnote-ref-9)
10. Based upon current scheduled fee levels. [↑](#footnote-ref-10)
11. Assumes each Applicant funds reserve account equal to 0.50% of issuance amount and earns an annual rate of

 return of 6.85% thereon. [↑](#footnote-ref-11)
12. Assumes each securitization SPE is required to pay a 0.8% annual tax on amounts funded in capital account. [↑](#footnote-ref-12)
13. From Attachment 2, Schedule A, of the Staff Comments and Recommendations. [↑](#footnote-ref-13)
14. From Attachment 2, Schedule B, of the Staff Comments and Recommendations. [↑](#footnote-ref-14)
15. Sum of PIR Bond payments and ongoing costs [↑](#footnote-ref-15)
16. The discount rate used is the weighted average effective annual interest rate of the PIR bonds. [↑](#footnote-ref-16)
17. Calculated in accordance with the methodology used in the Joint Application. [↑](#footnote-ref-17)
18. Carrying Costsat 6.85% and the \_\_\_\_the term of \_\_\_ years. The discount rate used is weighted average effective

 annual interest rate of the PIR Bonds of \_\_\_%. [↑](#footnote-ref-18)
19. From Attachment 2, Schedule C. [↑](#footnote-ref-19)