

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Determination of :  
the Existence of Significantly : Case No. 14-828-EL-UNC  
Excessive Earnings for 2013 Under the :  
Electric Security Plan of Ohio Edison :  
Company, The Cleveland Electric :  
Illuminating Company, and The Toledo :  
Edison Company. :

**PREFILED TESTIMONY  
OF  
JOSEPH P. BUCKLEY  
UTILITIES DEPARTMENT  
CAPITAL RECOVERY & FINANCIAL ANALYSIS DIVISION  
PUBLIC UTILITIES COMMISSION OF OHIO**

**Staff Exhibit \_\_\_\_\_**

**August 1, 2014**

1 1. Q. Please state your name and your business address.

2 A. My name is Joseph P. Buckley. My business address is 180 E. Broad  
3 Street, Columbus, Ohio 43215.  
4

5 2. Q. By whom are you employed?

6 A. I am employed by the Public Utilities Commission of Ohio (PUCO).  
7

8 3. Q. Would you please state your background?

9 A. I received a Bachelor of Science Degree in Economics from the Ohio State  
10 University and a Master's Degree in Business Administration from the  
11 University of Dayton. In 2000, I earned the Certified in Financial Manage-  
12 ment (CFM) designation, awarded by the Institute of Management  
13 Accountants. Also I attended, The Annual Regulatory Studies Program  
14 sponsored by The National Association of Regulatory Utility Commission-  
15 ers (NARUC) and The Training for Utility Management Analyst also spon-  
16 sored by NARUC. I have been employed by the PUCO since 1987. Since  
17 that time I have progressed through various positions and was promoted to  
18 my current position of Utility Specialist 3, in 2000. In addition, I have  
19 worked on several joint Federal Communication Commission (FCC) and  
20 NARUC projects and audits and served on the Midwest ISO's Finance  
21 Committee as Vice-Chairman and Chairman. Also, in 2011, I was awarded  
22 the professional designation Certified Rate of Return Analyst (CRRA) by

1 the Society of Utility and Regulatory Financial Analysts. This designation  
2 is awarded based upon experience and successful completion of a written  
3 examination.

4  
5 4. Q. What is your involvement in this proceeding?

6 A. I am responsible for determining if Cleveland Electric Illuminating Com-  
7 pany (CEI), Ohio Edison (OE) and Toledo Edison (TE) exceeded the com-  
8 mon equity threshold to be used in its Significantly Excessive Earnings  
9 Test (SEET). The returns on equity earned in 2013 by the Companies, as  
10 adjusted by specific items contemplated in the Commission's Opinion and  
11 Orders in Case Nos. 07-551-EL-AIR and 12-1230-EL-SSO, were: CEI  
12 4.4%, Ohio Edison 11.3%, and Toledo Edison 5.4%.

13  
14 5. Q. What adjustments to the SEET calculation were directed by the Commis-  
15 sion in Case Nos. 07-551-EL-AIR and 12-1230-EL-SSO?

16 A. On page 16 of the Commission's Opinion and Order in Case No. 07-551-  
17 EL-AIR the Commission states:

18 "Although either approach to accounting for pension  
19 and OPEB expenses may be acceptable from an  
20 accounting perspective, the Commission agrees with  
21 Staff that including the full accrual of pension and  
22 OPEB expenses in the test year without creating a rate

1 base item and calculating a return would be improper.  
2 Since there is insufficient information in the record to  
3 create the rate base item and calculate a return on that  
4 item, we will adopt the approach originally proposed  
5 by Staff and the Companies. However, the Commis-  
6 sion directs FirstEnergy to provide sufficient infor-  
7 mation in its next rate case filing to determine pension  
8 and OPEB expenses using both methods, and we direct  
9 Staff to review such information and determine the  
10 best approach for the accounting of pension and OPEB  
11 expenses for ratemaking purposes.”

12  
13 Therefore the Staff removed the pension and OPEB normalizations from  
14 the SEET calculation.

