

**OCC EXHIBIT NO.** \_\_\_\_\_

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio       )  
Edison Company, The Cleveland Electric       )  
Illuminating Company, and The Toledo       )  
Edison Company For Authority to       ) Case No. 12-1230-EL-SSO  
Establish a Standard Service Offer       )  
Pursuant to R.C. § 4928.143 in the Form       )  
Of an Electric Security Plan.       )

**DIRECT TESTIMONY  
OF  
WILSON GONZALEZ**

**On Behalf of  
The Office of the Ohio Consumers' Counsel**  
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***May 21, 2012***

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CERTIFICATE OF SERVICE

SCHEDULES:

Exhibit WG-1 Cases Testified In

Exhibit WG-2 No RTEP Benefits Case One: Present Value Benefits of ESP over MRO

Exhibit WG-3 No RTEP or PIPP Benefits Case Two: Present Value Benefits of ESP over MRO

ATTACHMENTS:

Attachment 1 Response to Request – NOAC Set1 - INT-1

Attachment 2 Response to Request – OCC Set1 - INT-2

Attachment 3 Response from IGS and Direct Energy to OCC Request - INT-1, INT-2, INT-3

Attachment 4 Response to Request – OCC Set1 - INT-1

1    **I.        INTRODUCTION**

2  
3    ***Q1.    PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4    ***A1.***    My name is Wilson Gonzalez. My business address is 10 West Broad Street,  
5           Suite 1800, Columbus, Ohio, 43215-3485. I am employed by the Office of the  
6           Ohio Consumers' Counsel ("OCC") as a Senior Energy Policy Advisor.

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

10   ***A2.***    I have a Bachelor of Arts degree in Economics from Yale University and a Master  
11           of Arts degree in Economics from the University of Massachusetts at Amherst. I  
12           have also completed coursework and passed my comprehensive exams towards a  
13           Ph.D. in Economics at the University of Massachusetts at Amherst. I have been  
14           employed in the energy industry since 1986, first with the Connecticut Energy  
15           Office (Senior Economist, 1986-1992), then Columbia Gas Distribution  
16           Companies ("Columbia Gas") (Integrated Resource Planning Coordinator, 1992-  
17           1996) and American Electric Power ("AEP") (Marketing Profitability Coordinator  
18           and Market Research Consultant, 1996-2002). I have been managing the  
19           Resource Planning activities within OCC since 2004, and have been involved in  
20           numerous electric industry cases before the Public Utilities Commission of Ohio  
21           ("PUCO" or "Commission").

1   ***Q3.   WHAT HAS BEEN YOUR EXPERIENCE DIRECTLY RELATED TO***  
2   ***ELECTRIC SECURITY PLAN PROCEEDINGS IN OHIO?***

3   ***A3.***   I have filed testimony on various issues in previous standard service offer  
4       (“SSO”) cases that involved the Ohio Edison Company, The Cleveland Electric  
5       Illuminating Company, and The Toledo Edison Company (“FirstEnergy” or  
6       “Companies”), Case Nos. 08-935-EL-SSO, 08-936-EL-SSO, 09-906-EL-SSO and  
7       10-388-EL-SSO. I have also filed testimony in previous AEP, Duke Energy of  
8       Ohio (“Duke”), and Dayton Power and Light (“DP&L”) SSO cases.

9  
10   ***Q4.   WHAT HAS BEEN YOUR EXPERIENCE IN OTHER REGULATORY***  
11   ***PROCEEDINGS?***

12   ***A4.***   I have been involved with many aspects of electric utility regulation since 1986,  
13       including but not limited to Rate Design and integrated resource planning, including  
14       transmission and non-transmission alternative planning. While at the Connecticut  
15       Energy Office I represented the office in one of the first demand-side management  
16       (“DSM”) collaborative processes in the country (Connecticut Department of the  
17       Public Utilities Commission (“DPUC”) Docket No. 87-07-01). There I analyzed the  
18       performance and cost-effectiveness of many efficiency programs for Connecticut’s  
19       electric and gas utilities that led to demonstration projects, policy recommendations,  
20       DSM programs (including rate design recommendations) and energy efficiency  
21       standards. I also performed all the analytical modeling for United Illuminating’s first  
22       integrated resource plan filed before the DPUC in 1990. At Columbia Gas, I was  
23       responsible for coordinating that company’s Integrated Resource Plan within the

1 corporate planning department and DSM program development activities in the  
2 marketing department. I designed and managed residential DSM programs in  
3 Maryland and Virginia. At AEP, I conducted numerous cost-benefit analyses of  
4 programs being sponsored by AEP's corporate marketing department, including their  
5 residential load control water heater program.

6

7 For the past 8 years at OCC, I have (among other matters):

- 8 • Been involved in DSM negotiations resulting in millions of  
9 dollars in energy efficiency programs with Ohio's investor-  
10 owned utilities;
- 11 • Prepared DSM testimony in ten Commission cases;
- 12 • Testified before the Ohio House Alternative Energy  
13 Committee and Senate Energy and Public Utilities  
14 Committee in support of energy efficiency, demand  
15 response and resource planning;
- 16 • Assisted in the preparation of energy efficiency and  
17 renewable energy testimony and amendments for S.B. 221,  
18 H.B. 357, and S.B. 315;
- 19 • Testified before the PUCO on rate design issues; and
- 20 • Worked extensively on a range of topics regarding  
21 FirstEnergy SSO proposals.

1 **Q5. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE**  
2 **PUBLIC UTILITIES COMMISSION OF OHIO?**

3 **A5.** Yes. This information is attached as Exhibit WG-1.  
4

5 **Q6. WHAT DOCUMENTS HAVE YOU REVIEWED IN THE PREPARATION OF**  
6 **YOUR TESTIMONY?**

7 **A6.** I have reviewed the Application in this third ESP case ("FE ESP 3") filed on  
8 April 13, 2012 by FirstEnergy, including the Stipulation and Recommendation  
9 ("Stipulation"), and the Direct and Supplemental Testimony of Companies'  
10 witness William Ridmann. I have also reviewed the filed Testimony of Staff  
11 witnesses Peter Baker and Robert Fortney. I have reviewed the relevant  
12 responses to OCC and other party discovery in this case and the record in Case  
13 No. 10-388-EL-SSO ("FE ESP 2").  
14

15 **II. PURPOSE OF TESTIMONY AND RECOMMENDATIONS**  
16

17 **Q7. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 **A7.** The purpose of my testimony is to review the Stipulation and Recommendation  
19 and to opine on whether it meets the three prong test used by the Commission  
20 when adopting a stipulation. Also, I will evaluate whether the Companies' ESP 3  
21 proposal is in the aggregate more favorable than a Market Rate Option ("MRO").

**Q8. PLEASE SUMMARIZE YOUR RECOMMENDATIONS**

**A8.** I recommend that the Commission reject the Stipulation containing FirstEnergy's proposed electric security plan ("ESP") on several grounds. The Companies' alleged urgency for the Commission to render a decision by May 2, 2012 in this case,<sup>1</sup> in order for the Companies to be able to bid their energy efficiency and peak demand reduction resources into the May 7, 2012 PJM base residual auction ("BRA"), could have been handled in a timely manner in other cases outside of an ESP. Furthermore, the benefits for consumers of moving to a three year product in the next auction are speculative and uncertain. The Stipulation as a package saddles consumers with significant costs, and therefore as a whole does not benefit consumers. The package that has been presented for Commission consideration is not, as described in my analysis, more favorable in the aggregate than the expected results from an MRO to establish SSOs for retail customers. If the Commission decides to approve the ESP, which I do not recommend, then my recommendation is that the Commission modify the proposed ESP by: 1) removing both the proposed Delivery Capital Recovery Rider ("Rider DCR") provision of the ESP and the distribution rate case stay out provision in paragraph B.1. of the Stipulation; 2) removing the provision allowing the Companies to collect lost distribution revenues (paragraph E.3. of the Stipulation); 3) modifying the auction to implement no more than a two year product, as recommended in the testimony of OCC witness James Wilson; and 4) requiring the impact of deferred carrying charges be included in the calculation of FirstEnergy's return on equity

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<sup>1</sup> Application at 3.



1 for the purposes of the significantly excessive earnings test (“SEET”), as  
2 recommended in the testimony of OCC witness Dr. Daniel Duann.  
3

4 **III. EVALUATION OF THE STIPULATION AND RECOMMENDATION**  
5 **WITH RESPECT TO THE THREE-PRONG TEST USED BY THE**  
6 **COMMISSION.**  
7

8 ***Q9. WHAT CRITERIA DOES THE COMMISSION USUALLY RELY UPON FOR***  
9 ***CONSIDERING WHETHER TO ADOPT STIPULATIONS?***

10 ***A9.*** It is my understanding that the Commission will adopt a Stipulation only if it  
11 meets all of the following three criteria:

- 12 1. The settlement is a product of serious bargaining among  
13 capable, knowledgeable parties.
- 14 2. The settlement package does not violate any important  
15 regulatory principles or practices.
- 16 3. The settlement as a package benefits ratepayers and the  
17 public interest.<sup>2</sup>

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<sup>2</sup> Consumers Counsel v. Public Util. Comm., (1992), 64 Ohio St. 3d 123, 125.

1    ***Q10. WHICH OF THOSE CRITERIA DOES THE STIPULATION AND***  
2    ***RECOMMENDATION FILED IN THIS CASE VIOLATE?***

3    ***A10.*** The Stipulation is problematic with respect to elements of all three criteria  
4       considered by the Commission when evaluating a stipulation, and therefore  
5       should be rejected by the Commission. I will treat each of the tests individually.

6  
7       **A.     The Stipulation violates aspects of the Commission's first criterion.**

8  
9    ***Q11. IN YOUR OPINION WAS THE STIPULATION A PRODUCT OF SERIOUS***  
10   ***NEGOTIATION AMONGST ALL PARTIES?***

11   ***A11.*** No. Based on all the evidence I have seen and discussions held with other non-  
12       signatory parties, the time spent negotiating was short and supporting documents  
13       were lacking. The shortness of the negotiation is acknowledged in a vague way  
14       by Companies' witness Ridmann, "[o]ver the past several weeks, the Companies  
15       and all the parties in Case No. 10-388-EL-SSO have engaged in a broad range of  
16       ESP discussions related to extending the current ESP...."<sup>3</sup> This is the first  
17       Stipulation that I have been involved in where the parties to the case did not meet  
18       together as a group even once before the filing of the Stipulation. Therefore, there  
19       was no opportunity to hear the views of other parties and more importantly, object  
20       and negotiate more favorable terms to benefit their clients' interest. This  
21       negotiation was pressed upon parties at a busy time when major cases were filed  
22       and going to hearing.

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<sup>3</sup> Direct Testimony of William Ridmann, page 11 (April 13, 2012) ("Ridmann Direct").

1 Furthermore, consideration of whether compliance with the first prong is satisfied  
2 should include not only a review of who signed the Stipulation but who did not  
3 sign and the reasons that they did not sign. The parties invited to individual  
4 negotiations with the Companies that led to the filing of the ESP, were the parties  
5 to the prior ESP. Therefore, some interested parties to the matters raised in this  
6 case, who did not participate in FirstEnergy's prior ESP (such as AEP Retail and  
7 the Sierra Club), were excluded from the negotiations, and their perspectives  
8 could not be reflected in the Stipulation's results.

9  
10 Finally, the Stipulation was filed on the same day that the case was created in the  
11 PUCO's public docket by the filing of FirstEnergy's Application. Sixteen parties  
12 who did not sign the Stipulation have intervened since then.<sup>4</sup> A fairer process for  
13 all interested parties would have been for the Companies to have filed an  
14 Application, allowing time for intervention by interested parties, before  
15 negotiating and signing a settlement.

16  
17 ***Q12. WHAT IS YOUR VIEW CONCERNING THE DIVERSITY OF PARTIES***  
18 ***THAT HAVE EXECUTED THE STIPULATION AND***  
19 ***RECOMMENDATION?***

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<sup>4</sup> These Parties and the dates they intervened are as follows: The Office of the Ohio Consumers' Counsel, Interstate Gas Supply, Inc., Exelon Generation Company, LLC, Constellation NewEnergy, Inc, Natural Resources Defense Council. (April 16, 2012), Direct Energy Services, LLC, Direct Energy Business, LLC, Dayton Power and Light Company, Northeast Ohio Public Energy Council, Northwest Ohio Aggregation Coalition (April 18, 2012), AEP Retail Energy Partners, (April 20, 2012), The Sierra Club (April 23, 2012), Ohio Power Company, Ohio Environmental Council (April 25, 2012), Retail Energy Supply Association (April 27, 2012), Cleveland Municipal School District (May 3, 2012).

1 **A12.** Mr. Ridmann emphasizes the “broad range of interests” represented by the  
2 signatories to the Stipulation.<sup>5</sup> But he does not state that there is a broad  
3 residential interest represented in the Stipulation. Without a signatory party that  
4 represents all residential customers, by far the largest number of the Companies’  
5 customers, the Stipulation fails to include signatories representing the interests of  
6 most of FirstEnergy’s customers and thus fails to meet the first prong of the  
7 Commission’s standard for judging partial settlements. For example, the  
8 residential customers will be partly responsible for paying for the increased Rider  
9 DCR costs that will result from the Stipulation.

10  
11 The Stipulation provision addressing Rider DCR alone will increase FirstEnergy’s  
12 collection of the distribution charges from customers by up to \$405 million during  
13 the term of the ESP 3. As stated earlier, Mr. Ridmann does not allege that  
14 FirstEnergy’s residential customers interests can be adequately represented by the  
15 Cleveland Housing Network, The Empowerment Center and the Consumer  
16 Protection Association. FirstEnergy’s response to NOAC’s discovery shows that  
17 those three entities have obtained an agreement not included in the Stipulation for  
18 an annual \$ 1.4 million fuel fund contribution for low income consumers (for  
19 years 2012-2016).<sup>6</sup> It should be noted that the Cleveland Housing Network is also

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<sup>5</sup> Ridmann Direct, page 11.

<sup>6</sup> See Companies’ response to NOAC Set 1 – Interrogatory No. 1. Attached hereto as Attachment 1.

1 a board member of another signatory party -- Ohio Partners for Affordable Energy  
2 (“OPAE”).<sup>7</sup>

3 In summary, a Stipulation that does not include the signatory party that represents  
4 all residential customers fails to meet the first prong of the Commission’s  
5 standard for judging partial settlements.

6

7 **B. The Stipulation violates the Commission’s second criterion.**

8

9 ***Q13. DOES THE STIPULATION VIOLATE ANY IMPORTANT REGULATORY***  
10 ***PRINCIPLE OR PRACTICE?***

11 ***A13.*** Yes. Commission approval is requested in the Stipulation on some matters that  
12 are against the PUCO’s principles and practices. An approval of the rates  
13 contained in the Stipulation would not comport with the state policy to “[e]nsure  
14 the availability to consumers of ... reasonably priced retail electric service” found  
15 in R.C. 4928.02(A), or with the statutory requirement in R.C. 4905.22 that  
16 utilities’ rates be just and reasonable.<sup>8</sup> My testimony will address Rider DCR,  
17 Rider DSE-1 (concerning ELR and OLR) and DSE-2 (concerning lost distribution  
18 revenues).

19

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<sup>7</sup> <http://www.ohiopartners.org/index.php?page=board-members>. OPAE is a 501(c)(3) nonprofit membership organization made up of 60 member agencies mainly providing for low income weatherization and energy efficiency.

<sup>8</sup> R.C. 4928.02(A) and R.C. 4905.22.

1 **Q14. CAN YOU PROVIDE OTHER EXAMPLES OF SUCH A VIOLATION OF A**  
2 **REGULATORY PRACTICE OR PRINCIPAL?**

3 **A14.** Yes. An important one is the Stipulation's violation of Ohio law and Commission  
4 rules governing ample discovery rights<sup>9</sup> and failing to provide for thorough and  
5 adequate preparation for participation in Commission proceedings<sup>10</sup> in its support  
6 of an unreasonable timeline included in the Companies' Application.<sup>11</sup> Another is  
7 found in the SEET provision as addressed by Dr. Duann in his Direct Testimony,  
8 which violates Commission precedent on this issue.<sup>12</sup>

9  
10 **Q15. WHAT PROCESS HAS BEEN ESTABLISHED UNDER OHIO LAW FOR**  
11 **REVIEW OF STANDARD SERVICE OFFER APPLICATIONS UNDER AN**  
12 **ESP?**

13 **A15.** It is my understanding that the law provides that the "commission shall issue an  
14 order . . . for an initial application under this section not later than one hundred  
15 fifty days after the application's filing date and, for any subsequent application by  
16 the utility . . . , not later than *two hundred seventy-five days* after the application's  
17 filing date."<sup>13</sup> The time line of 275 days would apply to FirstEnergy's  
18 Application in this case.

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<sup>9</sup> R.C. 4903.082.

<sup>10</sup> OAC 4901-1-16(A).

<sup>11</sup> Application at 3, "Time is of the essence; the Commission must act quickly on this Application by May 2, 2012...." See Stipulation at 43.

<sup>12</sup> Stipulation at 23-24.

<sup>13</sup> R.C. 4928.143(C)(1) (emphasis added).

**Q16. HAS THE COMMISSION TAKEN ADVANTAGE OF THE TIME  
ALLOTTED FOR REVIEW OF AN ESP PROPOSAL?**

**A16.** No, the timeline in this case is unreasonable. The timeline proposed by customer parties in an interlocutory appeal dated April 24, 2012 would have provided a more reasonable, albeit still expedited, timeline. The Companies filed both their Application and the Stipulation on April 13, 2012. The Attorney Examiner issued an Entry on April 19, 2012, establishing a procedural schedule in this case that, among other things, set May 4, 2012 as the date that non-signatory parties were required to file testimony (20 days after the Application was filed), and set May 21, 2012 as the commencement of the evidentiary hearing (37 days after the Application was filed). The Attorney Examiner subsequently granted an extension in a May 2, 2012 Entry. The extension provided for non-signatory testimony to be filed on May 21, 2012 (38 days after the Application was filed), and commencement of the evidentiary hearing was continued until June 4, 2012 (52 days after the Application was filed). While 275 days may be an outside boundary for resolving an ESP case, assuming a two-week hearing and seven-week briefing schedule (four weeks for Initial Post-Hearing Briefs and three weeks for Reply Briefs), the Commission would be in position to begin deciding this case in early August. Under the time allotted pursuant to R.C. 4928.143(C)(1), the expiration of the 275-day period would be the middle of January, 2013 -- five months after it is anticipated the Commission will begin deciding this case under this expedited timeline. The expedited procedural schedule means parties have less time for discovery and less time to develop

evidence and information for the Commission to judge the case. The rationale used by the Companies to support this haste and rush to judgment was unreasonable.

***Q17. WHAT RATIONALE DID FIRSTENERGY OFFER FOR AN EXPEDITED APPROVAL OF THIS CASE?***

***A17.*** The Companies stated in their Application that “[t]ime is of the essence; the Commission must act quickly on this Application by May 2, 2012 as such expedited approval, as discussed more fully in the Stipulation, is expected to permit the Companies to bid demand response resources and PJM-qualifying energy efficiency resources into the 2015/2016 PJM Base Residual Auction (‘BRA’) commencing on May 7, 2012. If approval cannot be achieved by May 2, 2012, approval should be granted no later than June 20, 2012, which would be too late to bid demand response resources and energy efficiency resources into the 2015/2016 PJM BRA on May 7, 2012, but should still permit adequate time to implement changes to the competitive bidding process for a three year bid period to take advantage of historically low market prices for wholesale electric generation, all to the benefit of customers.”<sup>14</sup>

***Q18. DO YOU FIND THE COMPANIES’ RATIONALE FOR REQUESTING AN EXPEDITED PROCESS IN THIS CASE TO BE REASONABLE?***

***A18.*** No. The Companies requested an expedited procedural schedule in order to allow

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<sup>14</sup> Application at 3.



1       them to bid energy efficiency resources and peak demand response resources into  
2       the May 7, 2012 base residual auction. However, the Attorney Examiner's Entry  
3       established the May 21, 2012 evidentiary hearing date which is later than the  
4       BRA. That leaves the Companies to their own volition as to whether or not they  
5       choose to bid the energy efficiency resources into the BRA. Moreover, the June  
6       20, 2012 date that FirstEnergy requested for a PUCO ruling in the case is a full  
7       four months before the October auction in which FirstEnergy intends to  
8       implement a change to the competitive bidding process -- moving from a one-year  
9       auction to a three-year auction. The competitive retail suppliers are very familiar  
10      with the auction process, and can quickly adapt to this proposed change to the  
11      auction process. Thus, the four-month education/acclimation period that is used  
12      as a basis to limit the time line in this case is unreasonably excessive. In addition,  
13      because the Companies required the extension of their Economic Load Response  
14      ("ELR") and Optional Load Response ("OLR") tariffs in order to take the  
15      necessary ownership of peak demand response resources, there was never any  
16      chance that those resources would be bid into the BRA. Finally, the Companies'  
17      energy efficiency and peak demand provisions of the Stipulation either could have  
18      been handled in other cases, such as the 12-814-EL-UNC case,<sup>15</sup> or the Companies

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<sup>15</sup> See April 23, 2012 Reply to FirstEnergy's Memorandum Contra Regarding the Joint Motion to Bifurcate Issues by the Environmental Law and Policy Center, Natural Resources Defense Council, Northeast Ohio Public Energy Council, Northwest Ohio Aggregation Coalition, Office of the Ohio Consumers' Counsel and Sierra Club.

1 could have initiated discussions earlier in their ongoing 2013-2016 energy  
2 efficiency and peak demand reduction portfolio case filing that is upcoming.

3  
4 ***Q19. HAS THE COMPANIES' APPLICATION COMPLICATED AND LIMITED***  
5 ***THE REVIEW PROCESS FOR PARTIES THAT DID NOT SIGN***  
6 ***FIRSTENERGY'S STIPULATION?***

7 ***A19.*** Yes. On April 13, 2012, the Companies filed their Application and included a  
8 Motion for Waiver of Rules. Subsequently, on April 25, 2012, the Commission  
9 issued an Entry that granted in part and denied in part the waiver request, and  
10 instructed the Companies to file by May 2, 2012 (two days before the non-  
11 signatory parties' testimony was originally due) the following information:  
12 financial projections;<sup>16</sup> information on projected rate impacts;<sup>17</sup> information  
13 regarding the operational support plan;<sup>18</sup> information relating to governmental  
14 aggregation programs;<sup>19</sup> a statement regarding state policy;<sup>20</sup> information  
15 regarding retail shopping;<sup>21</sup> information on alternative regulation mechanisms or  
16 programs relating to distribution service;<sup>22</sup> and information concerning provisions  
17 for economic development, job retention, and energy efficiency programs.<sup>23</sup> The

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<sup>16</sup> Ohio Adm. Code 4901:1-35-03(C)(2).

<sup>17</sup> Ohio Adm. Code 4901:1-35-03(C)(3).

<sup>18</sup> Ohio Adm. Code 4901:1-35-03(C)(5).

<sup>19</sup> Ohio Adm. Code 4901:1-35-03(C)(6) and (7).

<sup>20</sup> Ohio Adm. Code 4901:1-35-03(C)(8).

<sup>21</sup> Ohio Adm. Code 4901:1-35-03(C)(9)(c).

<sup>22</sup> Ohio Adm. Code 4901:1-35-03(C)(9)(g).

<sup>23</sup> Ohio Adm. Code 4901:1-35-03(C)(9)(h).

1 procedural schedule with its brief extension did not permit sufficient time for an  
2 adequate review of the additional information filed.

3  
4 ***Q20. WERE INTERESTED PARTIES PROVIDED AMPLE RIGHTS OF***  
5 ***DISCOVERY IN THIS CASE?***

6 ***A20.*** No. It is my understanding that Ohio law, R.C. 4903.082, requires that “[a]ll  
7 parties and intervenors shall be granted ample rights of discovery” in proceedings  
8 before the Commission.<sup>24</sup> The April 19 Entry provided for expedited discovery,  
9 with responses due ten days after service of discovery.<sup>25</sup> But the consequence of  
10 the procedural schedule was that intervening parties have been limited in their  
11 ability to conduct follow up discovery on initial and later responses. Such follow-  
12 up discovery can be important, whether the respondent to the discovery is  
13 cooperative with the requests or not.<sup>26</sup> The parties should have been provided an  
14 opportunity to repeat several or more sequences of discovery in order to provide  
15 “ample rights of discovery.” Unfortunately, the Companies pressed the  
16 Commission to limit the time for this case, which limits the time for case  
17 preparation by parties who did not sign FirstEnergy’s Stipulation.

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<sup>24</sup> R.C. 4903.082.

<sup>25</sup> Entry at 3, (7) (April 19, 2012).

<sup>26</sup> For example, in response to OCC’s first set of discovery the need for a protective agreement was cited by the Companies, which requires additional time to execute.

***Q21. WHY SHOULD THE COMMISSION BE CONCERNED WITH A  
PROCEDURAL SCHEDULE THAT DOES NOT PROVIDE INTERESTED  
PARTIES ADEQUATE TIME TO PREPARE?***

***A21.*** It is my understanding that the Commission's rule, OAC 4901-1-16(A), notes that the discovery rules are intended to provide for "thorough and adequate preparation for participation in commission proceedings." Such preparation allows for parties in PUCO cases to be able to present to the Commission recommendations and positions that are based on information and data obtained through the discovery process. Information is key for Commission decision-making, as the Commission recently recognized in a decision in another electric security plan case:

In the Opinion and Order, the Commission recognized that these rate impacts may be significant, based upon evidence indicating that total bill impacts may, in some cases, approach 30 percent.

However, the evidence in the record inadvertently failed to present a full and accurate portrayal of the actual bill impacts to be felt by customers, particularly with respect to low load factor customers who have low usage but high demand.<sup>27</sup>

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<sup>27</sup>*In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan ("AEP ESP Case"), Case No. 11-346-EL-SSO, et al, Entry on Rehearing at 11 (February 23, 2012).*

1 To assure the Commission has a full and accurate presentation of the issues  
2 presented in this case -- a case affecting 1.9 million residential customers --  
3 FirstEnergy should not have been pressing the Commission for the inadequate  
4 timeline that it did. Instead, the timeline should have ensured that all parties and  
5 intervenors were provided a procedural schedule that granted adequate time to  
6 inquire into and review FirstEnergy's filings with ample rights of discovery. In  
7 this case, the non-signatory parties were not provided enough time for either and  
8 not provided enough time for thorough and adequate preparation. There should  
9 have been more time between the denial of the Companies' waiver requests and  
10 the evidentiary hearing to provide for ample discovery rights and thorough and  
11 adequate preparation in accordance with Ohio law.

12  
13 ***Q22. HAS THE EXPEDITED PROCEDURAL SCHEDULE IMPACTED THE***  
14 ***ABILITY OF NON-SIGNATORY PARTIES SUCH AS OCC TO PREPARE***  
15 ***FOR A HEARING IN THIS CASE?***

16 ***A22.*** Yes. First, the ESP 3 Application and Stipulation were filed in the middle of an  
17 unusually busy time at the Commission. There were pending the AEP ESP case,<sup>28</sup>  
18 the AEP capacity charge case,<sup>29</sup> DP&L MRO case,<sup>30</sup> and various other  
19 proceedings. Second, the expedited timeline did not allow sufficient time to  
20 conduct ample discovery. Finally, the Commission's good decision to deny

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<sup>28</sup> *In re AEP ESP Case*, Case No. 11-346-EL-SSO, et al.

<sup>29</sup> *In re AEP Capacity Charge Case*, Case No.10-2929-EL-UNC.

<sup>30</sup> *In re DP&L ESP II Case*, Case No. 12-426-EL-SSO.

1 certain of FirstEnergy's waiver requests resulted in a voluminous amount of  
2 material being filed less than three weeks before non-signatory parties' testimony  
3 was to be filed. All these factors compromised the ability of interested parties to  
4 prepare for a hearing in this proceeding. Furthermore, as discussed above, the  
5 rationale that the Companies' gave to the Commission for requesting the  
6 expedited procedural schedule was not a compelling reason for their request to  
7 expedite the schedule of this case.

8  
9 **C. The Stipulation violates aspects of the Commission's third criterion.**

10  
11 ***Q23. DOES THE SETTLEMENT AS A PACKAGE BENEFIT CUSTOMERS AND***  
12 ***THE PUBLIC INTEREST?***

13 ***A23.*** No. Companies' witness Ridmann provides in his testimony a table purporting to  
14 show that the ESP compared to the MRO has a net benefit to customers on a  
15 present value basis of \$201 million.<sup>31</sup> On the quantification of factors considered  
16 by Mr. Ridmann, the net "benefit" of the ESP compared to the MRO in my  
17 analysis is *negative*, meaning the ESP is a net detriment and not a benefit. It is  
18 my understanding that Ohio law places the burden of proof on FirstEnergy to

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<sup>31</sup> Ridmann Direct, WRR Attachment 1.

1 demonstrate that its ESP is more favorable in the aggregate than an MRO.<sup>32</sup> In  
2 my opinion, the Companies have not shown that their ESP is more favorable in  
3 the aggregate than an MRO. In addition, there are other negative features of the  
4 Stipulation that are more difficult to quantify, but should be considered in making  
5 the comparison. The specifics of my analysis and conclusions are detailed below.

6

7 ***Q24. CAN YOU PROVIDE ANOTHER EXAMPLE OF SUCH A BREACH OF***  
8 ***THE COMMISSION'S SETTLEMENT STANDARD?***

9 ***A24.*** Yes. OCC witness Jim Wilson discusses the failure of certain aspects of the  
10 Stipulation as a package to benefit customers and to be in the public interest.

11

12 ***Q25. WHAT IS YOUR RECOMMENDATION REGARDING THE STIPULATION?***

13 ***A25.*** As I argued above, the Stipulation violates aspects of all three criteria that the  
14 Commission relies upon when reviewing a Stipulation. Therefore, the  
15 Commission should reject this Stipulation. Further, the Stipulation would not  
16 result in an ESP that is “more favorable in the aggregate,” under  
17 R.C.4928.143(C)(1), as compared to the expected results that would otherwise  
18 apply under an MRO.

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<sup>32</sup> R.C. 4928.143(C)(1): “The burden of proof in the proceeding shall be on the electric distribution utility. \* \* \* the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, **is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142** of the Revised Code. Additionally, if the commission so approves an application that contains a surcharge under division (B)(2)(b) or (c) of this section, the commission shall ensure that the benefits derived for any purpose for which the surcharge is established are reserved and made available to those that bear the surcharge. Otherwise, the commission by order shall disapprove the application.” (Emphasis added).

**IV. THE ESP IS NOT MORE FAVORABLE IN THE AGGREGATE THAN AN MRO.**

***Q26. DO YOU AGREE WITH THE QUANTITATIVE ASSESSMENT OF NET BENEFITS PROVIDED BY COMPANIES' WITNESS RIDMANN?***

***A26.*** No. Witness Ridmann has produced a highly selective benefit-cost analysis in WRR Attachment 1 in his Direct Testimony which overstates the benefits of the Stipulation to consumers. As I will demonstrate, my analysis of the Stipulation reveals that customers stand to lose a minimum of from \$7 to \$16 million in the proposed ESP over the term of the Stipulation in comparison to an SSO option provided under a MRO. Thus, the ESP does not in the aggregate benefit consumers as compared to an MRO.

***Q27. PLEASE EXPLAIN HOW YOU REACHED THE CONCLUSION THAT THE STIPULATION AND RECOMMENDATION DOES NOT IN THE AGGREGATE QUANTITATIVELY BENEFIT CONSUMERS.***

***A27.*** I find fault with the major provisions in FirstEnergy's ESP analysis when comparing the ESP to an MRO for the following reasons: (1) The proposed Rider DCR that would increase distribution rates to residential customers more than if the Companies filed rate cases; (2) The savings from regional transmission organization ("RTO") transmission expansion planning costs that are double-counted; and (3) The discounted Percentage of Income Payment Plan ("PIPP") Auction is not a benefit unique to an ESP, as witness Ridmann claims.



1           **A.       Rider DCR harms customers in the aggregate more so than**  
2                           **alternatively filed rate cases.**  
3

4   ***Q28.   WHAT IS YOUR EVALUATION OF THE PROPOSED ESP 3 FROM A***  
5           ***DISTRIBUTION PERSPECTIVE?***

6   ***A28.*** According to the Companies' own testimony, Rider DCR contained in the  
7           Stipulation is less beneficial to customers (i.e., more costly to customers) than if  
8           the Companies sought to increase rates through a fully litigated distribution rate  
9           case. Companies' witness Ridmann's WRR Attachment 1 lists collection from  
10          customers of \$405.0 million over two years through Rider DCR whereas the same  
11          attachment lists the collection of \$376.0 million if FirstEnergy filed a separate  
12          distribution rate case. According to witness Ridmann, the \$29.0 million net cost  
13          attributed to this element of the ESP in comparison to the MRO is due to the lag  
14          in distribution cost recovery because of two assumed distribution rate cases with  
15          date certain of August 2013 and 2014, respectively.<sup>33</sup>  
16

17          This is a conservative estimate of savings attributed to the result of an MRO, as a  
18          distribution rate case would afford all parties and the PUCO an extensive period  
19          to review any rate increase request, including inquiries in discovery, the  
20          consideration of expert testimony, and the presentation of argument by all

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<sup>33</sup> Ridmann Direct at 18. Both Companies' Witness Ridmann in his Supplemental Testimony (page 7) and Staff witness Fortney in his Prefiled Testimony (page 5) cite the Commission's December 14, 2011 O&O in the AEP ESP cases (11-346 and 11-348) to dismiss the regulatory lag dollar impacts in WRR1. They fail to mention that the Commission has rescinded that order in their February 23, 2012 Entry on Rehearing where they state on page 12, "[t]hus, we find that the Stipulation must be rejected and the application, as modified by the Stipulation, must be disapproved."

1 affected persons to assure that the resulting distribution rates approved by the  
2 Commission are just and reasonable.<sup>34</sup> For example, this deliberative process in  
3 the last FirstEnergy distribution rate case considered an application filed in June  
4 2007 and resulted in a Commission order in January 2009. In the past, such a  
5 deliberative process has most often led to an eventual reduction of the  
6 Companies' original rate increase request. The distribution rate case filed in 2007  
7 -- the first in a decade for each company -- requested \$340 million in annual rate  
8 increases. The Commission awarded \$137 million in annual rate increases,<sup>35</sup> and  
9 even that increase included amounts not normally awarded in rate cases according  
10 to standard regulatory principles and practices.<sup>36</sup> Finally, any benefit of the  
11 "additional two-year distribution rate increase 'stay out' ..." benefit touted by  
12 Staff witness Fortney has to be tempered by the \$405 million in additional  
13 revenues provided through the DCR provision in the Stipulation.<sup>37</sup>

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<sup>34</sup> R.C. 4909.15.

<sup>35</sup> *In re FirstEnergy 2007 Distribution Rate Case*, Case No. 07-551-EL-AIR, Order at 48, paragraph (23) (January 21, 2009).

<sup>36</sup> The Order in *In re FirstEnergy RCP Case*, Case No. 05-1125-EL-ATA, at 9 (January 4, 2006) stated:

[W]e find that *exigent circumstances exist* to deviate in a controlled way from the above stated public utility regulatory principles. \* \* \* We are mindful that such deferrals must be scrutinized to assure that the costs to be deferred are reasonable, appropriately incurred, clearly and directly related to specifically necessary infrastructure improvements and reliability needs of the Companies, and in excess of expense amounts already included in the rate structures of each of the Companies. We will approve the deferral concept in this case premised upon the understanding that the expenses related to infrastructure improvement and the increased expenses for maintenance of infrastructure and reliability will yield necessary improvements that otherwise would have been realized, for company financial reasons, over a much longer period of time.

(Emphasis added.) This 2006 Order resulted in the increased distribution rates above those that would have otherwise been approved in the 2007 distribution rate case. *In re FirstEnergy 2007 Distribution Rate Case*, Case No. 07-551-EL-AIR, Order, at 11 (January 21, 2009). No claim of "exigent circumstances" has been made that would provide similar increases in a newly filed rate case.

<sup>37</sup> Prefiled Testimony of Robert B. Fortney at 3 (May 7, 2012).

1   ***Q29. ARE THERE ANY RELIABILITY IMPROVEMENT TARGETS SPECIFIED***  
2       ***IN PARAGRAPH B.2. OF THE STIPULATION?***

3   ***A29.*** No. I reviewed paragraph B.2. of the Stipulation, and it does not appear that the  
4       Companies have specified any enhanced future reliability improvement targets to  
5       benefit customers, nor provided any evidence assessing the reliability benefit as  
6       required in R.C. 4928.143(B)(2)(h).<sup>38</sup>

7  
8   ***Q30. HOW ARE ELECTRIC RELIABILITY PERFORMANCE STANDARDS***  
9       ***ESTABLISHED IN OHIO?***

10   ***A30.*** Electric utility reliability standards are determined pursuant to OAC 4901:1-10-  
11       10. The two primary performance standards are the customer average interruption  
12       duration index (“CAIDI”) and the system average interruption frequency index  
13       (“SAIFI”). SAIFI reflects the average number of outages customers experience  
14       annually and CAIDI reflects the average duration of outages. In filing  
15       applications to establish reliability standards, the electric utilities have the burden  
16       to prove and justify the reliability standards that are being proposed by  
17       considering a number of factors including “historical system performance, system  
18       design, technological advancements, service area geography, customer perception  
19       survey results....”<sup>39</sup>

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<sup>38</sup> “... As part of its determination as to whether to allow in an electric distribution utility’s electric security plan inclusion of any provision described in division (B)(2)(h) of this section, the commission shall examine the reliability of the electric distribution utility’s distribution system and ensure that customers’ and the electric distribution utility’s expectations are aligned and that the electric distribution utility is placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system.”

<sup>39</sup> OAC 4901:1-10-10(B)(4)(a).

1 **Q31. CAN YOU DESCRIBE THE RELATIONSHIP BETWEEN THE**  
2 **FIRSTENERGY RELIABILITY PERFORMANCE STANDARDS AND THE**  
3 **DELIVERY SERVICE IMPROVEMENT (DSI) RIDER THAT WAS PART OF**  
4 **THE INITIAL ESP?**

5 **A31.** In Case No. 08-935-EL-SSO, the Commission authorized the Companies to assess  
6 charges in the form of a DSI on customer bills for the purpose of improving the  
7 overall performance of the distribution system, including its reliability.<sup>40</sup> In  
8 establishing the reliability performance standards for the FirstEnergy Companies'  
9 in Case No. 09-759-EL-ESS, there was consideration of the additional distribution  
10 system investments that were being made by the Companies over the initial three-  
11 year period of the ESP. OCC sought to ensure that customers would obtain  
12 benefit in quantifiable improvements in the reliability standards as a result of the  
13 additional investments. To help ensure that this would happen, agreement was  
14 reached with the PUCO Staff and the Companies for FirstEnergy to file a  
15 reliability performance application no later than 2014.<sup>41</sup>

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<sup>40</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Second Opinion and Order at 11-12 (March 25, 2009).

<sup>41</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of Proposed Reliability Standards*, Case No. 09-759-EL-ESS, Stipulation and Recommendation, at 7-8 (November 10, 2010).

1   ***Q32. IS THE DSI IN THE FIRST ESP SIMILAR TO THE DELIVERY CAPITAL***  
2   ***RECOVERY RIDER IN THE SUBSEQUENT ESPS?***

3   ***A32.*** Yes. In that they both expedited collection of distribution capital cost for  
4   reliability purposes. The ESP 2 allowed for the collection of up to \$390 million  
5   over three years.

6  
7   ***Q33. ARE THERE ANY ISSUES WITH STAFF WITNESS BAKER'S***  
8   ***ASSESSMENT CONCERNING THE RELIABILITY OF THE***  
9   ***FIRSTENERGY DISTRIBUTION SYSTEMS?***

10   ***A33.*** Yes. Continuation of the DCR rider through the ESP 3 is problematic given that  
11   FirstEnergy has committed to file an Application for revising reliability standards  
12   in 2014. Until that Application is filed and that case is resolved, it is not clear  
13   whether the additional \$405 million distribution system investments are  
14   improving reliability performance in a cost-effective manner. Companies'  
15   witness Brad Ewing, in a prior case, made this reliability benefit-cost argument  
16   convincingly:

17           It is necessary for each of the Companies to strike a balance  
18           between the responsibility to provide adequate electric service and  
19           the need to do so at an acceptable cost to customers. Improving  
20           reliability by just one hundredth of a percent would require  
21           significant expenditures over and above those now required simply  
22           to maintain the distribution system. CEI could rebuild its electrical  
23           system to greatly reduce line and equipment failures at an

1           estimated cost of \$3 billion. But customers are unlikely to approve  
2           such an expense -- the benefit to customers would simply be  
3           dwarfed by the cost.<sup>42</sup>

4  
5           In addition, Mr. Baker assumes that customers' expectations for reliability are  
6           currently aligned with the Companies'. However, Mr. Baker appears to rely on  
7           eight year old customer surveys that were conducted by FirstEnergy in 2004. In  
8           addition, the reliability targets that Mr. Baker touts as the level where customers'  
9           and Companies' interests are aligned, based on the 2011 actual results, have been  
10          significantly improved upon.<sup>43</sup> It would be purely speculative for Mr. Baker to  
11          assume in 2012 that customer expectations concerning reliability will be the same  
12          three or four years from now when the ESP 3 is in effect, or that the additional  
13          spending contemplated under ESP 2 and ESP3 to further improve reliability is  
14          warranted or supported by FirstEnergy's customers. It is my understanding on the  
15          advice of counsel that prior to approving any distribution investment rider as part  
16          of the ESP 3, the Commission is statutorily obligated to make a determination if  
17          customers' and the Companies' expectations concerning reliability are aligned.<sup>44</sup>  
18          The information that is needed to make this determination will be available in  
19          2014 when FirstEnergy fulfills its commitment to file an updated reliability  
20          standards Application.

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<sup>42</sup> *In re First Energy Reliability Case*, Case No. 09-759-EL-ESS, Direct Testimony of Brad Ewing at 2-3 (November 1, 2010).

<sup>43</sup> Prefiled Testimony of Peter K. Baker at 5 (May 7, 2012).

<sup>44</sup> R.C. 4928.143(B)(2)(h).

1           **B.       The savings from the RTEP issue were an obligation the Companies**  
2                   **agreed to in FirstEnergy's prior ESP Case and should not be counted**  
3                   **again in this case.**

4  
5   ***Q34. DO YOU AGREE WITH MR. RIDMANN'S TREATMENT OF THE***  
6   ***SAVINGS FROM THE RTEP ISSUE IN THIS CASE?***

7   ***A34.*** No. The Companies agreed in the previous ESP Case to not charge customers the  
8       legacy RTEP costs (\$360 million) for the longer of a five-year period or up to a  
9       certain dollar cap.<sup>45</sup> The five-year term and the dollar cap did not change between  
10      FirstEnergy's last ESP and the Stipulation in this Case. It is inappropriate for Mr.  
11      Ridmann to double-count those same RTEP benefits to justify the ESP 2 and to  
12      again justify the ESP 3. Therefore, in "Case I" of my comparison of the ESP and  
13      the MRO (Exhibit WG-2), I made one significant adjustment to the Companies'  
14      net benefits table. I eliminated all the RTEP estimated savings (\$293.7 million)  
15      from WRR Attachment 1. This follows directly from paragraph C.6. of the  
16      Stipulation, which was negotiated in the stipulation in FE ESP 2 and is being  
17      carried forward in this case. The paragraph states:

18               The Companies collectively agree to not seek recovery through  
19               retail rates from Ohio retail customers of Legacy RTEP Costs for  
20               the longer of: (1) the five year period from June 1, 2011 through  
21               May 31, 2016 or (2) when a *total of \$360 million of Legacy RTEP*

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<sup>45</sup> Paragraph 6 of Section C in Second Supplemental Stipulation in Case No. 10-388-EL-SSO, July 22, 2010.

1           *Costs has been paid for by the Companies* and has not been  
2           recovered by the Companies in the aggregate through retail rates  
3           from Ohio retail customers. If FERC issues an order or there is an  
4           appellate decision that results in the ATSI zone avoiding  
5           responsibility for payment of Legacy RTEP Costs on a load ratio  
6           share basis such that Ohio retail customers of the Companies avoid  
7           at least \$360 million of such Legacy RTEP Costs, all obligations of  
8           the Companies under this Agreement with respect to Legacy RTEP  
9           costs will be satisfied. Consistent with Section C.2 of the  
10          Stipulation and Recommendation and subject to this paragraph 6,  
11          the Companies may recover in retail rates all RTEP costs billed by  
12          PJM to ATSI commencing June 1, 2016. (Emphasis added.)

13  
14          The up to \$360 million in RTEP savings was a benefit in the FE ESP 2 case and  
15          should not be claimed again as a benefit in this case. These RTEP savings were  
16          used by the Companies to justify that their ESP 2 was on aggregate providing  
17          more benefits than an MRO and cannot be used in this case. The RTEP savings  
18          are not triggered by the Stipulation in this proceeding. This interpretation of the  
19          prior Stipulation is supported by Staff witness Fortney.<sup>46</sup>

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<sup>46</sup> “Simply put, Staff believes that the benefit of this [RTEP] credit was a result of the Commission’s decisions in Case No. 10-388-EL-SSO (ESP2) and is not a direct benefit of ESP 3, thus should not be reflected in the ESP 3 vs. MRO analysis.” Fortney Testimony at 2 (May 7, 2012).



1 Furthermore, the Companies have been charged a mere \$6.1 million in RTEP  
2 costs to date.<sup>47</sup> The Commission should therefore not necessarily accept claims  
3 by FirstEnergy that the value listed in the settlement is the actual benefit to  
4 customers.

5  
6 **C. The PIPP Auction benefit is not unique to the ESP.**

7  
8 ***Q35. DO YOU AGREE WITH MR. RIDMANN'S ANALYSIS OF THE ESP MRO***  
9 ***COMPARISON WITH REGARDS TO THE PIPP AUCTION?***

10 ***A35.*** No. The Stipulation provides for separate treatment of PIPP customers by carving  
11 out their load and sole-sourcing their generation supply through a contract with  
12 FirstEnergy Solutions at a 6 percent discount from the price to compare for these  
13 customers.<sup>48</sup> In Mr. Ridmann's calculation, this arrangement provides a savings  
14 of \$10.4 million over the MRO.<sup>49</sup> However, upon closer review, this arrangement  
15 is not prohibited in an MRO. This point was clearly made by OP&E in its ESP 2  
16 Post Hearing Brief:

17 Ohio law provides the Ohio Department of Development  
18 ("ODOD") with the ability to bid out the PIPP load competitively,  
19 and the stipulation and recommendation filed in this case cannot  
20 waive ODOD's authority. Ohio Revised Code §4928.54 states:

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<sup>47</sup> Companies' Response to OCC Set 1-INT-2, answer to b (Attachment 2). \$6.1 million represents 16.2 percent of the \$37.5 million benefit alleged in ESP 2 for this time period by Companies' witness Ridmann.

<sup>48</sup> Stipulation at 9-10.

<sup>49</sup> WRR Attachment 1.

1 Beginning on the starting date of competitive retail electric service,  
2 the director of development may aggregate percentage of income  
3 payment plan program customers for the purpose of competitively  
4 auctioning the supply of competitive retail electric generation  
5 service to bidders certified under section 4928.08 of the Revised  
6 Code. The objectives of the auction shall be to provide reliable  
7 retail electric generation service to customers based on selection  
8 criteria that the winning bid provide the lowest cost and best value  
9 to customers.

10  
11 Given that this provision is in statute, the Commission has no  
12 authority to ignore it, a fact that the stipulation recognizes by  
13 actually citing the law as quoted above.<sup>50</sup>

14  
15 Because the very same outcome achieved for PIPP customers -- a 6 percent  
16 discount in the FE ESP 3 proposal -- could have been achieved in an MRO case, it  
17 is therefore inappropriate for the Companies to include the PIPP benefit in WRR  
18 Attachment 1 to support the conclusion that the ESP 3 is in the aggregate more  
19 beneficial to consumers than an MRO.

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<sup>50</sup> Case No. 10-388-EL-SSO, OPAE Post Hearing Brief, at 3 (April 30, 2010).

**Q36. DID THE COMPANIES SOLICIT ALL MARKETERS WHO ARE PARTIES TO THE CASE TO SEE WHETHER THEY WOULD BE WILLING TO OFFER A GREATER DISCOUNT?**

**A36.** No. It is therefore not known whether another marketer not included in the negotiations, such as AEP Retail, could have provided a lower discount than 6 percent, further reducing the benefits of this provision of the ESP. In fact, IGS and Direct Energy did indicate in their response to OCC discovery that they may have considered competitively bidding for the PIPP load.<sup>51</sup> On this point, the arrangement seems designed to benefit the competitive affiliate of the Companies, FirstEnergy Solutions.

**Q37. CAN YOU SUMMARIZE YOUR FINDINGS AND CONCLUSIONS WITH REGARD TO YOUR COMPARISON OF AN ESP WITH AN MRO?**

**A37.** In my opinion, in the aggregate, the ESP is not more favorable than an MRO. After removing the PIPP Benefit and the RTEP benefit mentioned earlier, I found the MRO to be more favorable in the aggregate than the ESP by \$16 million (\$503 to \$486 million) as demonstrated in “Case 2” found in Exhibit WG-3. Therefore, the ESP fails the “in the aggregate” litmus test, and the Commission should reject the ESP. If, however, the Commission decides to approve the ESP, which I do not recommend, then my recommendation is that the proposed ESP be modified by removing the incremental \$405 million DCR provision of the

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<sup>51</sup> IGS and Direct Energy responses to OCC INT-1. IGS and Direct Energy also responded that they had not been asked by the Companies whether they were interested in bidding on the PIPP load. (IGS and Direct Energy responses to OCC INT-3). Attachment 3.

1 Stipulation to insure that the ESP is better than the MRO. The Companies can file  
2 a distribution rate case per R.C. 4909.18 and R.C. 4909.19 to seek collection of  
3 any additional just and reasonable capital expenditures invested to enhance  
4 reliability on their distribution system.

5

6 ***Q38. ARE THERE OTHER PURPORTED BENEFITS IN THE STIPULATION?***

7 ***A38.*** Yes. Pages 29-38 of the Stipulation contain dollar amounts the Companies will  
8 give to other parties for signing the Stipulation.

9

10 ***Q39. ARE THESE PAYMENTS FROM THE COMPANIES TO SIGNING***  
11 ***PARTIES NET BENEFITS OR GROSS BENEFITS OF THE***  
12 ***STIPULATION?***

13 ***A39.*** They are gross benefits in that these payments are merely transfer payments made  
14 at the expense of other customers who are required to pay either through delta  
15 revenue collection or through collection from the DSE rider.

16

17 ***Q40. WHAT ARE THE NET BENEFITS FOR THE PUBLIC OF PAYMENTS TO***  
18 ***INDIVIDUAL SIGNING PARTIES?***

19 ***A40.*** The answer to that question is unknown. There is no record in this case  
20 demonstrating that the economic benefits of the payments to individual signatory  
21 parties are greater than the economic loss generated by the increased rates charged  
22 by the Companies to all customers. Increased rates lead to less disposable income  
23 for residential customers and increased costs for small and large businesses who

1 will have less income or profit respectfully to hire additional employees or  
2 purchase additional goods and services therefore weakening economic demand.  
3 The Companies have not provided any evidence in the record to answer this  
4 question. They have not provided an economic impact study using a sophisticated  
5 structural model that can incorporate rate impacts on the local economy, such as  
6 Regional Economic Models, Inc.<sup>52</sup> or equivalent models to lend insight to the  
7 question posed. These models are most appropriate in determining the full  
8 economic impact of the transfer payments included in the FirstEnergy ESP.  
9 Therefore, the Companies have not met their burden of proof in answering this  
10 question.

11  
12 ***Q41. WHAT ARE THE QUALITATIVE BENEFITS THAT STAFF WITNESS***  
13 ***FORTNEY RELIES UPON?***

14 ***A41.*** Included in those benefits in Mr. Fortney's testimony are:

- 15 (1) Modifying the bid schedule previously approved in Case  
16 No. 10-388-EL-SSO so that the bids to occur in October,  
17 2012 and January, 2013, will be for a three-year product  
18 rather than a one-year product. Thus, the current lower  
19 market based generation prices will be captured for a  
20 longer period of time that would be blended with  
21 potentially higher market based generation prices, thus  
22 providing rate stability.

---

<sup>52</sup> <http://www.remi.com/>.

- 1                   (2)     The additional two-year distribution rate increase “stay-  
2                                   out” will provide additional rate certainty, predictability  
3                                   and stability for customers.
- 4                   (3)     ESP 3 continues a number of rate options and programs  
5                                   which preserve and enhance the rate options for various  
6                                   customers provided in ESP 2.
- 7                   (4)     Staff has indicated in previous proceedings (the most recent  
8                                   being its comments in the Dayton Power and Light Case,  
9                                   No. 12- 0426-EL-SSO) that “although either an electric  
10                                  security plan or a market rate option would fulfill the  
11                                  obligation under R.C. 4928.141, the electric security plan  
12                                  can offer significant advantages for the Applicant, the  
13                                  ratepayers of the Applicant and the public at large.”<sup>53</sup>

14

15   ***Q42. WHAT IS YOUR RECOMMENDATION REGARDING THESE ALLEGED***  
16   ***QUALITATIVE BENEFITS?***

17   ***A42.*** These alleged benefits are generally qualitative as Mr. Fortney conceded, and it  
18                   could be difficult to assign them a value. So they cannot be factored into the  
19                   quantitative analysis that compares, in the aggregate, the ESP to an MRO. But  
20                   even more importantly, I question whether they should be considered benefits to  
21                   be derived from the Stipulation at all. First, it is extremely uncertain what

---

<sup>53</sup> Fortney Testimony at 3-4.

1       modifying the bid schedule to implement a three-year auction product will yield  
2       in terms of prices for consumers. The Direct Testimony of OCC witness James  
3       Wilson in this case supports the view that the purported benefit of a three-year  
4       auction is not necessarily as claimed. Second, it is disingenuous to argue that  
5       there is a two-year distribution rate increase “stay-out” that will provide  
6       additional rate certainty, predictability and stability for customers, when the  
7       Companies will be authorized to recover up to \$405 million in additional  
8       distribution revenues during the same two-year period under the ESP per the  
9       Stipulation. Third, OCC opposed the Companies’ ESP 2 filing, and does not  
10      agree that continuation of certain rate options such as the Rider DCR, cost  
11      allocation of ELR and the collection of lost revenues as presented in the next  
12      section are beneficial for FirstEnergy residential customers. And finally, the  
13      argument that an ESP “can” provide significant advantages for the Applicant, the  
14      ratepayers of the Applicant and the public at large does not mean that the ESP 3  
15      “will” provide such benefits. In this case, the benefits of the ESP 3 reside  
16      distinctly in favor of the Applicant, and are not in the aggregate more beneficial  
17      than a MRO. For all these reasons, I have determined that in the aggregate the  
18      ESP is not more favorable than an MRO, and therefore, the Commission should  
19      not approve the proposed ESP.

**V. OTHER RECOMMENDED CHANGES TO THE ESP**

***Q43. WHAT IS YOUR VIEW OF THE ENERGY EFFICIENCY PROVISIONS IN THE ESP, INCLUDING ITS PROVISIONS FOR LOST DISTRIBUTION REVENUES?***

***A43.*** Paragraph E.3. of the Stipulation addresses Energy Efficiency and Peak Demand Reduction (“EE/PDR”) induced lost distribution revenues. Generally, lost distribution revenues are those revenues the Companies do not collect because of the implementation of energy efficiency programs. The Stipulation provides that “during the term of the ESP, the Companies shall be entitled to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission. Such lost distribution revenues do not include approved historical mercantile self-directed project[s]. The Signatory Parties agree that the collection of such lost distribution revenues by the Companies after May 31, 2016 is not addressed nor resolved by the terms of this Stipulation.”<sup>54</sup>

***Q44. WHAT CONCERNS DO YOU HAVE REGARDING THE COMPANIES’ PROPOSAL TO COLLECT LOST DISTRIBUTION REVENUES FROM CUSTOMERS?***

***A44.*** My concerns generally stem from the vagueness of the Stipulation language concerning energy efficiency savings and the open-ended nature of the collection

---

<sup>54</sup> Stipulation at 31.



1 period that portend significant rate impacts that will cost money for residential  
2 customers. First, the Stipulation language appears to allow the Companies to  
3 count “all” EE/PDR lost distribution revenue.<sup>55</sup> It does not bind the term “all” to  
4 any limits or constraints under existing PUCO rules in OAC Chapter 4901:1-39,  
5 or to the results of the Draft Technical Reference Manual in Case No. 09-512-GE-  
6 UNC.

7  
8 Second, the open-ended lost revenue collection period proposed in the  
9 Application is excessive and unprecedented when compared to historic  
10 electric utility cases addressing the lost distribution revenue issue and  
11 more recent treatment of this issue. This is especially the case if one  
12 reviews the Commission Order in the first Duke ESP case. Duke’s  
13 collection of lost revenues from customers is “for a period of three years  
14 following program implementation in each vintage year.”<sup>56</sup>

15  
16 The problem arising from FirstEnergy’s proposal is if the lost revenue calculation  
17 is not capped by either a dollar amount or a time period, the balances can grow  
18 quite large. These costs have been provided (partly estimated for Program Year  
19 2012) by the Companies for Program Year 2011 and 2012 as \$16.8 million.<sup>57</sup>

---

<sup>55</sup> Stipulation at 31 (emphasis added). After all the controversy over the Commission’s promulgation of the “Green Rules” (08-888-EL-ORD) and at the Joint Committee on Agency Rule Review concerning the “count all savings” language of R.C. 4928.66, it is disappointing that the term “all” related to distribution lost revenue is not clearly defined in the Stipulation.

<sup>56</sup> Case No. 08-920-EL-SSO, Direct Testimony of Theodore Schultz at 3 (July 31, 2008). Also see Rider DR-SAW referenced in his testimony.

<sup>57</sup> Companies’ Response to OCC Set 1-INT-1 Attachment 1. This has been attached as Attachment 4.

1       What the Companies fail to estimate are the lost distribution revenues for the  
2       years 2013, 2014, 2015, and through May 31 of 2016:

3               For 2013 – 2015 lost distribution revenue, the energy efficiency  
4               measures that will be employed during that period are currently  
5               being planned, and therefore an estimation of lost distribution  
6               revenue for that period based on the energy efficiency and demand  
7               reduction plan for years 2013 through 2015 is unavailable.<sup>58</sup>

8       If the Companies were to stop their energy efficiency programs on December 31,  
9       2012, the estimated lost revenues would approach \$76 million.<sup>59</sup> However, if the  
10      Companies continue their programs at increasing levels as required by Ohio law  
11      to meet the increasing energy efficiency benchmarks, the distribution lost  
12      revenues could be in the hundreds of millions that the Stipulation would allow the  
13      Companies to collect from customers.

14  
15      ***Q45. HAVE TWO COMMISSIONERS EXPRESSED CONCERN OVER THE***  
16      ***COMPANIES' LOST REVENUE COLLECTION MECHANISM?***

17      ***A45.*** Yes. In the Opinion and Order in FirstEnergy's Energy Efficiency Portfolio Case,  
18      PUCO Chairman Snitchler stated in a concurring opinion that "I will be most  
19      reluctant to approve any future proposals which include the collection of lost  
20      distribution revenues resulting from the statutory mandates for energy efficiency

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<sup>58</sup> Id.

<sup>59</sup> Calculated as 16.8+16.8+16.8+16.8+8.4=75.6.

savings and peak demand reduction.”<sup>60</sup> That opinion was supported by Commissioner Roberto.<sup>61</sup> The Chairman’s concern is that the collection of lost distribution revenues “presents a significant risk of undermining public support for the energy efficiency mandates, especially in light of the greater energy efficiency savings mandated by law in the future. We need to look no further than the unfortunate circumstances surrounding the failed original CFL program discussed in the Opinion and Order to see the risks of undermining public support for energy efficiency measures.”<sup>62</sup>

***Q46. WHAT IS YOUR RECOMMENDATION REGARDING THE TREATMENT OF DISTRIBUTION LOST REVENUES?***

***A46.*** For all the reasons stated above, and especially since the Companies have failed to estimate what this provision of the Stipulation will cost customers (and mainly cost residential customers because of the non-residential rate design),<sup>63</sup> I recommend that, if the Commission does not reject the Stipulation, the lost distribution provision of the settlement be rejected and that the issue be addressed in a more appropriate venue. As provided for in OAC 4901:1-39-07, the

---

<sup>60</sup> Case No. 09-1947-EL-POR, Opinion and Order, Concurring Opinion of Chairman Todd A. Snitchler at 2 (March 23, 2011).

<sup>61</sup> Id., Concurring Opinion of Commissioner Cheryl L. Roberto.

<sup>62</sup> d., Concurring Opinion of Chairman Todd A. Snitchler at 1-2. In addition, the Commission has demonstrated an interest in the distribution lost revenue issue. On December 29, 2010, the Commission issued an entry in Case No. 10-3126-EL-UNC asking for public comments on whether Ohio’s electric distribution utilities’ rate structures should be modified to include lost revenue rate designs to better align utility performance with Ohio’s desired public policy outcomes.

<sup>63</sup> This is due to the mainly fixed (non-volumetric) cost recovery components of non-residential distribution rates.

1 Companies can file to recover energy efficiency program-induced lost distribution  
2 revenues in their current 2014-2016 Program Portfolio Plan that the Commission  
3 has directed them to file by July 31, 2012.<sup>64</sup> This will permit the Companies,  
4 Commission Staff, and all Parties to consider approaches--that balance customer  
5 and utility interests--for the collection of distribution lost revenues.

6  
7 ***Q47. DO YOU HAVE OBSERVATIONS REGARDING THE PROPOSAL FOR***  
8 ***THE TREATMENT OF INTERRUPTIBLE LOADS AND COSTS***  
9 ***ASSOCIATED WITH SUCH LOADS?***

10 ***A47.*** Yes. FirstEnergy's proposed Peak Demand Reduction riders, ELR and OLR,  
11 which are used to collect the costs incurred with the non-residential customer  
12 Interruptible program offering, would be used by the Companies to help meet  
13 their peak demand reduction requirements under R.C. 4928.66. As such, a more  
14 appropriate venue for consideration of this program is the Companies' EE/PDR  
15 portfolio filing (as mentioned earlier), as provided in OAC 4901:1-39-05.<sup>65</sup> I  
16 recommend the program costs be assigned for collection purposes to the  
17 respective rate classes whose customers are eligible for the program. Therefore,  
18 EE/PDR program costs for customers in a nonresidential customer class should  
19 not be collected from residential customers and residential program costs should

---

<sup>64</sup> Case No.12-814 EL-UNC, Entry at 3 (February 29, 2012).

<sup>65</sup> OCC understands that per R.C. 4928.143(B)(2)(i), energy efficiency, and not peak demand reduction programs may an electric utility seek recovery from all customer classes: "Provisions under which the electric distribution utility may implement economic development, job retention, and energy efficiency programs, which provisions may allocate program costs across all classes of customers of the utility and those of electric distribution utilities in the same holding company system."

1 not be collected from non-residential customers.<sup>66</sup> Large customers are not  
2 required to pay for residential EE and PDR programs, such as the Companies'  
3 Direct Load Control Thermostat program. Therefore, residential customers  
4 should not be required to pay for large customer interruptible PDR programs that  
5 are used to meet the Companies' PDR requirements. However, the Stipulation in  
6 this proceeding continues the structure of Rider DSE1, which states that the costs  
7 of customers taking service under the ELR and OLR "will be recovered from all  
8 non-interruptible customers as part of the non-bypassable demand management  
9 and energy efficiency rider ('DSE') under the provisions of DSE-1."<sup>67</sup> This  
10 collection device for costs associated with the ELR and OLR would unfairly  
11 collect the costs from a broad number of customer classes (including residential  
12 customers), and should be eliminated in favor of full cost collection from non-  
13 residential customers.

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<sup>66</sup> The March 21, 2012 Opinion and Order in AEP Case No. 11-5568-EL-POR approved similar language on page 11.

<sup>67</sup> Stipulation at 12-13.

1   **VI.   CONCLUSION**

2

3   ***Q48.   DOES THIS CONCLUDE YOUR TESTIMONY?***

4   ***A48.***   Yes.  However, I reserve the right to incorporate new information and/or  
5           discovery responses that may subsequently become available.  I also reserve the  
6           right to supplement my testimony in response to positions taken by the  
7           Companies or other parties.

## **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing the *Direct Testimony of Wilson Gonzalez on Behalf of the Office of the Ohio Consumers' Counsel* has been served electronically this 21st day of May 2012.

/s/Larry L. Sauer  
Larry Sauer  
Assistant Consumers' Counsel

## **SERVICE LIST**

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Mr. Gonzalez has submitted testimony in the following cases before the Public Utility Commission of Ohio:

- Vectren Energy Delivery of Ohio, Case No. 04-571-GA-AIR
- Dominion East Ohio, Case No. 05-474-GA-ATA
- Dominion East Ohio, Case No. 07-829-GA-AIR
- Vectren Energy Delivery of Ohio, Case No. 05-1444-GA-UNC
- Columbus Southern Company/Ohio Power Company, Case No. 06-222-EL-SLF
- Duke Energy of Ohio, Case No. 07-589-GA-AIR
- FirstEnergy Companies, Case Nos. 07-551-EL-AIR, et al.
- Vectren Energy Delivery of Ohio, Case No. 07-1080-GA-AIR
- FirstEnergy Companies, Case No. 08-935-EL-SSO
- FirstEnergy Companies, Case No. 08-936-EL-SSO
- Duke Energy of Ohio, Case No. 08-920-EL-SSO
- AEP, Case No. 08-917-EL-SSO
- DPL, Case No. 08-1094-EL-SSO
- FirstEnergy Companies, Case No. 09-906-EL-SSO
- Duke Energy of Ohio, Case No. 10-1999-EL-POR
- FirstEnergy Companies, Case No. 10-388-EL-SSO



- FirstEnergy Companies, Case No. 10-1128-EL-CSS
- AEP, Case No. 11-351-EL-AIR

Present Value Benefits of ESP Compared to MRO and Separate Cases									
OCC Case I									
TOTAL OHIO									
FE Assumptions									
(1) CBP Price (\$/MWH) 55.60									
(2) RS Retail Generation Rate (Non-Seasonal) (\$/MWH) 60.05									
(3) PIPP RS Generation Discount 6%									
(4) PIPP RS Retail Generation Rate (Non-Seasonal) (\$/MWH 56.45)									
(5) Net Present Value Discount Rate 8.48%									
Sales Forecast									
June 14 - May 15 (MWH)	June 15 - May 16 (MWH)	June 16 - May 17 (MWH)	June 17 - May 18 (MWH)	June 18 - May 19 (MWH)	June 19 - May 20 (MWH)	June 20 - May 21 (MWH)	June 21 - May 22 (MWH)		
1,460,864	1,434,999								
55,247,164	54,790,895								
ESP Provisions									
Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions		
195.0	210.0								
82.5	81.0								
(1.0)	(1.0)								
(4.5)	(4.5)								
0.0	0.0								
(12) RTEP Estimate									
(15) Total Revenues Per Year									
272.0	285.5	0.0	\$ -	\$ -	\$ -	\$ -	\$ -		
MRO Provisions									
Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions		
177.2	198.8								
87.7	86.2								
(18) Total Revenues Per Year									
264.9	285.0	0.0	\$ -	\$ -	\$ -	\$ -	\$ -		
Present Value Summary									
(19) NPV: ESP									
(20) NPV: MRO									
(21) Benefits to Customers (MRO - ESP)									
(\$7)									

Present Value Benefits of ESP Compared to MRO and Separate Cases									
OCC Case II without RTEP and PIPP Savings									
TOTAL OHIO									
FE Assumptions									
(1) CBP Price (\$/MWH) 55.60									
(2) RS Retail Generation Rate (Non-Seasonal) (\$/MWH) 60.05									
(3) PIPP RS Generation Discount 6%									
(4) PIPP RS Retail Generation Rate (Non-Seasonal) (\$/MWH 56.45)									
(5) Net Present Value Discount Rate 8.48%									
Sales Forecast									
June 14 - May 15 (MWH)	June 15 - May 16 (MWH)	June 16 - May 17 (MWH)	June 17 - May 18 (MWH)	June 18 - May 19 (MWH)	June 19 - May 20 (MWH)	June 20 - May 21 (MWH)	June 21 - May 22 (MWH)		
1,460,864	1,434,999								
55,247,164	54,790,895								
ESP Provisions									
Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions		
195.0	210.0								
87.7	86.2								
(1.0)	(1.0)								
(4.5)	(4.5)								
0.0	0.0								
(12) RTEP Estimate									
(15) Total Revenues Per Year									
277.2	290.7	0.0	\$ -	\$ -	\$ -	\$ -	\$ -		
MRO Provisions									
Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions	Revenue \$ millions		
177.2	198.8								
87.7	86.2								
(18) Total Revenues Per Year									
264.9	285.0	0.0	\$ -	\$ -	\$ -	\$ -	\$ -		
Present Value Summary									
(19) NPV: ESP	\$503								
(20) NPV: MRO	\$486								
(21) Benefits to Customers (MRO - ESP)	(\$16)								

**NOAC Set 1**  
**Witness: Ridmann**

Case No. 12-1230-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**

**NOAC Set 1 –  
 INT-1**

Identify<sup>2</sup> every contract or agreement between FirstEnergy<sup>3</sup> or any of its affiliates and a party<sup>4</sup> to the proceeding<sup>5</sup> consumer, electric services company, or political subdivision and that is relevant to the proceeding.<sup>6</sup>

<sup>2</sup> The term "Identify" means, when used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian. The term "Identify" means, when used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto. The term "Identify" means, when used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.

