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March 24, 2016

Public Utilities Commission of Ohio

180 East Broad Street

Columbus, Ohio 43215

PUCO

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Re: First Energy Electric Security Plan, Case No. 14-1297-EL-SSO

Ladies and Gentlemen:

As you know, FirstEnergy subsidiaries have filed an application with the Commission that requests approval of the fourth FirstEnergy electric security plan (ESP IV), which includes a Retail Rate Stability Mechanism. As a residential electricity rate payer within the First Energy service area, I am submitting this comment letter concerning the ESP IV.

Summary and Conclusions

The Commission should not accept the stipulation submitted by applicants and other signatories because it is not unopposed, it does not benefit ratepayers, it does not benefit the public interest and it violates an important regulatory principle (i.e., fundamental fairness). It would be fundamentally unfair to give effect to the stipulation because most signatories received special financial payments, in some cases millions of dollars, not received by most residential rate payers. The signatories thus do not represent the interests of most residential ratepayers, and it would be unfair to impose the burdens of the Retail Rate Stability Mechanism on most residential ratepayers based on these unrepresentative signatories.

The Commission should not approve the ESP IV because it is not more favorable in the aggregate than a market rate offer for the following reasons:

- It exposes ratepayers to risks of paying above market rates because of unanticipated large plant costs, with no incentive to limit those costs, and to persistently low energy costs. These risks outweigh existing risks under a market rate offer pertaining to high market prices for electricity, since those risks would to some degree be controlled by market competition and are familiar to ratepayers.
- It would likely not provide diversity and security of supply greater than would be available absent the Retail Rate Stability Mechanism, and would also adversely hinder competition in violation of Ohio policy as set forth in the Ohio Revised Code.
- The magnitude and likelihood of adverse economic consequences resulting from failure to adopt the ESP IV are overstated, fail to take into account items that would negatively impact communities if the proposal were adopted, fail to take into account items that would positively impact communities if the proposal were NOT adopted, and fail to recognize that artificially supporting non-competitive enterprises to avoid consequences of their closure is inconsistent with Ohio policy as expressed in the Ohio Revised Code.

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Technician SM Date Processed MAR 30 2016

First Energy Proposal

FirstEnergy proposes to secure all electricity for Ohio Edison, Toledo Edison and The Cleveland Electric Illuminating companies at current market prices through a competitive bidding process, and these prices would be included in the rates paid by FirstEnergy customers. More importantly, FirstEnergy also proposes, as what it describes as a Retail Rate Stability Mechanism, to enter into an 8-year power purchase agreement with an affiliated company, First Energy Solutions, which would require that First Energy purchase all the electricity generated by two old plants owned by First Energy Solutions, the Davis-Besse nuclear plant and W.H. Sammis coal-fired plant (collectively the "Old Plants") and from other operations. The price at which First Energy would purchase this electricity from First Energy Solutions would be the cost to produce it at the Old Plants, as the same may change from time to time, plus a return on investment of for First Energy Solutions. The electricity itself from the Old Plants, however, would not be provided to First Energy customers. Instead, it would be sold by First Energy into the wholesale (PJM) market at the then current wholesale market prices, and First Energy retail customers would receive credit for the revenue received by First Energy from these wholesale market sales. Differences between the purchase price and the revenue received by First Energy would be passed along to First Energy customers. In other words, if the cost were greater than the wholesale sales price (as would currently be the case), then customers would have to pay the difference. On the other hand, if the cost were to be less than the wholesale sales price, then customers would receive the benefit of the difference in the form of reduced electricity rates.

Under the proposal, ratepayers would receive a credit in Year 5 of \$10 million in the aggregate, to be reduced by the amount of the credit otherwise produced by the Retail Rate Stability Mechanism. The \$10 million would be increased by \$10 million each year through the remainder of the security plan, for a total of \$100 million.