15  
16 On page 48 of the Commission’s Opinion and Order in Case No. 12-1230-  
17 EL-SSO the Commission states:

18 “The Commission finds that, in order to give full effect  
19 to this statutory requirement, we may exclude deferred  
20 carrying charges from the SEET where, as in the  
21 instant proceeding, such deferred carrying charges are  
22 related to capital investments in this state and where

1 the Commission has determined that such deferrals  
2 benefit ratepayers and the public interest. Accordingly,  
3 we find that the Stipulation provision excluding  
4 deferred carrying charges from the SEET does not vio-  
5 late an important regulatory principle or practice.”

6  
7 Therefore the Staff removed Deferred Interest Income from the SEET cal-  
8 culation.

9  
10 6. Q. What is the Staff’s recommendation to the Commission in this proceeding?

11 A. The Staff recommends that the Commission find that CEI, OE and TE’s  
12 2013 earnings were not excessive.

13  
14 7. Q. Has the Staff reviewed CEI, OE, and TE’s 2013 earnings calculation and  
15 concur with its results?

16 A. Yes. The Staff has reviewed CEI, OE and TE’s calculations and supporting  
17 information and finds them to be in conformity with the SEET calculation  
18 provisions contained in CEI, OE and TE ESPs and are an accurate repre-  
19 sentation of CEI, OE and TE’s 2013 earnings.

20  
21 8. Q. What methodology did Staff employee to determine significant excessive  
22 earnings?

1           A.     Staff used the companies that comprise the SPDR Select Sector Fund –Util-  
2                   ity (XLU) as its comparable group. The Staff then totaled the net income  
3                   earned by those companies and divided it by the total common equity of  
4                   each of the companies as detailed in Staff Exhibit 1.

5  
6                   This produced a ROE of approximately 9.91 percent in 2013. The Staff  
7                   then applied an adder in 2013 of 7.18 percent, which is the standard devia-  
8                   tion of the average ROEs of comparable companies multiplied by 1.64  
9                   (using a 95 percent confidence threshold). When the average ROE of com-  
10                  parable companies is combined with the adder the result is 17.09 percent.  
11                  Staff determined any result under 17.90 percent would not be considered  
12                  significantly excessive.

13  
14       9.     Q.     Why did Staff use the components of XLU as its comparable group?

15           A.     XLU is the most widely traded utility ETF (electronically traded fund) and  
16                   the components are selected by an independent third party that is not  
17                   involved in this proceeding. This independence removes any bias in select-  
18                   ing the comparable group. That is one reason Staff would advocate having  
19                   an independent party selecting the comparable companies.

20  
21                  In addition, Staff believes the use of XLU not only removes bias from the  
22                  selection of the comparable group, but that it also fosters use of a simple

1 and transparent process that produces consistent reasonable results. Having  
2 more parties understand the process will allow greater participation in the  
3 review.

4  
5 Finally the Commission used this approach in Case Nos. 11-4571-EL-UNC  
6 and 11-4572-EL-UNC, to determine the comparable ROE.

7  
8 10. Q. Why did Staff adopt the standard deviation approach in establishing the  
9 adder to the ROE?

10 A. In Ohio Power's previous SEET cases (Case Nos. 11-4571-EL-UNC and  
11 11-4572-EL-UNC), the Commission used this approach<sup>1</sup> in establishing  
12 the adder to the XLU comparable group ROE.

13  
14 11 Q. In Case No. 10-1261-EL-UNC (CSP's and OP's 2009 SEET case) the  
15 Commission opinion and order stated that "50 percent is a reasonable guide  
16 for establishing an adder." If the 50 percent adder was applied would Staff  
17 consider CSP and/or OP ROEs to be excessive in 2011 and/or 2012?

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<sup>1</sup> *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case Nos. 11-4571-EL-UNC and 11-4572-EL-UNC (Opinion and Order at 27) (Oct. 23, 2013).*

1           A.     No. In 2013 the threshold would be 14.87 percent, neither of which would  
2                    cause Staff to consider CEI, TE or OE ROEs to be excessive.

