

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :  
 Application of Republic :  
 Steel for Approval of a : Case No. 13-1913-EL-AEC  
 Reasonable Arrangement for :  
 Republic Steel's Lorain, :  
 Ohio Facility :

- - -

PROCEEDINGS

before Gregory A. Price, Attorney Examiner, at the  
 Public Utilities Commission of Ohio, 180 East Broad  
 Street, Room 11-A, Columbus, Ohio, called at 10:00  
 a.m. on Thursday, February 13, 2014.

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APPEARANCES:

Taft, Stettinius & Hollister, LLP  
By Mark S. Yurick, Esq.  
and Zachary D. Kravitz, Esq.  
65 East State Street, Suite 1000  
Columbus, Ohio 43215

Republic Steel  
By Elizabeth A. Evans, Esq.  
Vice-President, General Counsel  
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On behalf of the Applicant.

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21 East State Street, 17th Floor  
Columbus, Ohio 43215-4228

On behalf of U.S. Steel.

FirstEnergy Corporation  
By James W. Burk, Esq.  
Managing Counsel  
76 South Main Street  
Akron, Ohio 44308

On behalf of Ohio Edison.

Carpenter, Lipps & Leland, LLP  
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280 Plaza, Suite 1300  
280 North High Street  
Columbus, Ohio 43215

On behalf of Ohio Manufacturers'  
Association.

Mike DeWine, Ohio Attorney General  
By Thomas W. McNamee, Esq.  
Assistant Attorney General  
180 East Broad Street, 6th Floor  
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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Thursday Morning Session,  
February 13, 2014.

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ATTORNEY EXAMINER PRICE: Go ahead and go on the record. Good morning. The Public Utilities Commission has set for hearing at this time and place Case No. 13-1913-EL-AEC, being: In the Matter of the Application of Republic Steel for Approval of a Reasonable Arrangement for Republic Steel's Lorain, Ohio Facility.

My name is Gregory Price. I'm the Attorney Examiner assigned to preside over today's hearing.

Let's take appearances of the parties, starting with the Applicant.

MR. YURICK: Your Honor, on behalf of the Applicant, Republic Steel, Mark Yurick and Zach Kravitz. We're with the law firm of Taft, Stettinius & Hollister, 65 East State Street, Suite 1000, Columbus, Ohio 43215.

ATTORNEY EXAMINER PRICE: Thank you.

MR. YURICK: We also have present with us, Vice-President and Counsel of Republic Steel, Elizabeth Evans.

ATTORNEY EXAMINER PRICE: Thank you.

1 Mr. Elisar.

2 MR. ELISAR: Thank you, your Honor.  
3 Scott Elisar on behalf of U.S. Steel, from the law  
4 firm of McNees, Wallace & Nurick, 21 East State  
5 Street, Columbus, Ohio 43215.

6 ATTORNEY EXAMINER PRICE: Mr. Burk.

7 MR. BURK: On behalf of Ohio Edison  
8 Company, James W. Burk, 76 South Main Street, Akron,  
9 Ohio 44308.

10 ATTORNEY EXAMINER PRICE: Miss Bojko.

11 MS. BOJKO: Thank you, your Honor. On  
12 behalf of Ohio Manufacturers' Association, Kimberly  
13 W. Bojko, with Carpenter, Lipps & Leland, 280 North  
14 High Street, Columbus, Ohio 43215.

15 ATTORNEY EXAMINER PRICE: Staff.

16 MR. McNAMEE: On behalf of the Staff of  
17 the Public Utilities Commission of Ohio, William  
18 Wright, Section Chief, and I am Thomas W. McNamee,  
19 Assistant Attorney General, trial counsel in this  
20 case. The address is 180 East Broad Street,  
21 Columbus, Ohio.

22 ATTORNEY EXAMINER PRICE: Thank you.

23 Mr. Yurick, do you have any preliminary  
24 matters before we take the witness?

25 MR. YURICK: Yes, your Honor. As your

1 Honor is well aware, several parties have intervened  
2 in the case. I've been asked by U.S. Steel to read a  
3 statement into the record and have agreed on behalf  
4 of Republic Steel to do that, if I might do that at  
5 this point.

6 ATTORNEY EXAMINER PRICE: Please  
7 proceed.

8 MR. YURICK: Your Honor, first, Republic  
9 acknowledges that the Commission retains ongoing  
10 jurisdiction over any reasonable arrangement it may  
11 approve under Revised Code Section 4905.31.

12 Secondly, the Stipulation and  
13 Recommendation that is being submitted does not  
14 address issues raised by U.S. Steel in its motion to  
15 intervene. As the pleadings in this proceeding show,  
16 U.S. Steel has manufacturing operations that receive  
17 electricity through facilities owned and operated by  
18 Republic. The current electric supply agreement  
19 between U.S. Steel and Republic has a term that ends  
20 in August of 2014.

21 While the issues raised by U.S. Steel  
22 are not addressed by the Stipulation, U.S. Steel and  
23 Republic have reached an understanding that we  
24 believe will address U.S. Steel's issues and any  
25 concerns.

1 More specifically, Republic has  
2 committed to U.S. Steel that it, Republic, shall  
3 engage in good faith negotiations with U.S. Steel to  
4 explore specific terms and conditions which could  
5 enable U.S. Steel to continue to obtain electric  
6 supply through facilities, plant, or property owned  
7 or operated by Republic and permit U.S. Steel to  
8 obtain Competitive Retail Electric Service from a  
9 Competitive Retail Electric Supply -- excuse me,  
10 Competitive Retail Electric Service or CRES provider,  
11 without interference or reduction in service on  
12 account of or as a result or consequence of  
13 Republic's total electricity demand and provided that  
14 the service arrangements do not interfere in any way  
15 with the provision of electric service to Republic.

16 To the extent that the above-described  
17 resolution of U.S. Steel issues may be facilitated  
18 through exceptions to terms and conditions in Ohio  
19 Edison's approved tariff, Republic represents that it  
20 will not object to U.S. Steel seeking and receiving  
21 any such approval as may be useful or necessary.

22 Subject to these representations by  
23 Republic, it is my understanding that U.S. Steel is  
24 prepared to now state that it is not opposed to the  
25 Stipulation and Recommendation.

1                   ATTORNEY EXAMINER PRICE: Mr. Elisar.

2                   MR. ELISAR: Your Honor, thank you.

3                   Subject to the representations and commitments made  
4                   by Republic, U.S. Steel is not opposed to the  
5                   Stipulation. We waive cross-examination of Mr.  
6                   Higgins, and respectfully, your Honor, we urge the  
7                   Commission to promptly respond to the Stipulation.  
8                   Thank you.

9                   ATTORNEY EXAMINER PRICE: Thank you.

10                  Mr. Yurick, you may call your witness.

11                  MR. McNAMEE: Your Honor --

12                  ATTORNEY EXAMINER PRICE: Mr. McNamee.

13                  MR. McNAMEE: -- one small thing. While  
14                  the Staff is very pleased that U.S. Steel and  
15                  Republic Steel have entered into discussions to  
16                  address the concerns, in our view, the -- we have not  
17                  been involved in those discussions, and in our view,  
18                  of course, U.S. Steel's problems are not, although  
19                  important, are not tied to this case; so, therefore,  
20                  we take no position regarding any of the  
21                  representations that were made. We will take  
22                  positions as appropriate in future cases, but we take  
23                  no position here. Thank you.

24                  ATTORNEY EXAMINER PRICE: Thank you.

25                  Miss Bojko.

1 MS. BOJKO: Your Honor, I'd have to echo  
2 that. OMA was not involved in these discussions  
3 either, and this is a Reasonable Arrangement  
4 application for Republic, so at this time, not seeing  
5 the language prior to hearing it this morning, we as  
6 well will not take a position on that language, but  
7 still urge that the Commission approve the  
8 Stipulation as filed. Thank you.

9 ATTORNEY EXAMINER PRICE: Thank you.

10 Now, Mr. Yurick, you may call your  
11 witness.

12 MR. YURICK: Thank you, your Honor.  
13 Republic will call Mr. Kevin Higgins to the stand.

14 KEVIN C. HIGGINS,  
15 being first duly sworn, as prescribed by law, was  
16 examined and testified as follows:

17 ATTORNEY EXAMINER PRICE: Please be  
18 seated, and state your name and business address for  
19 the record.

20 THE WITNESS: My name is Kevin C.  
21 Higgins. My business address is 215 South State  
22 Street, Suite 200, Salt Lake City, Utah.

23 ATTORNEY EXAMINER HIGGINS: Thank you.

24 MR. YURICK: Your Honor, I was going to  
25 ask for permission to stand behind the court

1 reporter, so that the court reporter can actually see  
2 Mr. Higgins' face while he testifies.

3 ATTORNEY EXAMINER PRICE: That will be  
4 fine.

5 MR. YURICK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. YURICK:

8 Q. Mr. Higgins, you stated your name and  
9 spelled your last name for the record. By whom are  
10 you employed and in what capacity?

11 A. I am a Principal in the consulting firm  
12 Energy Strategies.

13 Q. Did you file testimony in support of the  
14 arrangement and the proposed Stipulation filed in  
15 this docket?

16 A. Yes, I did.

17 MR. YURICK: Your Honor, at this time I  
18 would like to mark Mr. Higgins' testimony as Republic  
19 Exhibit 1, which is Mr. Higgins' prefiled testimony  
20 filed on or about February 6, 2014, and I believe  
21 I've provided a copy of that to the court reporter as  
22 well.

23 ATTORNEY EXAMINER PRICE: It will be so  
24 marked.

25 MR. YURICK: Thank you, your Honor.

1 Q. Showing you, Mr. Higgins, what has been  
2 marked as Republic's Exhibit 1, can you please  
3 identify that as a true and correct copy of your  
4 Direct Testimony filed in this docket on or about  
5 February 6th, 2014?

6 A. I would need to be shown it.

7 Q. I'm sorry.

8 A. I am under oath.

9 Q. Here you are (indicating). First things  
10 first, I guess.

11 A. Yes, this is the Direct -- a copy of the  
12 Direct Testimony that I filed, yes.

13 Q. That's a true and accurate copy of your  
14 Direct Testimony filed in this case on or about  
15 February 6th?

16 A. Yes, it is.

17 Q. And was this testimony prepared by you  
18 or under your direction?

19 A. Yes, it was.

20 Q. Do you have any changes or corrections  
21 to the actual testimony?

22 A. I do not.

23 Q. Okay. And subsequent or  
24 contemporaneously with the filing of your testimony,  
25 is it your understanding that there was a Stipulation

1 filed in this case?

2 A. Yes.

3 Q. And do you have any comments or  
4 corrections with regard to the Stipulation or the  
5 attachment filed with the Stipulation that I'll call  
6 Exhibit A to the Stipulation, which is a specimen  
7 form of an agreement between Ohio Edison and Republic  
8 Steel?

9 A. Exhibit A, as you describe, is a form of  
10 agreement that would be the representative of the  
11 Unique Arrangement that Republic and Ohio Edison  
12 would enter into. It is not intended to represent  
13 the actual contract because that has yet to be  
14 negotiated.

15 The specimen attached as Exhibit A does  
16 differ in some respects from the terms of the  
17 Stipulation, and so I think it would be preferable to  
18 use a substitute for that Exhibit A that adheres more  
19 closely to the terms of the Stipulation, even  
20 though -- even it will only be representative of a  
21 form of contract rather than the actual contract,  
22 which is still yet to be negotiated.

23 Q. I'm showing you what's been marked as  
24 Exhibit A (indicating). In your opinion, is this a  
25 better or less confusing form of a contract, not the

1 final contract, but a less confusing form of contract  
2 of Unique Arrangement that will be entered into  
3 subsequent to the Stipulation by Republic and  
4 FirstEnergy?

5 A. I think for purposes of representing a  
6 form of contract, this is a preferable version to do  
7 so.

8 Q. And showing you what's been marked  
9 Republic's Exhibit 2, is that a true and accurate  
10 copy of the Stipulation and Recommendation that was  
11 filed contemporaneously with your testimony on  
12 February 6th, 2014?

13 A. Yes, it is.

14 Q. Okay. And if we substitute amended  
15 Exhibit A to Republic's Exhibit 2, the exhibit to the  
16 Stipulation, would you adopt Republic's Exhibit 2 and  
17 Republic's Exhibit 1 with your testimony today?

18 A. Yes.

19 Q. If I asked you the questions -- remember  
20 the ones I just asked you about the exhibits. If I  
21 asked you the questions set forth in your prefiled  
22 testimony marked as Republic's Exhibit 1 today, would  
23 your answers be the same at this time?

24 A. Yes.

25 Q. And as part of your testimony you offer

1 an expert opinion based on your training, experience,  
2 and knowledge in the energy industry that the  
3 Stipulation marked as Republic's Exhibit 2 satisfies  
4 the applicable legal standards for the adoption and  
5 approval of stipulations in Ohio; is that correct?

6 A. Yes.

7 MR. YURICK: Your Honor, at this point,  
8 I would move, subject to cross-examination, for the  
9 admission of Republic's Exhibit 1 and Republic's  
10 Exhibit 2 with the substitution of the more current  
11 Exhibit A to Republic's Exhibit 2.

12 ATTORNEY EXAMINER PRICE: We will defer  
13 ruling for the motion for admission until after  
14 cross-examination.

15 Miss Bojko.

16 MS. BOJKO: No questions, your Honor.

17 ATTORNEY EXAMINER PRICE: Mr. Burk.

18 MR. BURK: No questions, your Honor. I  
19 would state on behalf of Ohio Edison, though Ohio  
20 Edison does not oppose the Commission's adoption of  
21 the Stipulation as filed, that we have not had an  
22 opportunity to review what was just offered as, I  
23 believe, Exhibit A, but we'll commit to work with  
24 Republic to come to a reasonable arrangement that's  
25 consistent with the Stipulation, once approved.

1 ATTORNEY EXAMINER PRICE: Thank you.

2 Mr. Elisar, do you waive cross?

3 MR. ELISAR: Yes, your Honor.

4 ATTORNEY EXAMINER PRICE: Mr. McNamee.

5 MR. McNAMEE: No questions, your Honor.

6 ATTORNEY EXAMINER PRICE: At this time  
7 we'll go ahead and admit Republic Exhibit 1 and  
8 Exhibit 2, barring any objections.

9 Hearing none, they'll be admitted.

10 (EXHIBITS ADMITTED INTO EVIDENCE.)

11 ATTORNEY EXAMINER PRICE: Thank you, Mr.  
12 Higgins. You're excused.

13 THE WITNESS: Thank you, your Honor.

14 (Witness excused.)

15 MR. YURICK: Thank you, your Honor.

16 With the added statement that we would urge the  
17 Commission, based on the filings and the testimony  
18 here, to adopt the Stipulation in an order, in a  
19 prompt fashion, Republic has nothing further at this  
20 point.

21 ATTORNEY EXAMINER PRICE: Thank you.

22 Anything else before we adjourn?

23 MR. ELISAR: Nothing, your Honor.

24 ATTORNEY EXAMINER PRICE: Thank you.

25 We're adjourned. We are off the record. (time 10:14am)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, February 13, 2014, and carefully compared with my original stenographic notes.

---

Valerie J. Sloas, Registered  
Professional Reporter and  
Notary Public in and for  
the State of Ohio.

My commission expires June 8, 2016.  
(VJS-74625)

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Summary: Transcript in the matter of Republic Steel hearing held on 02/13/14 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Sloas, Valerie J. Mrs.