The proposal would have the effect of giving the Old Plants a contractual right to receive payment for all their costs, irrespective of how inefficient they may be and irrespective of any future costs they may be required to incur to comply with environmental regulations or correct operational failures, plus a return on investment. Since the costs of these plants, plus a return on investment, now exceed current market rates for electricity, these plants are not now profitable, according to FirstEnergy. Without the proposal, the owners of the Old Plants would retain the risks that the plants are or will become so expensive to operate, and/or that market prices will remain sufficiently low, that the plants could not profitably generate electricity at market rates and may therefore have to cease operations. With the proposal, these risks would be transferred to ratepayers, who would have to pay the amount by which the costs to generate electricity by the Old Plants plus a return on investment exceeds the revenue received from market sales at low prices. And that payment by ratepayers would be in addition to ratepayer payment of the current market prices for electricity, as determined through the competitive bidding process. The Retail Rate Stability Mechanism would benefit ratepayers only if market prices for electricity were to rise significantly so that they would exceed the costs plus return on investment for the two Old Plants. Based on its forecasts, FirstEnergy claims that the likelihood of this event is sufficiently high such that rate payers should benefit significantly.

The proposal would extend a base distribution rate freeze to eight years, but contains conditions that substantially weaken the commitment. The conditions include not being precluded from implementing changes in rate design that are designed to be revenue neutral, eliminate subsidies, or for any new service offering, as approved by the Commission, and not being precluded with Staff agreement to file for a base distribution rate case. These conditions substantially weaken the proposed rate freeze.

The proposal includes financial contributions (some in the hundreds of thousands and millions of dollars) to various organizations, including COSE, the Association of Independent Colleges and Universities of Ohio Efficiency Resource Program, the Citizen's Coalition, the Community Connections program, Ohio Partners for Affordable Energy, the Cleveland Housing Network, the City of Akron, Consumer Protection Association, Council for Economic Opportunities of Greater Cleveland.

The proposal contains provisions, all of which are without consequence for failure to achieve, are so general as to require only minimal accomplishments or are so conditioned as to substantially weaken their value. Examples include the following:

- To establish a goal to reduce CO₂ emissions by at least 90% below 2005 levels by 2045, regardless of whether EPA's recently finalized Clean Power Plan is overturned by court order. First Energy claims that would be among the most aggressive targets in the utility industry, and a potential reduction of over 80 million tons of CO₂."
- To evaluate investing in battery resources contingent on Commission approval that all investments for such resources shall be rate-based and included in a recovery mechanism.
- To take steps to unlock energy efficiency.
- To procure at least 100 MW of new Ohio wind or solar resources as part of a strategy to further diversify Ohio's energy portfolio, but only to the extent PUCO staff deems it helpful to comply with future federal or state law or rule, and, only to the extent such federal or state law or rule has not fostered the development of new renewable energy resources, including wind and solar.

Effect of Stipulation

First Energy has entered into a stipulation with selected parties that would adopt the ESP IV, and argues that the Commission should give effect to that stipulation.

Although stipulations are not binding on the Commission, the terms of a stipulation are accorded substantial weight. This concept is particularly valid where the stipulation is unopposed by any party and resolves most of the issues presented in the proceeding in which it is offered. See In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Proposed Reliability Standards Case No. 13-1539-EL-ESS.

The standard of review of a stipulation is whether it is reasonable. When considering reasonableness, the Commission has used the following criteria:

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

According substantial weight to stipulations depends in part upon whether it is unopposed, which is not the case here. The stipulation continues to be opposed by virtually all participating organizations that represent residential ratepayers who did not receive a special benefit under the terms of the stipulation.

As explained in the following sections, the stipulation does not benefit ratepayers and is not in the public interest.