3

4   12.   Q.     Doe this conclude your testimony?

5           A.     Yes, it does. However, I reserve the right to submit supplemental testi-  
6                    mony as described herein, as new information subsequently becomes avail-  
7                    able or in response to positions taken by other parties.

8



## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Prefiled Testimony of **Joseph P. Buckley**, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail, upon the following parties of record, this 1<sup>st</sup> day of August, 2014.

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Staff Exhibit 1

Company	Ticker	Common Equity 12/31/13	Common Equity 12/31/12	Average 12 and 13	Net Income	ROE
AES Corp.	AES	4,330.00	4,569.00	4,449.50	934.00	20.99%
AGL Resources	GAS	3,631.00	3,413.00	3,522.00	313.00	8.89%
Amer. Elec. Power	AEP	16,085.00	15,237.00	15,661.00	1,549.00	9.89%
Ameren Corp.	AEE	6,544.00	6,616.00	6,580.00	518.00	7.87%
Center Pont Energy Inc.	CNP	4,329.00	4,301.00	4,315.00	536.00	12.42%
Consol. Edison	ED	3,454.00	11,869.00	7,661.50	454.00	5.93%
CMS Energy Corp.	CMS	12,245.00	3,194.00	7,719.50	1,157.00	14.99%
Dominion Resources	D	11,642.00	10,568.00	11,105.00	1,806.00	16.26%
DTE Energy	DTE	7,921.00	7,373.00	7,647.00	661.00	8.64%
Duke Energy	DUK	41,330.00	40,863.00	41,096.50	2,813.00	6.84%
Edison Int'l	EIX	9,938.00	9,432.00	9,685.00	1,344.00	13.88%
Entergy Corp.	ETR	9,632.00	9,197.09	9,414.55	904.00	9.60%
Exelon Corp.	EXC	22,732.00	21,431.00	22,081.50	1,999.00	9.05%
FirstEnergy Corp.	FE	1,292.00	13,084.00	7,188.00	1,245.00	17.32%
Integrus Energy	TEG	3,261.00	3,025.80	3,143.40	350.00	11.13%
NextEra Energy	NEE	18,040.00	16,068.00	17,054.00	2,062.00	12.09%
NiSource Inc.	NI	5,887.00	5,554.30	5,720.65	491.00	8.58%
Northeast Utilities	NU	9,612.00	9,237.05	9,424.53	794.00	8.42%
NRG Energy	NRG	10,220.00	10,284.00	10,252.00	-395.00	-3.85%
Pepco Holdings	POM	4,315.00	4,446.00	4,380.50	280.00	6.39%
Pinnacle West Capital	PNW	14,342.00	4,102.00	9,222.00	828.00	8.98%
PG&E Corp.	PCG	4,194.00	13,074.00	8,634.00	406.00	4.70%
PPL Corp.	PPL	12,466.00	10,480.00	11,473.00	1,541.00	13.43%
Public Serv. Enterprise	PEG	11,608.00	10,780.00	11,194.00	1,243.00	11.10%
SCANA Corp.	SCG	4,664.00	4,154.00	4,409.00	471.00	10.68%
Sempra Energy	SRE	11,008.00	10,282.00	10,645.00	1,060.00	9.96%
Southern Co.	SO	19,008.00	18,297.00	18,652.50	2,439.00	13.08%
TECO Energy	TE	2,334.00	2,291.80	2,312.90	198.00	8.56%

Wisconsin Energy	WEC	4,233.00	4,135.10	4,184.05	579.00	13.84%
Xcel Energy Inc.	XEL	9,566.00	8,874.08	9,220.04	948.00	10.28%
		299,863.00	296,232.22	298,047.61	29,528.00	
ROE					9.91%	
						4.38%
Standard Deviation						1.64
Adder						7.18%
SEET Threshold						17.09%

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Summary: Testimony Prefiled Testimony of Joseph P. Buckley submitted by Assistant Attorney General Thomas McNamee on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio