

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	
Company, and The Toledo Edison Company)	Case No. 14-1297-EL-SSO
for Authority to Provide for a Standard Service)	
Offer Pursuant to R.C. 4928.143 in the Form of)	
An Electric Security Plan)	

**SIERRA CLUB’S MOTION FOR A SUBPOENA DUCES TECUM
DIRECTED TO
FIRSTENERGY SOLUTIONS CORP.**

Under Ohio Administrative Code § 4901-1-25, Sierra Club respectfully moves the Public Utilities Commission of Ohio (the “Commission”), any commissioner, the legal director, the deputy legal director, or any attorney examiner to issue a subpoena duces tecum directed to FirstEnergy Solutions Corp. (“FES”) that compels FES to produce a person(s) to attend and give deposition testimony upon oral examination at a location of Sierra Club’s and FES’s mutual agreement on December 10, 2014, at 10:00 a.m. ET. This subpoena¹ compels FES to produce documents to Sierra Club covering the same topics by December 8, 2014, at 5:00 p.m. ET. *See* Ohio Administrative Code § 4901-1-25(D). Because Sierra Club seeks expedited treatment, this motion and the subpoena

¹ A copy of the Subpoena is attached as Exhibit A.

were presented to the attorney examiner in person. *See* Ohio Administrative Code § 4901-1-25(A)(2). The executed subpoena is attached hereto as Exhibit A.²

As described in the enclosed subpoena, Sierra Club requests that the Commission order FES to produce a person (or persons) with knowledge and expertise regarding the following topics, all of which are relevant to this proceeding:

1. Total projected revenues for the June 1, 2016 to May 31, 2031 period for each unit of the W.H. Sammis plant, to the extent available, and the plant as a whole, including, without limitation:
 - a. energy market revenue forecasts;
 - b. capacity market revenue forecasts;
 - c. ancillary services revenue forecasts;
 - d. outage schedules and forecasts;
 - e. load forecasts;
 - f. all supporting inputs, work papers, and other documents used in developing the forecasts set forth in (a)-(e) above; and
 - g. all other information relevant to projected revenues.
2. Total projected costs for the June 1, 2016 to May 31, 2031 period for each unit of the W.H. Sammis plant, to the extent available, and the plant as a whole, including, without limitation:
 - a. projected capital expenditures;
 - b. projected non-fuel variable costs;
 - c. projected fixed costs;
 - d. projected operation and maintenance costs;
 - e. projected fuel costs;
 - f. projected labor costs;
 - g. all supporting inputs, work papers, and other documents used in developing the projected costs set forth in (a)-(f) above;
 - h. a listing of each and every capital project currently planned for the Sammis plant, including (1) the scheduled timeframe for the

² Sierra Club is willing to negotiate the time and location of the deposition(s) with FES, so long as FES agrees to produce all responsive documents by December 8, 2014 at 5:00 p.m. ET.

- project, (2) the predicted cost of the project, and (3) a description of the scope of work being planned; and
 - i. all other information relevant to projected costs.
- 3. Communications with shareholders and/or financial institutions regarding cost, revenue, or market projections or forecasts as they pertain to the W.H. Sammis plant.
- 4. Communications with shareholders and/or financial institutions regarding the proposed “power purchase agreement” between FES and Ohio Edison Company, Cleveland Electric Company, and Toledo Edison Company.
- 5. Documents reflecting evaluation of terms of the proposed “power purchase agreement” between FES and Ohio Edison Company, Cleveland Electric Company, and Toledo Edison Company, including any draft contract or term sheets.
- 6. Any analysis performed by or on behalf of FES assessing compliance with, or compliance costs associated with, the following environmental regulations:
 - a. Section 316(b) of the Clean Water Act;
 - b. Section 316(a) of the Clean Water Act;
 - c. Clean Water Act effluent limitation guidelines;
 - d. Clean Air Interstate Rule;
 - e. Cross State Air Pollution Rule;
 - f. Ozone NAAQS;
 - g. PM2.5 NAAQS;
 - h. Coal Combustion Waste rules; and
 - i. Clean Air Act Section 111(d) greenhouse gas regulations for existing generation units.

In addition to a witness (or witnesses), FES must provide all documents within its possession, custody, or control that are relevant to these topics. *See* Ohio Administrative Code § 4901-1-25(D). Unless otherwise indicated, the preceding requests require the production of information and tangible materials pertaining to, in existence, or in effect

for the whole or any part of the period from June 4, 2012, through and including the date of FES's response.

Each of these topics is relevant to the Commission's decision in this case, as the Ohio Edison Company, Cleveland Electric Company, and Toledo Edison Company (the "Companies") have put the projected economic value of the W.H. Sammis plant at the heart of this proceeding. In response to several discovery questions propounded by Sierra Club, the Companies have averred that they do not have possession, custody, or control of documents falling into the above categories or have otherwise failed to produce relevant information. Accordingly, obtaining this information and these documents from the entity that does have access to such information and documents is necessary for the development of a more full record in this case. For these reasons, and those set forth in the accompanying memorandum, Sierra Club requests that this motion be granted.

Respectfully submitted,

/s/ Christopher J. Allwein

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Attorneys for Sierra Club

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of An Electric Security Plan)
)
)
) **Case No. 14-1297-EL-SSO**
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)

In this proceeding, Ohio Edison Company, Cleveland Electric Company, and Toledo Edison Company (the “Companies”) seek approval of, *inter alia*, a Retail Rate Stability Rider (“Rider RRS”). The Rider RRS, if approved, would require the Companies’ customers to bear the risks of ownership—receiving a credit if revenues exceed costs or a charge if costs exceed revenues—for, as relevant to this motion, the W. H. Sammis plant, a 2,220 MW coal-fired generation facility located in Stratton, Ohio. The Rider RRS would remain in effect from June 1, 2016 to May 31, 2031. Accordingly, costs and revenue projections, and information relevant to making such projections, for the Sammis plant over this 15-year period are of critical importance to the Commission’s consideration of this case.

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Though they have never stated that cost and revenue projections are not relevant to this proceeding—and could not seriously claim as such—the Companies have repeatedly averred that certain cost and revenue information related to the Sammis plant is not in their possession, custody, or control but, instead, is in the possession, custody, or control of FirstEnergy Solutions Corp. (“FES”).³ The Sammis plant is owned and operated by FES, an unregulated corporate affiliate of the Companies. To the extent that the Companies do not have the requested information, FES is best placed to provide it.

FES should be required to provide the requested information as described in the executed subpoena attached to Sierra Club’s motion. The significant economic consequences of the Rider RRS for the Companies’ customers—essentially the costs and benefits of owning a 2,200 MW coal-fired plant for 15 years—mean that the Commission, customers, and interested parties are entitled to the best available information to forecast costs and revenues. In order to more fully develop the record in this case, Sierra Club seeks to depose person(s) from FES and receive relevant documents from FES. Sierra Club respectfully asks that the Commission grant this motion.

³ As of today, the Companies have responded to at least seven Sierra Club discovery requests by stating that they lack possession, custody, or control for Sammis cost or revenue information. *See* Companies’ response to SC-1-INT-16; SC-1-INT-58; SC-2-INT-61; SC-2-INT-70; SC-2-INT-72; SC-2-RPD-62; and SC-2-RPD-68. The Companies have responded similarly to requests for cost and revenue information from other parties.

Respectfully submitted,

/s/ Christopher J. Allwein

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Attorneys for Sierra Club

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Sierra Club's Motion for a Subpoena Duces Tecum Directed to FirstEnergy Solutions Corp. has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on November 25, 2014.

/s/ Christopher J. Allwein
Christopher J. Allwein

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Company, and The Toledo Edison Company) Case No. 14-1297-EL-SSO
for Authority to Provide for a Standard Service)
Offer Pursuant to R.C. 4928.143 in the Form of)
An Electric Security Plan)**

SUBPOENA DUCES TECUM

TO: FirstEnergy Solutions Corp.
c/o Statutory Agent
CT Corporation System
1300 E. 9th Street
Cleveland, OH 44114-0000

Upon application of Sierra Club, FirstEnergy Solutions Corp. ("FES") is hereby required to provide a person(s) with knowledge and expertise on the following topics:

1. Total projected revenues for the June 1, 2016 to May 31, 2031 period for each unit of the W.H. Sammis plant, to the extent available, and the plant as a whole, including, without limitation:
 - a. energy market revenue forecasts;
 - b. capacity market revenue forecasts;
 - c. ancillary services revenue forecasts;
 - d. outage schedules and forecasts;
 - e. load forecasts;
 - f. all supporting inputs, work papers, and other documents used in developing the forecasts set forth in (a)-(e) above; and
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2. Total projected costs for the June 1, 2016 to May 31, 2031 period for each unit of the W.H. Sammis plant, to the extent available, and the plant as a whole, including, without limitation:
 - a. projected capital expenditures;
 - b. projected non-fuel variable costs;
 - c. projected fixed costs;
 - d. projected operation and maintenance costs;
 - e. projected fuel costs;
 - f. projected labor costs;

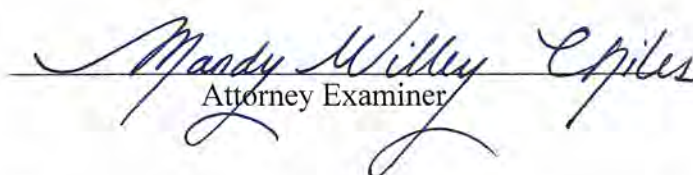
- g. all supporting inputs, work papers, and other documents used in developing the projected costs set forth in (a)-(f) above;
 - h. a listing of each and every capital project currently planned for the Sammis plant, including (1) the scheduled timeframe for the project, (2) the predicted cost of the project, and (3) a description of the scope of work being planned; and
 - i. all other information relevant to projected costs.
- 3. Communications with shareholders and/or financial institutions regarding cost, revenue, or market projections or forecasts as they pertain to the W.H. Sammis plant.
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- 5. Documents reflecting evaluation of terms of the proposed "power purchase agreement" between FES and Ohio Edison Company, Cleveland Electric Company, and Toledo Edison Company, including any draft contract or term sheets.
- 6. Any analysis performed by or on behalf of FES assessing compliance with, or compliance costs associated with, the following environmental regulations:
 - a. Section 316(b) of the Clean Water Act;
 - b. Section 316(a) of the Clean Water Act;
 - c. Clean Water Act effluent limitation guidelines;
 - d. Clean Air Interstate Rule;
 - e. Cross State Air Pollution Rule;
 - f. Ozone NAAQS;
 - g. PM2.5 NAAQS;
 - h. Coal Combustion Waste rules; and
 - i. Clean Air Act Section 111(d) greenhouse gas regulations for existing generation units.

This person(s) is required to attend and give deposition testimony upon oral examination at a location of Sierra Club's and FES's mutual agreement on December 10, 2014 at 10:00 a.m. ET.

The deponent(s) is required to attend from day-to-day until the deposition(s) is completed. Such person(s) will be deposed and will be subject to cross examination by Sierra Club in the above-captioned proceeding.

In addition to a witness (or witnesses), FES must provide all documents within its possession, custody, or control that are relevant to the above-described topics. *See* Ohio Administrative Code § 4901-1-25(D). Unless otherwise indicated, the preceding requests require the production of information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from June 4, 2012, through and including the date of FES's response. FES is required to produce documents to Sierra Club covering these same topics by December 8, 2014 at 5:00 p.m. ET.

Dated at Columbus, Ohio, this 25 day of November, 2014.


Attorney Examiner

Notice: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 14-1297-EL-SSO

Summary: Motion for Subpoena Duces Tecum of FirstEnergy Solutions electronically filed by Mr. Christopher J. Allwein on behalf of SIERRA CLUB