Finally, the stipulation violates an important regulatory principle and practice – fairness. Virtually all of the signatories to the stipulation are applicants for the ESP, are other electric utilities, have relationships with applicants in addition to ratepayers or would receive special financial benefits under the Stipulations not available to all ratepayers. These signatories are not representative of residential ratepayers. The stipulation would allow signatory organizations that would receive significant FirstEnergy special monetary payments, not available to most residential rate payers, to impose risky rate paying obligations all residential rate payers. Many of these payments are hundreds of thousands of dollars, in some cases millions of dollars, to non-profit organizations hard-strapped for financial contributions. No organizations that could arguably be representative of all residential rate payers and did not receive a special financial benefit are signatories to the stipulation. Thus, it would be a denial of the important principle of regulatory fairness to allow these self-interested signatories to determine the rates of thousands of rate payers who are not receiving special monetary payments.

Standard for Approval of Electric Security Plan

Ohio law provides that an electric security plan must be approved if the Commission finds that the plan, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results that would otherwise apply under a market rate offer. The burden of proof is on the electric distribution utility.

In determining whether the First Energy Security Plan is more favorable, the Commission must take into account all of its terms and conditions, including the effects on fuel diversity, market competition, lack of reliability revenue estimates, possibilities of huge increases in generation cost with no incentives to control them, and appropriate risk allocations between utilities and rate payers, security and reliability, risks and harm to the public interest resulting from hazardous emissions. The Commission should take into account State of Ohio policy regarding competitive retail electric service, as set forth in ORC Section 4928.01, including the following:

- Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;
- Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;
- Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates;

The following sections address important issues that relate to whether the ESP IV is more favorable in the aggregate in comparison to a market rate offer, taking into account the considerations listed above.

Retail Rate Stability Mechanism

Important potential benefits, adverse consequences and risks of the Retail Rate Stability Mechanism are discussed below.

Rate Benefit to Customers

First Energy forecasts that the Retail Rate Stability Mechanism would produce a \$561 million benefit to customers.

Although the Retail Rate Stability Mechanism by its name and otherwise purports to protect against future price increases by a long-term commitment to pay for plant output, it does not offer a reliable fixed price for electricity. It offers a price that continues to depend on the difference between the market price of electricity and the generation costs of the Old Plants. As the costs to generate electricity from the Old Plants increase, the rates paid by First Energy customers would also increase unless market prices for electricity increased at a rate that would keep unchanged or reduce the difference between costs and market prices. Conversely, customer rates would decrease if market prices for electricity rose at a rate that would reduce the amount by which costs exceed market rates, or at some future time increase the amount by which market prices exceed generating costs.

Whether or not the Retail Rate Stability Mechanism would produce a benefit to customers would therefore depend upon future market prices of electricity and future costs to operate the Old Plants. If the First Energy forecasts of market prices and plants costs are reasonably accurate, then the Retail Rate Stability Mechanism would benefit customers over the term of the proposal. On the hand, if those forecasts are not reasonably accurate, or are subject to substantial risk, and market prices thus remain low or costs exceed expectations, then the Rate Stability Mechanism would not benefit customers, and in fact could be significantly detrimental to them.

FirstEnergy has gone to some length to defend the accuracy of its market price and cost forecasts by touting the qualifications of the professionals who prepared them and the methodologies utilized in their preparation, and by denigrating the qualifications of participants in the process who produced less favorable forecasts. FirstEnergy forecasts may very well be consistent with accepted practices, although substantial evidence has been produced in the proceedings that they have not fully taken into account potential environmental costs that would be especially onerous for coal-fired plants. And they clearly have not taken into account the potential for extraordinary costs, such as the corrosion in the lid of the Davis-Besse nuclear plant in 2002 that resulted in a two-year plant closure, a cost of \$600 million for repairs and a fine of more than \$30 million for improper conduct. And they do not appear to reflect the concerns expressed by the following ominous statement by FirstEnergy to its investors:

“[FirstEnergy subsidiaries] are exposed to losses under their applicable sale-leaseback arrangements for generating facilities upon the occurrence of certain contingent events that

could render those facilities worthless. Although we believe these types of events are unlikely to occur, [FirstEnergy subsidiaries] have a maximum exposure to loss under those provisions of approximately \$1.2 billion for [FirstEnergy Solutions], \$368 million for [Ohio Edison] and \$192 million for [Toledo Edison]. In addition, new and certain existing environmental requirements may force us to shut down such generating facilities or change their operating status, either temporarily or permanently, if we are unable to comply with such environmental requirements, or if we make a determination that the expenditures required to comply with such requirements are unreasonable." First Energy Annual Report on 10-K for year ended December 31, 2015, p. 26.

Recent experience teaches that even the most carefully prepared long-term forecasts of market prices and plant cost, especially in the energy industry, are subject to substantial risk and uncertainties. It is common knowledge that the turmoil in the oil and gas industry over the past few years has rendered many earlier energy-related forecasts grossly inaccurate. We have seen the fracking expansion and sudden implosion cause widely unpredicted swings in energy prices. First Energy itself has not been able to forecast prices, having to default on long-term coal purchase agreements because its forecast for its own needs for coal proved inaccurate. See FirstEnergy Annual Report on Form 10-K for Year Ended December 31, 2015.

FirstEnergy confirms this substantial risk of uncertainty in the following statement:

"Our risk management activities, including our power sales agreements with counterparties, rely on projections that depend heavily on judgments and assumptions by management of factors such as the creditworthiness of counterparties, future market prices and demand for power and other energy-related commodities. These factors become more difficult to predict and the calculations become less reliable the further into the future these estimates are made. Even when our policies and procedures are followed and decisions are made based on these estimates, results of operations may be adversely affected if the judgments and assumptions underlying those calculations prove to be inaccurate." First Energy Annual Report on Form 10-K for Year Ended December 31, 2015

In light of the foregoing, it seems safe to conclude that there is a substantial risk that the price and cost forecasts used by FirstEnergy to defend the Retail Rate Stability Mechanism would not be accurate, and therefore substantial risk that the Retail Rate Stability Mechanism would not be financially benefit ratepayers. In other words, it would impose above market rates on customers in the early years for future benefits that are highly uncertain.

Should rate payers be required to accept this substantial risk of paying above market prices for electricity through Commission acceptance of the Retail Rate Stability Mechanism? Or should Ohio ratepayers continue essentially with the status quo and retain the risk of rising and volatile market prices for electricity, and of possible electricity disruptions caused by plant closures? The safer risk for ratepayers is to stay with the status quo, and continue with the risk of increasing electricity prices, relying on the force of free competition in the electricity generation market to control those increases to some degree. Rate holders are familiar and comfortable with that risk. To assume the risk for increased plant operating cost, as would be the case with the Retail Rate Stabilization Mechanism, where there would be no incentive to control those costs, together with the possibility that extraordinary events could result in huge increases plant cost increases, seems especially unwise and overall not favorable as

compared to the status quo. And to place ratepayers in a position where they would be encouraged to be supportive of higher electricity prices is not a position with which they would be comfortable.

Finally, it seems especially incongruous for First Energy to argue, as it does by urging adoption of the Retail Rate Stability Mechanism, that ratepayers should assume the risk of increase plant costs and lower market prices for electricity, yet if those risks were to remain with FirstEnergy, it would find them unacceptable and instead would consider closing the Old Plants.

Price Volatility and Lack of Resource Diversity

First Energy claims that the Retail Price Stability Mechanism would provide a valuable safety net to protect resource diversity and that "resource diversity helps mitigate price volatility." By this, it presumably means that the Retail Price Stability Mechanism would allow the Old Plants to remain in business, thus continuing to provide diversity of supply that would be adversely impacted if the Old Plants were to be closed. Those plants presumably would help to avoid shortages that could cause spikes in electricity prices.

