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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO PUCO**

In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric )  
Illuminating Company and The Toledo )  
Edison Company for Authority to ) Case No. 10-388-EL-SSO  
Establish a Standard Service Offer )  
Pursuant to R.C. § 4928.143 in the Form )  
of an Electric Security Plan. )

**DIRECT TESTIMONY  
OF  
AMR A. IBRAHIM**

**On Behalf of  
The Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
(614) 466-8574**

*April 15, 2010*

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1    **I.       INTRODUCTION**

2

3    ***Q1.    PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4    ***A1.***    My name is Amr A. Ibrahim. My business address is 10 West Broad Street, Suite  
5            1800, Columbus, Ohio, 43215. I am employed by the Office of the Ohio  
6            Consumers' Counsel ("OCC") as a Senior Regulatory Analyst.

7

8    ***Q2.    PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL***  
9            ***BACKGROUND.***

10   ***A2.***    I received a B.A. (Accounting) from Cairo University in 1975, an M.A.  
11            (Economics) from the American University in Cairo in 1981, and a PhD  
12            (Economics) from the University of Sussex, UK, in 1988. I am a member of the  
13            International Association of Energy Economics ("IAEE") and a member of the  
14            GridWise Architecture Council.  
15  
16            Prior to joining the OCC in October 2008, I worked as an independent Consultant  
17            with several entities in the U.S. and overseas. Further, I have worked for four  
18            years (2002 – 2006) as a Senior Analyst, Market and Regulatory Practices, for the  
19            Independent System Operator of New England ("ISO-NE"). Additionally, I was a  
20            Manager, then a Director, Regulatory Affairs in Enron Corporation from 1997 to  
21            2001. I was also a Senior Rate Policy Analyst with BChydro (British Columbia,  
22            Canada) from 1990 to 1997 where I performed cost of service studies and rate  
23            design.

1   **Q3.   PLEASE DESCRIBE YOUR RELEVANT EXPERIENCE.**

2   **A3.**   I have worked for several years in rates and cost of service studies analysis. I  
3           provided technical and analytical support regarding various rate and cost of  
4           service filings. Part of this work involved reviewing the applicability of what was  
5           commonly referenced at that time (1990 – 1995) as “innovative rate designs” such  
6           as voluntary and non-voluntary curtailable load tariffs, standby and backstopping  
7           rates, wheeling rates, green rates, and economic development initiatives. I  
8           performed similar work (e.g., conducting fully allocated cost of service studies  
9           and rate design) for systems outside North America in working for Enron  
10          Corporation and as a consultant.

11  
12          Additionally, since joining the OCC as a member of the Analytical Services  
13          Department, I have provided an affidavit in the FERC Docket Nos. ER09-134-  
14          000, *et al.*, which provided information on the status of competitive electricity  
15          service and government aggregation in the state of Ohio.<sup>1</sup> I am responsible for  
16          providing technical support to formulate the OCC position on economic  
17          development and unique arrangements filed before the Public Utilities  
18          Commission of Ohio (“Commission” or “PUCO”).<sup>2</sup>

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<sup>1</sup> *FirstEnergy Solution Corp., et al.*, Docket Nos. ER-09-134-000, ER09-135-000, ER09-136-000, and ER09-137-000, Affidavit of Amr Ibrahim (November 14, 2008).

<sup>2</sup> For example, *The Application for Establishment of a Reasonable Arrangement Between The Ohio Edison Company and V&M Star*, Case No. 09-80-EL-AEC, and *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company and Columbus Southern Power Company*, Case No. 09-119-EL-AEC.

1   **Q4.   HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE**  
2           **PUBLIC UTILITIES COMMISSION OF OHIO?**

3   **A4.**   Yes. I have submitted written testimony before the PUCO in a Dayton Power &  
4           Light proceeding, Case No. 08-1094-EL-SSO, *et al.*, in an Ormet proceeding,  
5           Case No. 09-119-EL-AEC, and in a case that involved a special arrangement for a  
6           customer of Columbus Southern Power, Eramet, Case No. 09-516-EL-AEC. The  
7           testimony in these cases addressed, among other issues, economic development  
8           riders and reasonable arrangements.<sup>3</sup> I have also submitted a written testimony in  
9           an Aqua Ohio Proceedings, Case No. 09-560-WW-AIR that was related to cost of  
10          service and rate design issues.<sup>4</sup>

11  
12   **Q5.   WHAT DOCUMENTS HAVE YOU REVIEWED IN THE PREPARATION OF**  
13           **YOUR TESTIMONY?**

14   **A5.**   I have reviewed the Stipulation and Recommendation ("Stipulation") attached to  
15           and made part of the application ("Application") filed on March 23, 2010, in  
16           particular, section "F" of the Stipulation entitled "Economic Development and  
17           Job Retention."<sup>5</sup> I have also reviewed the relevant section to the Economic  
18           Development rider ("Rider EDR") as filed in the Errata filing on March 30, 2010,

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<sup>3</sup> *In the Matter of the Application of the Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 08-1094-EL-SSO, *et. al.* (January 26, 2009); *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company and Columbus Southern Power Company*, Case No. No. 09-119-EL-AEC (April 27, 2009); and *In the Matter of the Application for Establishment of a Reasonable Arrangement Between Eramet Marietta, Inc. and Columbus Southern Ohio Power Company*, Case No. 09-516-EL-AEC.(July 31, 2009).

<sup>4</sup> *In the Matter of the Application of Aqua Ohio, Inc. for Authority to Increase Its Rates and Charges in Its Masury Division*, Case No. 09-516-EL-AEC (February 22, 2010).

<sup>5</sup> Application, Stipulation, p. 26.

1 and reviewed testimony of Ohio Edison Company, The Cleveland Electric  
2 Illuminating Company, and the Toledo Edison Company (collectively  
3 "FirstEnergy") witness W. Ridmann.<sup>6</sup> I have also reviewed responses to  
4 discovery in this case, in particular responses to the OCC's discovery regarding  
5 provisions in the Stipulation that address the Cleveland Clinic and "domestic  
6 automaker facilities."

7  
8 I am also familiar with the Commission's rules on reasonable arrangements,  
9 specifically O.A.C. Chapter 4901:1-38. In addition, I have read PUCO orders  
10 issued in various reasonable arrangement cases, including V&M Star (Case No.  
11 09-80-EL-AEC), Ormet (Case No. 09-119-EL-AEC), and Eramet (Case No. 09-  
12 516-EL-AEC).

13  
14 **II. PURPOSE OF TESTIMONY AND RECOMMENDATION**

15  
16 ***Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY?***

17 **A6.** My testimony addresses the concerns I have with Section F of the Stipulation,  
18 specifically the part that related to the Reasonable Arrangement pertaining to the  
19 Cleveland Clinic Foundation and the discount offered to the domestic automaker  
20 facilities.

21  

---

<sup>6</sup> Filed on March 31, 2010.

1 Because there is not enough information to analyze the proposed Reasonable  
2 Arrangements for the Cleveland Clinic and the domestic automaker facilities, my  
3 testimony does not address the merits of the proposals. My testimony requests  
4 adherence to the process established by the Commission in O.A.C. Chapter  
5 4901:1-38 to provide for a review and to provide transparency for all economic  
6 development proposals in Ohio. The procedures outlined in O.A.C. Chapter  
7 4901:1-38 seek to create a process that is transparent and provides due process for  
8 all interested parties. The procedures in O.A.C. 4901:1-38 were established to  
9 protect the interests of the residential customers and other stakeholders, including  
10 that of the incumbent utility (i.e., FirstEnergy).

11  
12 **Q7. WHAT IS YOUR RECOMMENDATION?**

13 **A7.** I recommend:

- 14 a) That the Commission reject the reasonable arrangements for the  
15 Cleveland Clinic and for the domestic automakers as presented in  
16 this Stipulation. The information presented in the Stipulation and  
17 the time available for review of the arrangements are insufficient  
18 and prevent the parties from performing the necessary analysis and  
19 consideration similar to that performed for other reasonable  
20 arrangements brought in front of this Commission; and  
21 b) That in general the Commission should instruct each electric  
22 utility, a mercantile customer, or group of mercantile customers of  
23 the electric utility to file an application for each proposed

1 arrangement according to the O.A.C. Chapter 4901:1-38 whenever  
2 they seek its approval for a reasonable arrangement.  
3

4 **III. IDENTIFICATION OF PROBLEMS, REVENUE RECOVERY**

5  
6 ***Q8. PLEASE EXPLAIN WHY YOU ARE REFERRING TO THESE***  
7 ***AGREEMENTS AS REASONABLE ARRANGEMENTS?***

8 ***A8.*** Reasonable Arrangements are the arrangements allowed under R.C. 4905.31.

9 This section allows a public utility to file a schedule or establish or enter into any  
10 reasonable arrangement with another public utility or one or more of its  
11 customers. As stated in R.C. 4905.31, these arrangements may include:

12 B) A sliding scale of changes, including variations in rates  
13 based upon stipulated variations in cost as provided in the  
14 schedule or arrangement;

15 \*\*\*

16 E) Any other financial device that may be practicable or  
17 advantageous to the parties interested. In the case of a  
18 schedule or arrangement concerning a public utility electric  
19 light company, such other financial device may include a  
20 device to recover costs incurred in conjunction with any  
21 economic development and job retention program of the  
22 utility within its certified territory, including recovery of  
23 revenue foregone as a result of any such program; any  
24 development and implementation of peak demand



1 reduction and energy efficiency programs under section  
2 4928.66 of the Revised Code; any acquisition and  
3 deployment of advanced metering, including the costs of  
4 any meters prematurely retired as a result of the advanced  
5 metering implementation; and compliance with any  
6 government mandate...

7  
8 **Q9. IN YOUR OPINION DO THE SPECIAL PROVISIONS FOR THE**  
9 **CLEVELAND CLINIC AND THE DOMESTIC AUTOMAKER FACILITIES**  
10 **IN THE STIPULATION QUALIFY AS REASONABLE ARRANGEMENTS?**

11 **A9.** Yes, they do.  
12

13 **Q10. WHY DO YOU CONSIDER THE SPECIAL PROVISIONS FOR THE**  
14 **CLEVELAND CLINIC AND THE DOMESTIC AUTOMAKER FACILITIES**  
15 **IN THE STIPULATION REASONABLE ARRANGEMENTS?**

16 **A10.** They are Reasonable Arrangements because both cases involve a public utility  
17 that is filing an application and proposal to enter into an arrangement that includes  
18 a sliding scale of charges and/or financial devices to recover costs incurred in  
19 conjunction with the economic activities, including job retention, of their  
20 customers (the Cleveland Clinic and the domestic automaker facilities).

**Q11. PLEASE EXPLAIN YOUR UNDERSTANDING OF TRANSPARENCY IN  
THE CONTEXT OF THE TWO REASONABLE ARRANGEMENTS.**

**A11.** My understanding of transparency in the context of the two Reasonable Arrangements is very close to that expressed by Chairman Alan Schreiber in his testimony before the House Public Utilities committee regarding Senate Bill 221:

Transparency is an element of the regulatory process that ensures accountability and equal treatment for all stakeholders.

Transparency can be viewed in the procedural requirements that allow all parties to have equal access to information within proceedings. It also ensures that all market participants from the consumer to the supplier are making informed decisions as to their purchases of power.<sup>7</sup> (emphasis added)

The procedural requirements, in the context of the two reasonable arrangements, are contained in the O.A.C. 4901:1-38.

**Q12. PLEASE DESCRIBE THE REASONABLE ARRANGEMENTS CONTAINED  
IN FIRSTENERGY'S MARCH 23, 2010 APPLICATION.**

**A12.** The Application requests Commission approval for two reasonable arrangements, one for the Cleveland Clinic and one for any domestic automaker facilities that used more than 45,000 MWh per annum at a single site in 2009.<sup>8</sup>

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<sup>7</sup> Chairman Alan Schreiber, Testimony before the House Public Utilities Committee regarding Senate Bill 221, January 16, 2008, at 4. (emphasis added), attached as Attachment AAI-1.

<sup>8</sup> Stipulation at 26-27.

1 Starting with the Cleveland Clinic, the proposed reasonable arrangement states  
2 that it includes the Clinic's expansion plan at its Main Campus in Cleveland.<sup>9</sup>  
3 According to the Stipulation, the proposal includes alterations and modifications  
4 to the electric plant.<sup>10</sup> The reasonable arrangement for the Clinic encompasses  
5 several parts. The Stipulation states that the Cleveland Electric Illuminating  
6 Company ("CEI") shall be responsible for providing the money to pay for the  
7 expenses required to build facilities.<sup>11</sup> The Stipulation states that CEI shall be  
8 entitled to classify the original cost of investment made in the utility plant, the  
9 facilities, and any equipment purchased as distribution plan for ratemaking  
10 purposes at the time of the next base rate case.<sup>12</sup> FirstEnergy shall recover the  
11 first \$70 million of the original cost of such plant, through a non-bypassable  
12 distribution rider that shall apply to all three of its Companies retail residential,  
13 commercial and industrial customers; i.e., the Residential service ("RS"), General  
14 Service – Secondary ("GS"), General Service – Primary ("GP"), General Service  
15 – Subtransmission ("GSU"), and Transmission rate ("GT") customers.<sup>13</sup> The \$70  
16 million shall be depreciated and recovered, including appropriate taxes, from  
17 customers through Rider EDR, Provision (g) over a five-year period starting June  
18 1, 2011.<sup>14</sup>  
19

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<sup>9</sup> Id. at 26.

<sup>10</sup> Id. at 26.

<sup>11</sup> Id. at 27.

<sup>12</sup> Id. at 27.

<sup>13</sup> Id. at 28.

<sup>14</sup> Id. at 28. Rider EDR, Provision (g) shall not be applied to customers taking service under Street Lighting ("STL"), Traffic Lighting ("TRF") and Private Outdoor Lighting ("POL").

1 As part of the Stipulation filed by FirstEnergy, the Companies are also requesting  
2 approval for a reasonable arrangement for domestic automaker facilities.<sup>15</sup>

3 FirstEnergy provided approximately 15 lines of information regarding this part of  
4 its request.<sup>16</sup> With the limited information that was provided by FirstEnergy, the  
5 Stipulation states the proposed reasonable arrangement will provide a benefit to  
6 domestic automakers that use more than 45,000 MWh per annum at a single site  
7 in 2009.<sup>17</sup> The Stipulation states the proposed benefit will provide monthly  
8 discounts for usage to these “domestic” automakers above an established base line  
9 structured as follows:<sup>18</sup>

10 a) For the first 10% increment of usage above the base line a  
11 discount of \$0.01/kWh;

12 b) For the second 10% increment of usage above the baseline  
13 a discount of \$0.01/kWh; and

14 c) For all additional usage above the baseline a discount of  
15 \$0.012 /kWh.<sup>19</sup>

16 As proposed, the offered discounts shall be recovered based on a levelized rate for  
17 all three companies under the Rider EDR, Section h, from customers provided  
18 service under the RS, GS, GP and GSU rate schedules.<sup>20</sup> As discussed in detail

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<sup>15</sup> Id. at 28-29.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> The Stipulation language at p. 28 implies that for a domestic automaker that has used 45,000 MWh per annum in 2009, the average monthly base line is 3,750 MWh. The discounts will be applied on the incremental usage above this monthly baseline.

<sup>19</sup> Id. at 29.

<sup>20</sup> Id. at 29. The three companies are Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company.

1 below, it is noteworthy that Rider EDR, Section I, is not applicable to the  
2 Transmission rate ("GT") customers.<sup>21</sup>  
3

4 ***Q13. PLEASE STATE YOUR UNDERSTANDING OF THE POSITIONS OF THE***  
5 ***CLEVELAND CLINIC AND THE DOMESTIC AUTOMAKERS WITH***  
6 ***RESPECT TO THE REASONABLE ARRANGMENTS PROPOSED IN THE***  
7 ***APPLICATION.***

8 ***A13.*** FirstEnergy's Stipulation expresses the understanding that absent the opportunity  
9 presented by this proceeding, the Clinic intended to file an application with the  
10 PUCO for a reasonable arrangement.<sup>22</sup> The Stipulation asserts that the purpose of  
11 the Clinic's application is to address the responsibility for the investments needed  
12 to complete the expansion plan.<sup>23</sup> The position of the domestic automakers  
13 regarding the proposed reasonable arrangement is not clear to me at this point of  
14 time. The Stipulation is silent on the intention of the domestic automakers outside  
15 of this Application.  
16

17 ***Q14. IS IT POSSIBLE TO PROVIDE AN ESTIMATE OF THE MAGNITUDE OF***  
18 ***DELTA REVENUES THAT WOULD RESULT FROM THE REQUESTED***  
19 ***REASONABLE ARRANGEMENTS?***<sup>24</sup>

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<sup>21</sup> See FirstEnergy response to OCC Set 2-72 (*Attachment AAI-2*). Witness Ridmann explained the rationale of excluding the General Service – Transmission (GT) customers as a part of the overall stipulated agreement.

<sup>22</sup> *Id.* at 27.

<sup>23</sup> *Id.* at 27.

<sup>24</sup> "Delta Revenue" is a defined term in "O.A.C." 4901:1-38-01(C) as the "deviation resulting from the difference in rate levels between the otherwise applicable rate schedule and the result of any reasonable arrangement approved by the commission."

1   **A14.** No. Delta revenues and what FirstEnergy is seeking to recover under the  
2       proposed reasonable arrangements in this Application and its Stipulation are not  
3       the same. In both Cleveland Clinic and the domestic automaker facilities cases,  
4       the Stipulation did not include any information that could be used to accurately  
5       estimate delta revenues, including any possible cost savings that may accrue to  
6       FirstEnergy as a result of approving the reasonable arrangement.

7  
8   **Q15. WHY ARE COST SAVINGS TO FIRSTENERGY IMPORTANT IN THIS**  
9       **CASE?**

10   **A15.** Cost savings are important in this case because O.A.C. 4901:1-38-08 (A)(3) states  
11       that cost savings accruing to the company as a result of the reasonable  
12       arrangement are to be an offset to the amount collected from consumers:

13               For reasonable arrangement in which incentives are given based  
14               upon cost savings to the electric utility (including, but not limited  
15               to, nonfirm arrangements, on/off peak pricing, seasonal rates, time-  
16               of-day rates, real-time-pricing rates), the cost savings shall be an  
17               offset to the recovery of the delta revenues. (emphasis added)

18  
19   **Q16. ARE THERE EXPECTATIONS OF ANY COST SAVINGS AS A RESULT OF**  
20       **THE PROPOSED REASONABLE ARRANGEMENTS THAT SHOULD**  
21       **OFFSET THE RECOVERY OF THE DELTA REVENUE COLLECTED**  
22       **FROM CONSUMERS?**

23   **A16.** Yes, there are. The first proposed reasonable arrangement supports the Cleveland  
24       Clinic expansion plan that is designed to meet growing local, national and

1 international patient demand and increase direct employment in Ohio.<sup>25</sup> The  
2 second proposed reasonable arrangement supports the domestic automaker  
3 operations above their baseline energy consumption level established for the year  
4 2009.<sup>26</sup> It is possible for the domestic automakers increased energy consumption  
5 to result in additional new employment, additional investments in productive  
6 capacity, and/or in maintaining employment/operation at their present levels for  
7 an extended period of time. Further, both reasonable arrangements are expected  
8 to benefit the participating (and non-participating) customers through the direct  
9 and indirect effects on their businesses. It also expected that FirstEnergy shall  
10 also benefit from these reasonable arrangements through increased sales and  
11 additional revenues as they may improve the utilization of the different  
12 systems/assets in place to serve the customers, and hence incrementally improve  
13 its operating income and financial results. It is fair and reasonable -- as intended  
14 by O.A.C. 4901:1-38-08 (A)(3) -- that such benefits that accrue to the utility as a  
15 result of the reasonable arrangements be an offset to the recovery of delta revenue  
16 from its customers. The limited information available in the Stipulation does not  
17 provide the necessary inputs to estimate this offset, hence, the delta revenues that  
18 shall be collected from the different customer classes are not transparent and are  
19 unknown.<sup>27</sup>

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<sup>25</sup> Id. at 26.

<sup>26</sup> Id. at 2.

<sup>27</sup> See FirstEnergy response to OCC Set 2-73 (*Attachment AAI-3*). Witness Ridmann indicated that CEI is unable to determine at this time "the benefits", if any, the proposed Cleveland Clinic expansion may have. Also see response to OCC Set 2-81 in which witness Ridmann (*Attachment AAI-4*) indicating that the Companies are unable to determine at this time the "benefits", if any, the proposed domestic automaker provision may have.

**Q17. DID FIRSTENERGY PROVIDE ESTIMATES FOR THE RECOVERED**

**REVENUES UNDER THE RIDER EDR (g) AND (i)?**

**A17.** Yes it did. The revenues recovered annually under the EDR Rider (g) for the Clinic, and under EDR Rider (i) for the domestic automakers are demonstrated in Table 1 and Table 2 in the attached AAI Work Papers, respectively. FirstEnergy states that it shall collect \$13.7 million from consumers for the Cleveland Clinic, of which \$7.9 million shall be collected from the residential customers (i.e., 57%).<sup>28</sup> FirstEnergy shall collect \$2.7 million in recovered revenues for the reasonable arrangement offered to the domestic automakers of which \$1.1 million (approx, 41%) is collected from the residential customers.<sup>29</sup>

**Q18. HOW DOES FIRSTENERGY PROPOSE TO RECOVER THE COST OF THE REASONABLE ARRANGEMENTS TO THE CLEVELAND CLINIC AND TO THE DOMESTIC AUTOMAKERS?**

**A18.** The Stipulation states that FirstEnergy shall recover the annual cost of the reasonable arrangement for the Cleveland Clinic through a non-bypassable distribution rider that shall apply to its Companies' retail residential, commercial and industrial customers; i.e., the Residential service ("RS"), General Service – Secondary ("GS"), General Service – Primary ("GP"), General Service – Subtransmission ("GSU"), and Transmission rate ("GT") customers.<sup>30</sup>

FirstEnergy proposes to allocate the charges in "the same manner as the revenue

---

<sup>28</sup> See Table 1 in Work Papers (attached).

<sup>29</sup> See Table 2 in Work Papers (attached).

<sup>30</sup> Id. at 28.



1 was allocated in the Companies' last distribution rate case, with the exception that  
2 no charges are allocated to the Street Lighting (STL), Traffic Lighting (TRF) and  
3 Private Outdoor Lighting (POL) Schedules".<sup>31</sup> It follows that residential  
4 customers shall pay \$0.00052/kWh, General-Service Secondary \$0.000309/kWh,  
5 General Service-Primary \$0.00013/kWh, General Service-Subtransmission  
6 \$0.0001/kWh, and General Service-Transmission \$0.000019/kWh.

7  
8 For the Reasonable Arrangements for the domestic automakers, FirstEnergy  
9 proposes to collect the annual cost based on a levelized rate for all three  
10 companies under the Rider EDR, Section h, from customers provided service  
11 under the RS, GS, GP and GSU rate schedules. The Rider EDR, Section i, shall  
12 not be applicable to the Transmission rate ("GT") customers. Under the proposed  
13 arrangement, Rider EDR, Section i is \$0.000071 per kWh applicable to the RS,  
14 GS, GP and GSU rate schedules.<sup>32</sup> Table 3 in the attached AAI Work Papers  
15 calculates the percentage share of each customer class in both EDR Riders (g) and  
16 (i).

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<sup>31</sup> The Application, Attachment B, Original Sheet 116 at 4 of 5.

<sup>32</sup> Arrived at through the division of \$2.7 million by the kWh sales to the customers in groups RS, GS, GP and GSU (15,127., 15,477.8, 3,751, and 4,219 GWh, respectively). See The Application, Table 1.

**Q19. WHAT DO YOU SEE AS THE PROBLEMS IN THE APPROACH  
FIRSTENERGY IS PROPOSING FOR THE COLLECTION OF THE COST  
OF THE REASONABLE ARRANGEMENTS FOR THE CLEVELAND  
CLINIC AND THE DOMESTIC AUTOMAKERS FROM CONSUMERS?**

**A19.** The approach FirstEnergy is proposing for the collection of the cost of the Reasonable Arrangements for the Cleveland Clinic and the domestic automaker facilities from consumers is contrary to the PUCO rules regarding revenue recovery. Ohio Administrative Code 4901:1-38-08(A)(4) states the following:

The amount of the revenue recovery rider shall be spread to all customers in proportion to the current revenue distribution between and among classes, subject to change, alteration, or modification by the Commission. The electric utility shall file the projected impact of the proposed rider on all customers, by customer class. (emphasis added)

Therefore, the revenue recovered should be in proportion to the current revenue distribution between and among classes and FirstEnergy cannot allocate more than 36% of the cost to the residential customers (see Table 5, column 8, in the attached AAI Work Papers). It is noteworthy that under the proposed Rider EDR (g) for Cleveland Clinic, the residential customers are responsible for 57% of the cost of the arrangement (see Table 3, column 4, in the attached AAI Work Papers). Similarly, in accordance with the proposed Rider EDR residential customers are responsible for 39.2% of the costs for the proposed domestic automaker Reasonable Arrangement (see Table 3, column 8). However, if the

Commission's rules were applied correctly, it is my opinion that residential customers should not be responsible for paying for more than 36% of these Reasonable Arrangements.<sup>33</sup>

***Q20. WHAT APPROACH WOULD YOU SUGGEST FOR THE COLLECTION OF THE COST OF THE REASONABLE ARRANGEMENTS FOR THE CLEVELAND CLINIC AND THE DOMESTIC AUTOMAKERS FROM CONSUMERS?***

***A20.*** I suggest the strict adherence to O.A.C. 4901:1-38-08(A)(4) which mandates that the allocation provisions of the revenue recovery rider should be consistent and allocated to all customers in proportion with the revenue distribution between and among the classes. Accordingly, the residential customer class should be responsible for no more than 36% of the collection of the utilities costs associated with both the Cleveland Clinic and the domestic automaker facilities (see Table 5 column 8, in the attached AAI Work Papers). For Rider (g), the residential customers will pay a total of \$4.9 million rather than the proposed \$7.9 million. For Rider (i), the residential customers will pay \$986 thousand rather than the proposed \$1.1 million. As demonstrated in Table 8 and Table 9 in the attached AAI Work Papers, other customer classes will also pay in proportion to their share in the revenue distribution between and among classes. The impact of the proposed

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<sup>33</sup> Table 4 and Table 5 demonstrate the percentage revenue share for each customer class in the three companies.

revenue recovery that is consistent with O.A.C. 4901:1-38-08(A)(4) on the average residential customer monthly and annual bills are demonstrated in Figure 1.<sup>34</sup>

**Figure 1: Monthly and Annual Impact for the Proposed Revenue Recovery for that Average Residential Customer in FirstEnergy Companies**

Residential Customers		FirstEnergy Companies			
		Cleveland Electric	Ohio Edison	Toledo Edison	Total
Average Monthly Consumption (kWh)	kWh	612	732	632	675
Annual Consumption	kWh	7349	8785	7587	8096
As filed					
Monthly EDR (g)	\$	0.32	0.38	0.33	0.35
Annual EDR (g)	\$	3.82	4.57	3.95	4.21
Monthly EDR (i)	\$	0.043	0.052	0.045	0.048
Annual EDR (i)	\$	0.522	0.624	0.539	0.575
As Proposed					
Monthly EDR (g)	\$	0.20	0.24	0.21	0.22
Annual EDR (g)	\$	2.40	2.87	2.48	2.65
Monthly EDR (i)	\$	0.040	0.048	0.041	0.044
Annual EDR (i)	\$	0.479	0.573	0.495	0.528

Source: Average monthly and annual uses see Table 6, Proposed Monthly EDR Riders (g) and (i) see Table 8 and Table 9. Filed EDR Rider (g) see Table 1, column 5 in Work Papers

#### IV. IDENTIFICATION OF OTHER PROBLEMS

**Q21. ARE THERE OTHER CONCERNS IN FIRSTENERGY PROPOSED REASONABLE ARRANGEMENTS FOR THE EXPANSION FACILITIES OF THE CLEVELAND CLINIC?**

**A21.** Yes, there are. The proposed reasonable arrangement for the Cleveland Clinic expansion facilities appears to fall under the category of an economic development reasonable arrangement – O.A.C. 4901:1-38-03 yet the filing does

<sup>34</sup> Average monthly customer size is demonstrated in Table 7 in the attached Work Papers.

not contain many of the filing requirements mandated in O.A.C. 4901:1-38-03 for such arrangements. O.A.C. 4901:1-38-03(A)(2) states (*emphasis added*)

(2) Each customer requesting to take service pursuant to an economic development arrangement with the electric utility shall, *at a minimum*, meet the following criteria, *submit to the electric utility and the commission verifiable information detailing how the criteria are met, and provide an affidavit from a company official as to the veracity of the information provided:*

(a) Eligible projects shall be for non-retail purposes.

(b) *At least twenty-five new, full-time or full-time equivalent jobs shall be created within three years of initial operations.*

(c) *The average hourly base wage rate of the new, full-time or full-time equivalent jobs shall be at least one hundred fifty per cent of the federal minimum wage.*

(d) *The customer shall demonstrate financial viability.*

(e) *The customer shall identify local (city, county), state, or federal support in the form of tax abatements or credits, jobs programs, or other incentives.*

- 1 (f) The customer shall identify potential  
2 secondary and tertiary benefits resulting  
3 from its project including, but not limited to,  
4 local/state tax dollars and related  
5 employment or business opportunities  
6 resulting from the location of the facility.
- 7 (g) The customer shall agree to maintain  
8 operations at the project site for the term of  
9 the incentives.

10  
11 Thus, any Reasonable Arrangement that seeks the PUCO's approval to collect  
12 from customers the associated delta revenues from all customer classes must  
13 establish a record that includes all of the information that is required by O.A.C.  
14 4901:1-38-03. For example, the Application and its Stipulation did not provide  
15 quantification of the wages associated with the expected employment expansion.  
16 The Application did not identify local, state or federal support or other incentives  
17 received.<sup>35</sup> The Application and the Stipulation did not provide studies for the  
18 potential secondary and tertiary benefits resulting from the expansion, neither is  
19 there a demonstration of financial viability.<sup>36</sup> As important as the Cleveland  
20 Clinic expansion could be to economic development in Northeast Ohio, the inputs

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<sup>35</sup> See FirstEnergy response to OCC Set 2-74 (Attachment AAI-5). Witness Ridmann indicated that the Companies are not aware of any documents or studies to identify local, state or federal support for the planned expansion.

<sup>36</sup> See FirstEnergy response to OCC Set 2-75 (Attachment AAI-6) in which witness Ridmann did not provide estimates for potential secondary and tertiary benefits from the Cleveland Clinic.

1 mandated by O.A.C. 4901:1-38-03 are imperative for a proper assessment and  
2 consideration for any reasonable arrangement application.

3  
4 ***Q22. DO YOU HAVE CONCERNS REGARDING FIRSTENERGY'S***  
5 ***APPLICATION AND ITS STIPULATION FOR THE DOMESTIC***  
6 ***AUTOMAKER'S REASONABLE ARRANGEMENT?***

7 ***A22.*** Yes. The Application and its Stipulation does not contain enough information to  
8 support the special rates proposed for "domestic automakers." The information  
9 provided in the initial filing and FirstEnergy's prefiled testimony does not address  
10 many of the requirements of O.A.C. 4901:1-38-03(A)(2) identified above or the  
11 relatively similar requirements of O.A.C 4901:1-38-03(B)(2); the latter pertains to  
12 the retention of existing customer(s) likely to cease, reduce or relocate operations  
13 out of state. The Stipulation does not claim: (1) that the beneficiaries seek to  
14 attract new jobs, (2) that the Reasonable Arrangement shall retain existing jobs,  
15 (3) or promise to maintain operations in Ohio, and (4) the Reasonable  
16 Arrangement identifies potential secondary or tertiary benefits to customers, the  
17 utility, or the State of Ohio resulting from the operations.<sup>37</sup> The Stipulation does  
18 not make any claims that these automaker facilities will continue to be profitable  
19 in Ohio, or that the benefits will permit their existence as going concerns as the  
20 result of the proposed arrangement.

21  

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<sup>37</sup> See FirstEnergy response to OCC Set 2-83 (*Attachment AAI-7*) in which witness Ridmann did not provide estimates for potential secondary and tertiary benefits from the domestic automaker facilities.

1 Further, there are no claims on the record that any domestic automaker facility  
2 can qualify as an “energy efficiency production” facility as defined under O.A.C.  
3 4901:1-38-01(E).<sup>38</sup> Had they qualified as an “energy efficiency production  
4 facilities, the Application and its Stipulation should have contained information  
5 that comply with the requirements of O.A.C. 4901:1-38-04(A)(2) that encompass  
6 new employment levels, wage rates, demonstration of financial viability,  
7 identification of local (city, county), state or federal support in the form of tax  
8 abatements or credits, jobs programs or other incentives, and an agreement that  
9 the facilities will maintain operations at the project site for the term of the  
10 incentives.<sup>39</sup>  
11

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<sup>38</sup> “Energy efficiency production facilities” means any customer that manufactures or assembles products that promote the more efficient use of energy (i.e., increase the ratio of energy end use services (i.e., heat light and derive power) derived from a device or process to energy inputs necessary to derive such end use services as compared with other devices or processes that are commonly installed to derive the same energy use services); or, any customer that manufactures, assembles or distributes products that are used in the production of clean, renewable energy. See O.A.C. 4901:1-38-01 (E).

<sup>39</sup> See O.A.C. 4901:1-38-04 (A)(2). To quote:

(2) Each customer requesting to take service pursuant to an energy efficiency arrangement with the electric utility shall meet the following criteria, submit to the electric utility verifiable information detailing how the criteria are met, and provide an affidavit from a company official as to the veracity of the information provided:

- (a) The customer shall be an energy efficiency production facility as defined in this chapter.
- (b) At least ten new, full-time or full-time equivalent jobs shall be created within three years of initial operations.
- (c) The average hourly base wage rate of the new, full-time, or full-time equivalent jobs shall be at least one hundred fifty per cent of federal minimum wage.
- (d) The customer shall demonstrate financial viability.
- (e) The customer shall identify local (city, county), state, or federal support in the form of tax abatements or credits, jobs programs, or other incentives.”
- (f) The customer shall agree to maintain operations at the project site for the term of the incentives.



1 Finally, the Application and its Stipulation did not describe the proposed  
2 reasonable arrangement as "Unique Arrangements" under O.A.C. 4901:1-38-05.  
3 Had it been "Unique Arrangements", the Application and its Stipulation should  
4 have –as stipulated in O.A.C 4901:1-38-05(B)(1)--included the burden of proof  
5 that the proposed arrangement is reasonable and does not violate the provisions of  
6 sections of R.C., including 4905.35.<sup>40</sup> The title of the special provision itself is  
7 vague and suggests that it is discriminatory as it does not address other automaker  
8 facilities in Ohio that may not be classified as "domestic". Further, the exclusion  
9 of other domestic automaker facilities that take similar electricity service, but  
10 delivered to several sites, from eligibility to receive the proposed discounts raises  
11 similar suggestions.

12  
13 As important as the automakers are to the economy in Ohio, the above  
14 information that is required by O.A.C. 4901:1-38-03(A)(2), 4901:1-38-03(B),  
15 4901:1-38-04(A)(2), or 4901:1-38-05(B)(1) as the case may be, was not provided  
16 and it is imperative to properly assess any Reasonable Arrangement application.

17  
18 **V. CONCLUSION**

19  
20 ***Q23. DOES THIS CONCLUDE YOUR TESTIMONY?***

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<sup>40</sup> See R.C 4905.35 is related to prohibiting discrimination. To quote

(A) No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage.

*Direct Testimony of Amr A. Ibrahim  
On Behalf of the Office of the Ohio Consumers' Counsel  
PUCO Case No. 10-388-EL-SSO*

1   A23.   Yes, for the time being. However, I reserve the right to incorporate new  
2           information or supplement my testimony with information that may subsequently  
3           be made available to the OCC through discovery. I also reserve the right to  
4           supplement my testimony in response to positions taken by the PUCO Staff and  
5           any other party to this proceeding.

Table 1: Annual Revenues Recovered under the Clinic Rider EDR (g).

Revenues Recovered under The Clinic EDR - (g)										
TOTAL kWh SALES										
		Cleveland Electric (1)	Ohio Edison (2)	Toledo Edison (3)	Total (4)	EDR - (g) (5)	Cleveland Electric (6)	Ohio Edison (7)	Toledo Edison (8)	Total (9)
RESIDENTIAL SERVICE - TOTAL	RS	4,905,165,971	8,142,643,216	2,079,432,434	15,127,241,621	0.00052	2,550,686	4,234,174	1,081,305	7,866,166
GENERAL SERVICE - SECONDARY - TOTAL	GS	6,561,797,661	6,788,914,432	2,127,144,263	15,477,856,356	0.000309	2,027,595	2,097,775	657,288	4,782,658
GENERAL SERVICE - PRIMARY - TOTAL	GP	439,480,335	2,332,295,440	979,988,312	3,751,764,088	0.00013	57,132	303,198	127,398	487,729
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	GSU	3,354,164,833	777,125,786	88,407,588	4,219,698,207	0.000100	335,416	77,713	8,841	421,970
GENERAL SERVICE - TRANSMISSION - TOTAL	GT	1,774,080,898	4,059,432,532	3,740,221,853	9,573,735,282	0.000019	33,708	77,129	71,064	181,901
STREET LIGHTING SERVICE - TOTAL	STL	127,766,988	127,096,824	50,157,144	305,020,956	0.00000	0	0	0	0
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	POL	62,709,024	37,512,420	10,490,592	110,712,036	0.00000	0	0	0	0
TRAFFIC LIGHTING SERVICE - TOTAL	TRF	24,237,344	19,835,409	6,872,256	50,945,009	0.00000	0	0	0	0
Total		17,249,403,054	22,284,856,059	9,082,714,442	48,616,973,555		5,004,538	6,789,989	1,945,896	13,740,423

Source: The Application, Schedule 1

Table 2: Revenues Recovered under the Domestic Automaker Rider EDR (i).

	TOTAL kWh SALES				Revenues Recovered under EDR - Automaker (i)			
	Cleveland Electric (1)	Ohio Edison (2)	Toledo Edison (3)	Total (4)	Cleveland Electric (5)	Ohio Edison (6)	Toledo Edison (7)	Total (8)
RESIDENTIAL SERVICE - TOTAL	4,905,165,971	8,142,643,216	2,079,432,434	15,127,241,621	348,267	578,128	147,640	1,074,034
GENERAL SERVICE - SECONDARY - TOTAL	6,561,797,661	6,788,914,432	2,127,144,263	15,477,856,356	465,888	482,013	151,027	1,098,928
GENERAL SERVICE - PRIMARY - TOTAL	439,480,335	2,332,295,440	979,988,312	3,751,764,088	31,203	165,593	69,579	266,375
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	3,354,164,833	777,125,786	88,407,588	4,219,698,207	238,146	55,176	6,277	299,599
GENERAL SERVICE - TRANSMISSION - TOTAL	1,774,080,898	4,059,432,532	3,740,221,853	9,573,735,282	0	0	0	0
STREET LIGHTING SERVICE - TOTAL	127,766,988	127,096,824	50,157,144	305,020,956	0	0	0	0
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	62,709,024	37,512,420	10,490,592	110,712,036	0	0	0	0
TRAFFIC LIGHTING SERVICE - TOTAL	24,237,344	19,835,409	6,872,256	50,945,009	0	0	0	0
Total	17,249,403,054	22,284,856,059	9,082,714,442	48,616,973,555	1,083,503	1,280,910	374,523	2,738,936

Source: Source: The Application, Schedule 1

Source: Source: The Application, Schedule 1

Table 3: Percentage Share of Customer Classes in EDR Riders (g) and (i)

	Revenues Recovered under The Clinic EDR - (g)				Revenues Recovered under EDR - Automaker (i)				
	Cleveland Electric	Ohio Edison	Toledo Edison	Total	Cleveland Electric	Ohio Edison	Toledo Edison	Total	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
RESIDENTIAL SERVICE - TOTAL	RS	51.0%	62.4%	55.6%	57.2%	32.1%	45.1%	39.4%	39.2%
GENERAL SERVICE - SECONDARY - TOTAL	GS	40.5%	30.9%	33.8%	34.8%	43.0%	37.6%	40.3%	40.1%
GENERAL SERVICE - PRIMARY - TOTAL	GP	1.1%	4.5%	6.5%	3.5%	2.9%	12.9%	18.6%	9.7%
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	GST	6.7%	1.1%	0.5%	3.1%	22.0%	4.3%	1.7%	10.9%
GENERAL SERVICE - TRANSMISSION - TOTAL	GT	0.7%	1.1%	3.7%	1.3%	0.0%	0.0%	0.0%	0.0%
STREET LIGHTING SERVICE - TOTAL	STL	0.7%	1.1%	3.7%	1.3%	0.0%	0.0%	0.0%	0.0%
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	POL	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
TRAFFIC LIGHTING SERVICE - TOTAL	TRF	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Table 1 and Table 2 – Totals are inclusive of rounding errors.

Table 4: kWh and Revenues in Cleveland Electric, Ohio Edison, and Toledo Edison

		TOTAL kWh SALES				Revenues (May 2011--Proposed)			
		Cleveland Electric (1)	Ohio Edison (2)	Toledo Edison (3)	Total (4)	Cleveland Electric (5)	Ohio Edison (6)	Toledo Edison (7)	Total (8)
RESIDENTIAL SERVICE - TOTAL	RS	4,905,165,971	8,142,643,216	2,079,432,434	15,127,241,621	584,286,840	921,351,517	251,186,755	1,756,825,112
GENERAL SERVICE - SECONDARY - TOTAL	CS	6,561,797,661	6,788,914,432	2,127,144,263	15,477,856,356	785,979,039	739,550,330	269,884,175	1,795,413,544
GENERAL SERVICE - PRIMARY - TOTAL	CP	439,480,335	2,332,295,440	979,988,312	3,751,764,088	38,046,172	205,678,055	85,161,045	328,885,272
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	CSU	3,354,164,833	777,125,786	88,407,588	4,219,698,207	258,201,730	57,902,831	6,123,587	322,228,148
GENERAL SERVICE - TRANSMISSION - TOTAL	GT	1,774,080,898	4,059,432,532	3,740,221,853	9,573,735,282	108,029,213	285,869,493	213,281,854	607,180,560
STREET LIGHTING SERVICE - TOTAL	STL	127,766,988	127,096,824	50,157,144	305,020,956	21,740,264	13,732,212	8,115,873	43,588,349
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	POL	62,709,024	37,512,420	10,490,592	110,712,036	12,549,458	7,652,179	1,971,304	22,172,941
TRAFFIC LIGHTING SERVICE - TOTAL	TRF	24,237,344	19,835,409	6,872,256	50,945,009	1,011,815	1,406,678	620,152	3,038,645
Total		17,249,403,034	22,284,856,059	9,082,714,442	48,616,973,555	1,809,844,531	2,233,143,295	836,344,745	4,879,332,571

Source: Source: The Application, Schedule 1

Table 5: Percentage kWh and Revenues in Cleveland Electric, Ohio Edison, and Toledo Edison

	TOTAL kWh SALES				Revenues (May 2011--Proposed)			
	Cleveland Electric (1)	Ohio Edison (2)	Toledo Edison (3)	Total (4)	Cleveland Electric (5)	Ohio Edison (6)	Toledo Edison (7)	Total (8)
RESIDENTIAL SERVICE - TOTAL	28.4%	36.5%	22.9%	31.1%	32.3%	41.3%	30.0%	36.0%
GENERAL SERVICE - SECONDARY - TOTAL	38.0%	30.5%	23.4%	31.8%	43.4%	33.1%	32.3%	36.8%
GENERAL SERVICE - PRIMARY - TOTAL	2.5%	10.5%	10.8%	7.7%	2.1%	9.2%	10.2%	6.7%
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	19.4%	3.5%	1.0%	8.7%	14.3%	2.6%	0.7%	6.6%
GENERAL SERVICE - TRANSMISSION - TOTAL	10.3%	18.2%	41.2%	19.7%	6.0%	12.8%	25.5%	12.4%
STREET LIGHTING SERVICE - TOTAL	0.7%	0.6%	0.6%	0.6%	1.2%	0.6%	1.0%	0.9%
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	0.4%	0.2%	0.1%	0.2%	0.7%	0.3%	0.2%	0.5%
TRAFFIC LIGHTING SERVICE - TOTAL	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Table 4

Table 6: Total Customer Bills and Sales

		TOTAL kWh SALES			Total	Total Customer Bills			Total
		Cleveland Electric (1)	Ohio Edison (2)	Toledo Edison (3)		Cleveland Electric (5)	Ohio Edison (6)	Toledo Edison (7)	
RESIDENTIAL SERVICE	RS	4,905,165,971	8,142,643,216	2,079,432,434	15,127,241,621	8,009,109	11,122,878	3,289,137	22,421,124
GENERAL SERVICE -	GS	6,561,797,661	6,788,914,432	2,127,144,263	15,477,856,356	1,001,934	1,335,142	437,020	2,774,096
SECONDARY - TOTAL	GP	439,480,335	2,332,295,440	979,988,312	3,751,764,088	1,004	12,490	4,178	17,672
GENERAL SERVICE -	GSU	3,354,164,833	777,125,786	88,407,588	4,219,698,207	7,612	1,260	48	8,920
SUBTRANSMISSION -	GT	1,774,080,898	4,059,432,532	3,740,221,853	9,573,735,282	228	2,144	682	3,054
GENERAL SERVICE -	STL	127,766,988	127,096,824	50,157,144	305,020,956	124,253	146,758	47,940	318,951
TRANSMISSION -	POL	62,709,024	37,512,420	10,490,592	110,712,036	37,350	30,047	9,644	77,041
TOTAL	TRF	24,237,344	19,835,409	6,872,256	50,945,009	38,711	41,587	4,437	84,735
STREET LIGHTING	Total	17,249,403,054	22,284,856,059	9,082,714,442	48,616,973,555	9,220,201	12,692,306	3,793,086	25,705,593
PRIVATE OUTDOOR									
LIGHTING SERVICE -									
TOTAL									
TRAFFIC LIGHTING									
SERVICE - TOTAL									

Source: Source: The Application, Schedule 1



Table 7: Average Monthly Customer Size in kWh

		Average Monthly Customer Size in kWh			
		Cleveland Electric	Ohio Edison	Toledo Edison	Total
RESIDENTIAL SERVICE - TOTAL	RS	612	732	632	675
GENERAL SERVICE - SECONDARY - TOTAL	GS	6,549	5,085	4,867	5,579
GENERAL SERVICE - PRIMARY - TOTAL	GP	437,729	186,733	234,559	212,300
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	GSSU	440,642	616,766	1,841,825	473,060
GENERAL SERVICE - TRANSMISSION - TOTAL	GT	7,781,057	1,893,392	5,484,196	3,134,818
STREET LIGHTING SERVICE - TOTAL	STL	1,028	866	1,046	956
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	POL	1,679	1,248	1,088	1,437
TRAFFIC LIGHTING SERVICE - TOTAL	TRF	626	477	1,549	601
Total		1,871	1,756	2,395	1,891

Source: Table 6—the division of total kWh sales by total customer bills.

Table 8: Proposed EDR Rider (g) and Customer Class Share

	FirstEnergy Proposed Revenue Recovery & Clinic Rider (g)				Alternative Revenue Recovery (\$)	Suggested Rider (g) (\$/kWh)	Alternative Revenue Recovery by Company		
	Cleveland Electric (1)	Ohio Edison (2)	Toledo Edison (3)	Total (4)	EDR - (g) (5)		Cleveland Electric (10)	Ohio Edison (11)	Toledo Edison (12)
RESIDENTIAL SERVICE - TOTAL	2,550,686	4,234,174	1,081,305	7,866,166	0.00052	4,947,300	1,604,214	2,663,017	680,069
GENERAL SERVICE - SECONDARY - TOTAL	2,027,595	2,097,775	657,288	4,782,658	0.00031	5,055,967	2,143,464	2,217,654	694,849
GENERAL SERVICE - PRIMARY - TOTAL	57,132	303,198	127,398	487,729	0.00013	926,156	108,490	575,748	241,919
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	335,416	77,713	8,841	421,970	0.00010	907,409	721,284	167,114	19,011
GENERAL SERVICE - TRANSMISSION - TOTAL	33,708	77,129	71,064	181,901	0.00002	1,709,848	316,847	725,006	667,995
STREET LIGHTING SERVICE - TOTAL	0	0	0	0	0.00000	122,747	51,416	51,146	20,184
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	0	0	0	0	0.00000	62,440	35,367	21,156	5,917
TRAFFIC LIGHTING SERVICE - TOTAL	0	0	0	0	0.00000	8,557	4,071	3,332	1,154
Total	5,004,538	6,789,989	1,945,896	13,740,423		13,740,423	4,985,152	6,424,172	2,331,099

Source: The Application, Schedule 1, and calculated.

Table 9: Proposed EDR Rider (i) and Customer Class Share

	FirstEnergy Proposed Revenue Recovery EDR (i)			Alternative Revenue Recovery (\$)	Suggested Rider (i) (\$/kWh)	Alternative Revenue Recovery by Company			
	Cleveland Electric	Ohio Edison	Toledo Edison			Cleveland Electric	Ohio Edison	Toledo Edison	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
RESIDENTIAL SERVICE - TOTAL	348,267	578,128	147,640	1,074,034	986,166	0.0000652	319,775	530,830	135,561
GENERAL SERVICE - SECONDARY - TOTAL	465,888	482,013	151,027	1,098,928	1,007,827	0.0000651	427,266	442,054	138,507
GENERAL SERVICE - PRIMARY - TOTAL	31,203	165,593	69,579	266,375	184,615	0.0000492	21,626	114,766	48,223
GENERAL SERVICE - SUBTRANSMISSION - TOTAL	238,146	55,176	6,277	299,599	180,878	0.0000429	143,777	33,312	3,790
GENERAL SERVICE - TRANSMISSION - TOTAL	0	0	0	0	340,831	0.0000356	63,158	144,518	133,154
STREET LIGHTING SERVICE - TOTAL	0	0	0	0	17,184	0.0000563	7,198	7,160	2,826
PRIVATE OUTDOOR LIGHTING SERVICE - TOTAL	0	0	0	0	6,237	0.0000563	3,533	2,113	591
TRAFFIC LIGHTING SERVICE - TOTAL	0	0	0	0	1,706	0.0000335	811	664	230
Total	1,083,503	1,280,910	374,523	2,738,936	2,725,443		987,143	1,275,418	462,882

Source: Source: The Application, Schedule 1, and estimated. Inclusive of rounding errors.

## **AAI – 1     Chairman Testimony**

# **Senate Bill 221**

## **House Public Utilities Committee**

**Alan R. Schriber, Chairman  
Public Utilities Commission of Ohio**

**January 16, 2008**

Good morning, Chairman Hagan and members of the committee, thank you for giving me the opportunity to serve on today's panel on side deals, special contracts and transparency.

These are interesting and important issues that are critical to ensuring that Senate Bill 221 (SB 221) is a comprehensive energy bill. As I have stated before to this committee, these topics will probably "drive you nuts." That is because depending on the stakeholder you discuss these issues with; you will receive varying rationale and opinions on these issues.

So that you might be armed with a solid foundation to form your own educated opinion and to ensure that we are on the same page in our discussion today, I am going to define side deals, special contracts and transparency as they relate to and are applied by the Public Utilities Commission of Ohio (PUCO). In the course of defining these issues, I will also mention and discuss other important concepts that are related to the issues we are discussing today.

### **Side Deals**

A side deal can be defined as an agreement among parties to a case that takes place during the course of a litigated process. A party may enter into an agreement with the applicant of the case for the purpose of satisfying an interest thereby causing the party to withdrawal objections or lend support to the stipulation or application pending before the PUCO.

The PUCO is often not made aware nor has any record of side deals reached in pending cases. Therefore, the PUCO obviously does not and cannot enforce side deals. One can argue that this leads to a disadvantage in the proceeding, especially since some of the parties are not privy to the side deal or offered a side deal. I will examine this more when I discuss transparency and provide an example of such an instance.

### **Stipulations**

A stipulation is a negotiated arrangement that is the result of bargaining among the parties to a case. Stipulations are filed in the case record and are then reviewed by the PUCO commissioners for approval, modification or denial.

I would note that while you may often hear that the *staff* of the PUCO is a signatory party to a stipulation, this in no way implies that the PUCO commissioners will automatically approve the stipulation. PUCO staff is a separate party from that of the PUCO commissioners in proceedings and any negotiations. PUCO staff participates in cases but are not representing the PUCO commissioners. All stipulations, regardless of the signatory parties, go through the same rigorous review and three part test. That three part test includes the following criteria:

- Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- Does the settlement, as a package, benefit ratepayers and the public interest?
- Does the settlement package violate any important regulatory principle or practice?

Ultimately, the PUCO commissioners consider whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. Based on this, the PUCO commissioners may modify, deny or approve the stipulation. A stipulation may also include various agreements and contracts among the parties that are subject to review by PUCO commissioners.

### **Special Contracts**

Special contracts are financial arrangements between a utility (electric, natural gas or telephone) and a customer entered into either for the purpose of facilitating business expansion or supporting efforts to retain jobs in the face of economic hardship.

The PUCO approves special contracts that are filed with the agency, except those that are entered into with a municipality or government entity. There have been limited electric

special contracts filed with our agency since the passage of Senate Bill 3 (SB 3) in 1999 because electric distribution utilities do not or cannot contract with customers; rather contracting is done by the marketer side of the utility. As you know, with the deregulation of electric generation by the enactment of SB 3, the PUCO does not have regulatory authority over this transaction.

Special contracts can be beneficial for economic development and we believe that the PUCO needs to retain its authority to review and approve special contracts. Also critical to examining special contracts is evaluating the objective or criteria for the contract, which may include load factor, the percentage of the customer's expenses attributed to electricity and any revenue deficiencies and the compensation for those deficiencies by other customer classes.

It is important that special contracts continue to be reviewed and that SB 221 provide clarity to the PUCO's role as the Commission is in the unique position of being able to equally balance the interest of all parties.

### **Transparency**

Transparency is an element of the regulatory process that ensures accountability and equal treatment for all stakeholders. Transparency can be viewed in the procedural requirements that allow all parties to have equal access to information within proceedings. It also ensures that all market participants from the consumer to the supplier are making informed decisions as to their purchases of power.

Attached to my testimony is a one-pager that illustrates the procedures that govern the review of utility cases at the PUCO. In addition, it is important to note that the PUCO opened a bill format case as part of the implementation of Senate Bill 3. As a result, the electric distribution utilities (EDUs) are required to itemize their customer bills to show separate line items for generation, transmission, distribution, a transition charge and the fixed monthly customer charge. EDUs are also required to provide a "price to compare" which indicates what price an alternative generation supplier would have to "beat" to be



lower than the utility. The EDUs must also provide the 12-month prior usage history for the customer and must report periodically, with the customer's bill, the utilities' fuel mix. Any changes to the bill format require Commission approval. The Commission also has the ability to order a bill format change if deemed necessary to provide additional information for the customer. These changes made to the electric bill formats ensure transparency to the electric customers as they know what they are paying for each component of their electric bill.

Another example of transparency occurred recently during a pending PUCO case when the Ohio Consumers' Counsel (OCC) challenged the Duke Energy Ohio rate stabilization plan before the Ohio Supreme Court. OCC requested the Commission to compel discovery of side agreements between Duke and parties that signed the stipulation. When the request was denied on the grounds that matters relating to settlement are privileged and that side agreements are irrelevant to consideration of stipulations, OCC appealed the issue to the Court.

The Ohio Supreme Court found that settlement discussions are not privileged and might be relevant to determining whether a stipulation is the product of serious bargaining among capable, knowledgeable parties (stipulation approval standard). The Court ordered the Commission to compel disclosure of side agreements between Duke and the signatory parties and, subsequently, to decide any issues pertaining to admissibility of that information. Therefore, side agreements between Duke and signatory parties and between signatory parties and Duke's affiliates were ordered to be released. Later, testimony was allowed relating to those side agreements.

Afterwards, the Commission found that the existence of the side agreements, in which several signatory parties agreed to support the stipulation, raised serious doubt about the integrity and openness of the negotiation process. Therefore, the Commission found that there was sufficient basis to question whether the parties engaged in serious bargaining. The stipulation was rejected on that ground.

The Duke rate stabilization plan remand is significant because the Court applied the three part test used for the review of stipulations and applied it to side deals. The Court has now given the Commission a reason to compel discovery of side deals as these side agreements might be relevant to determining whether a stipulation or agreement is the product of serious bargaining among capable, knowledgeable parties. This is significant because to up to this point, the Commission did not have a statutory reason for compelling this discovery.

### **Conclusion**

As I mentioned at the start of my testimony, side deals, special contracts and transparency are important issues that need to be addressed to ensure that SB 221 is a comprehensive energy bill. However, there will be varying rationale and opinions on these issues, depending on the stakeholder's point of view.

I hope that I have been able to provide you with a comprehensive overview of these issues as they are defined by and applied by the PUCO.

Chairman Hagan, if you or members of the committee have questions, I would be happy to answer them at the appropriate time.

### **Procedures for PUCO cases**

- 1) **Rate increase applications:**
  - a.) Utility files notice of intent to file an application 30 days prior to filing application. Notice given to affected mayors and legislative authority of each municipality. (Section 4909.43(B) R.C.)
  - b.) Notice of the filing of the application published in newspapers of general circulation and on Commission web site. (Section 4909.19, R.C.)
  - c.) Staff investigation and report filed.
  - d.) Interested parties may intervene and file objections to the Staff Report.
  - e.) All parties may conduct discovery.
  - f.) Local public hearings held to afford public opportunity to express views. Newspaper notice provided pursuant to Section 4903.083, R.C.
  - g.) Adjudicatory hearings held at the Commission offices.
- 2) **Tariff change applications** (to establish new service offering or to amend tariffs that are not for an increase in rates):
  - a.) Application to amend tariffs filed by utility.
  - b.) If Commission determines that application may be unjust or unreasonable, the matter is set for hearing and notice of the hearing published in newspapers in the affected areas (Section 4909.18, R.C.).
  - c.) If the application is determined to be just and reasonable, application may be approved by the Commission without a hearing.
- 3) **Complaint cases:**
  - a.) Complaint filed with the Commission pursuant to Section 4905.26, R.C.
  - b.) Settlement conference scheduled to see if dispute can be resolved.
  - c.) If matter is not resolved and if complaint sets forth reasonable grounds, the matter is set for hearing.
- 4) **Rate Stabilization Plan applications:**
  - a.) Application filed by utility to establish generation rates upon the end of market development periods (filed pursuant to 4928.14, R.C.).
  - b.) Interested parties granted intervention and discovery permitted.
  - c.) Adjudicatory and local public hearings held, newspaper notice given.
- 5) **Applications to approve special contracts:**
  - a.) Utility enters into special contract with customer and files an application/copy of contract with the Commission requesting approval of the contract pursuant to Section 4905.31, R.C.
  - b.) Commission's staff reviews contract to determine if contract is in the public interest. i.e. promotes economic development or helps the utility maintain load.
  - c.) Commission issues order, no hearing required.

## AAI – 2    Discovery Responses

**OCC Set 2**  
**Witness: Ridmann**

**Case No. 10-0388-EL-SSO**  
**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.**

**RESPONSES TO REQUEST**

**OCC**  
**Set 2-72**

**What is the rationale for excluding the General Service – Transmission (GT) customers from the Automaker Charges Provision in the Economic Development Rider (Original Sheet 118 – Page 5 of 5)?**

**Response:**     **The exclusion of General Service – Transmission (GT) customers from the Automaker Charges Provision in the Economic Development Rider is part of the overall stipulated agreement.**

## AAI – 3    Discovery Responses

OCC Set 2  
Witness: Ridmann

Case No. 10-0388-EL-SSO  
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.

RESPONSES TO REQUEST

OCC  
Set 2-73

How much are the benefits (by each benefit category) to CEI from:

- a) retaining the Cleveland Clinic?;
- b) serving the additional load resulting from the proposed expansion in the Cleveland Clinic?

**Response:** a) Objection: The request is overly broad, unduly burdensome, vague, and ambiguous. Without waiving the objection, CEI is unable to determine at this time the "benefits", if any, the proposed expansion may have.

b) Objection: The request is overly broad, unduly burdensome, vague, and ambiguous. Without waiving the objection, see response a.

## AAI – 4    Discovery Responses



**OCC Set 2**  
**Witness: Ridmann**

**Case No. 10-0388-EL-SSO**  
**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.**

**RESPONSES TO REQUEST**

**OCC**  
**Set 2-81**

**What are the benefits (by category) accruing to FirstEnergy from:**

- a) retaining the "domestic automakers"?**
- b) serving the additional load above the baseline for the year 2009?**

- Response:**
- a) Objection: The request is overly broad, unduly burdensome, vague, and ambiguous. Without waiving the objection, the Companies are unable to determine at this time the "benefits", if any, the proposed domestic automaker provision may have.**
  - b) Objection: The request is overly broad, unduly burdensome, vague, and ambiguous. Without waiving the objection, the Companies are unable to determine at this time the "benefits", if any, the proposed domestic automaker provision may have.**

## AAI – 5 – Discovery Responses

**OCC Set 2**

**Witness: Ridmann**

**Case No. 10-0388-EL-SSO**

**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.**

**RESPONSES TO REQUEST**

**OCC**

**Set 2-74**

What Documents exist regarding studies conducted by or for the Cleveland Clinic to identify local (e.g. city and county), state, or federal support for the planned expansion project in the form of tax abatements or credits, jobs programs, or other incentives as outlined in Ohio Adm. Code 4901:1-38-03 (A)(e) (I.e. Identify the Documents)?

**Response:** The Companies are not aware of any documents or studies responsive to this request.

## AAI – 6    Discovery Responses

**OCC Set 2**

**Witness: Ridmann**

**Case No. 10-0388-EL-SSO**

**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.**

**RESPONSES TO REQUEST**

**OCC**

**Set 2-75**

What Documents exist regarding studies conducted by/for the Cleveland Clinic to identify potential secondary and tertiary benefits resulting from the Cleveland Clinic's planned expansion project including, but not limited to, local/state tax dollars and related employment or business opportunities resulting from the location of the facility as outlined in Ohio Adm. Code 4901:1-38-03 (A)(f)?

**Response:**

Objection: The request is overly broad and unduly burdensome, seeks information that is beyond the scope of this proceeding and is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and also seeks proprietary customer information that may not be released except with customer authorization or by order of a regulatory agency or court of law.

## AAI – 7    Discovery Responses

**OCC Set 2**  
**Witness: Ridmann**

**Case No. 10-0388-EL-SSO**  
**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.**

**RESPONSES TO REQUEST**

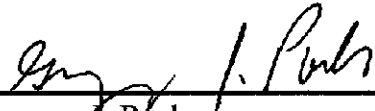
**OCC**  
**Set 2-83**

What Documents exist regarding studies conducted by/for the domestic automakers to identify potential secondary and tertiary benefits resulting from the Cleveland Clinic's planned expansion project including, but not limited to, local/state tax dollars and related employment or business opportunities resulting from the location of the facility as outlined in Ohio Adm. Code 4901:1-38-03 (A)(f)?

**Response:** The Companies are not aware of any documents or studies responsive to this question.

## **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing the *Direct Testimony*,  
*Workpapers and Attachments for Amr A. Ibrahim on Behalf of the Office of the Ohio*  
*Consumers' Counsel* has been served electronically on this 15th day of April, 2010.

  
\_\_\_\_\_  
Gregory J. Poulos  
Assistant Consumers' Counsel

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