<sup>3</sup> "FirstEnergy" means the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company.

<sup>4</sup> The term "party" includes any person who has filed a motion to intervene in this proceeding and any person who signed the Stipulation as a "Signatory Party" or "Non-opposing Party."

<sup>5</sup> "Proceeding" as used throughout this document means the above-captioned case, including any appeals, remands and other cases related thereto.

<sup>6</sup> See R.C. 4928.145.

**Response:**

In section H.7 of the Stipulation in 12-1230-EL-SSO, a fuel fund contribution amount is identified for low-income customers in Cleveland Electric Illuminating Company's service territory. The agreement reached between the Companies and the Consumer Protection Association, the Empowerment Center of Greater Cleveland, and the Cleveland Housing Network ("Agencies") modifies the administrative fee to be paid to those Agencies from \$30,000 each per year through May 31, 2016 to \$60,000 each in 2012 and \$46,300 each per year for 2013-2016. The modification in the administrative fee paid does not increase the overall amount of the fuel fund dollars contributed. The detail of the agreement on administrative fees is set forth below.

1. For each of the years 2012, 2013, 2014, 2015 and 2016 each Agency will receive \$463,333 for a total annual fuel funding (including agency administration fees) of \$1,390,000. This is the same amount included in ESP 2.
2. For each of the years 2013, 2014, 2015 and 2016 10% of the aforementioned funds will be allocated for use in administering the fuel fund. In those years the administrative fee amount per agency is \$46,300 and the balance, or \$417,033, per agency would be available for low income fuel funding. Each year the total annual fuel funding is \$1,390,000. The current annual agency administration fee funding level is \$30,000.
3. In the year 2012, and 2012 only, the current annual administration fee of \$30,000 per Agency for use in administering the fuel fund will be increased to \$60,000 per Agency and the balance, i.e. \$403,333, per Agency will be available for low income fuel funding. Total 2012 funding is \$1,390,000 consistent with the terms of ESP2.
4. Within 30 days of approval of the Stipulation by the Public Utilities Commission of Ohio and acceptance of the Commission's decision in ESP 3 by the Companies, the Companies will use best efforts to pay the additional \$30,000 administrative fee to each of the three Agencies (for a total of \$90,000) for use in administering the fuel fund dollars. This \$30,000 in addition to the \$30,000 in agency fees per Agency already provided for 2012 would satisfy the \$60,000 per Agency administration funding for 2012.

**OCC Set 1**  
**Witness: Ridmann**

Case No. 12-1230-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 1 –** Referring to the Direct Testimony of William Ridmann filed on April 13, 2012, on page 7, 2<sup>nd</sup>  
**INT-2** bullet and WRR Attachment 1:

- a. What is the value to the Companies' customers of the Companies not seeking cost recovery of MISO exit fees and PJM integration costs when recent developments at FERC (case No.) cast doubt on whether Ohio customers benefited in that regard from the last settlement?
- b. What RTEP payments has ATSI paid in total since June 2011 to present?
- c. What are the latest RTEP charge projections by PJM year for June 2012-May 2013 and June 2013-May 2014?
- d. Please explain the difference in estimated RTEP costs from WRR Attachment 1, for the PJM years June 2014-May 2015 and June 2015-May 2016, with the same years in WRR Attachment 1 from Company witness Ridmann's Direct Testimony in Case No. 10-388-EL-SSO.
- e. What is ATSI's Share of Annual Revenue Requirements for Major RTEP Approved Projects annually and by project from 2012-2021?
- f. What percentage of the ATSI RTEP obligation is assignable to service to customers of OE, CEI, and TE?

**Response:**

- a. The Companies not seeking recovery of MISO exit fees and PJM integration costs provides value to the Companies' customers because the customers will not have to pay these FERC/RTO imposed charges.
- b. Assuming the question is meant to refer to the Companies, the Companies (OE, CEI, and TE) have been billed a total of \$6.1M in RTEP costs through March 2012, These RTEP costs have been billed directly to the Companies. PJM does not bill ATSI for these costs.
- c. See response to part (e).
- d. The estimated RTEP costs for June 2014 – May 2015 and June 2015 – May 2016 included in WRR Attachment 1 in this case reflect the Companies' current estimates. These estimates are lower than those included in WRR Attachment 1 in Case No. 10-388-EL-SSO primarily due to projects not being constructed as quickly as previously estimated.

- e. FirstEnergy views the requested information as confidential and will make it available to the inspecting party, provided that said party has properly executed a mutually agreeable non-disclosure agreement.
- f. The Ohio Companies (OE, CEI, and TE) are allocated approximately 85% of the ATSI RTEP obligation.

### **INTERROGATORIES**

INT-1 If the PIPP retail load (that per paragraph A1 of the Stipulation will be supplied through a bilateral contract with FirstEnergy Solutions) had been offered by the FirstEnergy EDUs through a competitive bid, would your Company have considered bidding for the PIPP Load?

**RESPONSE:**

IGS objects to this interrogatory on the grounds that it is vague and ambiguous and seeks an answer to a hypothetical question regarding as situation that has not occurred. Without waiving its objections, IGS states that it has not done the cost analysis on supplying this load, but it is something IGS may have considered if the opportunity to bid were offered to our company.

INT-2 If your answer to the previous interrogatory is affirmative, would you have considered bidding in *[sic]* at a discount off the price to compare?

**RESPONSE:**

IGS objects to this interrogatory on the grounds that it is vague and ambiguous and seeks an answer to a hypothetical question regarding as situation that has not occurred. Without waiving its objections, IGS states that it has not done the cost analysis on supplying this load, but it is something IGS may have considered if the opportunity to bid were offered to our company.

INT-3 Since November 1, 2011, have the FirstEnergy EDUs asked your Company whether it is interested in bidding on the PIPP load to be served effective June 1, 2014?

**RESPONSE:**

No.

secret under the laws of the State of Ohio.

4. Given that discovery in this case is ongoing, Direct Energy reserves the right to supplement its responses and objections to these Interrogatories.

### **INTERROGATORIES**

INT-1 If the PIPP retail load (that per paragraph A1 of the Stipulation will be supplied through a bilateral contract with FirstEnergy Solutions) had been offered by the FirstEnergy EDUs through a competitive bid, would your Company have considered bidding for the PIPP Load?

**RESPONSE:** In addition to the General Objections above, Direct Energy objects to this interrogatory on the grounds that it is vague and ambiguous and seeks an answer to a hypothetical question regarding a situation that has not occurred. Without waiving its objections, Direct Energy states it is something that Direct Energy may have considered if the opportunity to bid were offered to Direct Energy.

INT-2 If your answer to the previous interrogatory is affirmative, would you have considered bidding in at a discount off the price to compare?

**RESPONSE:** See response to INT-1

INT-3 Since November 1, 2011, have the FirstEnergy EDUs asked your Company whether it is interested in bidding on the PIPP load to be served effective June 1, 2014?

**RESPONSE:** Without waiving its General Objections, no.



Case No. 12-1230-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 1 –** Referring to the Direct Testimony of William Ridmann filed on April 13, 2012, On Page 8,  
**INT-1**
- please provide the following charges (actuals and estimates, where actuals are not available) to customers by class for the recovery of lost distribution revenues associated with Commission approved programs and based on the Companies upcoming three year energy efficiency portfolio filing:
- a. Lost distribution charges by year and by class for the years 2011 – 2015
  - b. Are the Companies requesting lost distribution revenue recovery for the life of an installed energy efficiency measure? If not, how many years of the measure life will FE collect lost revenues?
  - c. If combined heat and power (“CHP”) becomes an eligible energy efficiency measure as proposed in Senate Bill 315, will the Companies collect lost distribution revenues from CHP applications?
  - d. How is the continuation of the lost distribution revenue recovery mechanism responsive to Chairman Snitchler’s concurring opinion in Case No. 09-1947-EL-POR (March 23, 2011) that “I will be most reluctant to approve any future proposals which include the collection of lost distribution revenues resulting from the statutory mandates for energy efficiency savings and peak demand reduction.”?

- Response:**
- a. For actual 2011 and projected 2012 lost distribution revenue, please see OCC-Set 1-INT-1 Attachment 1.  
For 2013 – 2015 lost distribution revenue, the energy efficiency measures that will be employed during that period are currently being planned, and therefore an estimation of lost distribution revenue for that period based on the energy efficiency and demand reduction plan for years 2013 through 2015 is unavailable.
  - b. The Companies are requesting to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission through May 31, 2016.
  - c. During the term of this ESP 3, the Companies shall be entitled to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission.
  - d. It reflects our Company’s belief that an investor-owned utility needs to be made whole in the form of recovery of lost distribution revenue due to the intensive fixed-cost nature of our business.

Summary of Portfolio Lost Distribution Revenue - ProRata						
MWh Saved for Consumption Reductions	Program Year 2011 (Actual)				Program Year 2012 (3+9 Forecast)	
	OE	TE	CE	OE	TE	CE
kW Saved for Peak Load Reductions	\$ 2,456,454	\$ 864,500	\$ 2,128,395	\$ 4,218,277	\$ 1,531,692	\$ 3,194,404
Residential Sector (inclusive of Low-Income) - Cumulative Projected Portfolio Savings	\$ 121,507	\$ 20,340	\$ 159,890	\$ 942,209	\$ 159,158	\$ 564,957
Small Enterprise - Cumulative Projected Portfolio Savings						
Mercantile-Self Direct						
Mercantile-Utility (Large Enterprise)- Cumulative Projected Portfolio Savings	\$ 11,110	\$ 1,187	\$ 5,156	\$ 388,367	\$ 27,580	\$ 45,240
Government - Traffic Lighting						
Government - Street Lighting						
<b>TOTAL</b>	<b>\$ 2,589,071</b>	<b>\$ 886,027</b>	<b>\$ 2,293,441</b>	<b>\$ 5,548,853</b>	<b>\$ 1,718,430</b>	<b>\$ 3,804,601</b>

**This foregoing document was electronically filed with the Public Utilities**

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**5/21/2012 2:45:36 PM**

**in**

**Case No(s). 12-1230-EL-SSO**

Summary: Testimony Direct Testimony of Wilson Gonzalez on Behalf of the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Sauer, Larry S.