Whether the Davis-Besse plant could be counted upon to provide a reliable and diverse source of power presents some risk. It is well-known that it has had a troubled history, including corrosion of the reactor lid in 2002 that resulted in a two-year closure with repair costs of \$600 million, and subsequent lid cracking that necessitate lid replacement in 2011.

Furthermore, the Retail Rate Stability Mechanism seems likely to deter other electricity generators, especially solar and wind, and thus interfere with market developments that would tend to create conditions to reduce volatility, because those generators would be unable to compete with the Old Plants, which would have all of their costs, irrespective of how high, fully reimbursed. Thus, they could sell at artificially low prices, undercutting other generators. The Retail Rate Stability Mechanism would allow the Old Plants to "crowd out" other more efficient generators and may cause them to go out of business or not to enter in the first place. No other generator would build new electric generating capacity knowing that it would be underpriced by the Old Plants, which could sell electricity at any price irrespective of cost and still make a profit. There would be no incentive for new generation capacity and no incentive to retire inefficient non-competitive capacity. This is a misallocation of resources that harms all Ohio customers, and would interfere with the market mechanism designed to result in long-term reliability at the lowest possible cost.

Closure of the Old Plants would not necessarily reduce supply diversity. It seems reasonable to conclude that if in fact the Old Plants were to be closed, other more efficient generators would replace them, and that at least some of those new generators would produce electricity from diverse sources, including renewable sources such as wind and solar.

Finally, even if the Old Plants were in fact needed to provide needed diversity and to dampen price volatility, a "must run" mechanism under PJM requirements is available in special situations to continue their generation. (See testimony of Cheryl Roberto.)

In light of the foregoing, there is a substantial risk that the Retail Rate Stability Mechanism would not be necessary for, and may hinder, diversity of supply and interfere with market achievement of less price volatility. Therefore, less volatility and diversity of supply are not sufficient reasons to conclude that the Retail Rate Stability Mechanism is more favorable than a market rate offer.

Impact on Communities and Competition

First Energy claims that the Retail Rate Stability Mechanism would protect jobs and promote the state's economic growth and development. It claims that by keeping vital fuel-diverse baseload power plants available in and near Ohio to serve Ohio customers, the program will help preserve \$1 billion in statewide economic benefits and nearly 3000 direct and indirect jobs created by operation of the two Old Plants. First Energy claims that the program would also assure continuation of property taxes associated with the generating plants, keep a zero emission plant operating; avoid additional transmission costs if the plants were to be retire, support regional fuel and asset diversity and reduce Ohio's need to rely disproportionately on plants outside of Ohio.

Although First Energy recites benefits to Ohio resulting from the proposal, it omits items that would negatively impact communities if the proposal were adopted, or that would positively impact communities if the proposal were NOT adopted. For example, First Energy does not take into consideration that its proposal could result in higher prices to customers, helping to offset benefits to the communities in which the plants operate. Nor does First Energy take into account economic gain from employment and the multiplier effect resulting from more efficient energy generation sources that would replace the Old Plants if they were to be closed.

Rate payers should not be expected to artificially support through higher rates and anti-competitive subsidies those generators that are not cost competitive, if the reason to do so is to avoid the unfortunate and harsh consequences of the closures of those generators. Quite the contrary, applicable Ohio policy is as follows:

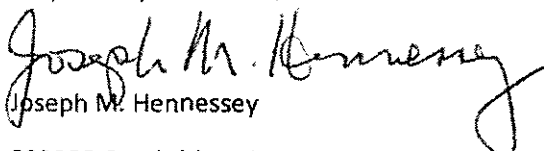
"It is the policy of this state to do the following throughout this state . . .

"(H) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates . . ." ORC Section 4928.02.

As explained above, the Retail Rate Stability Mechanism would protect the Old Plants from competition because it would subsidize their noncompetitive generation of electricity, making it difficult for other electricity generators to compete.

In light of the above, the ESP IV is not more favorable in the aggregate than a market rate offer, and the Commission should not approve it.

Respectfully submitted,


Joseph M. Hennessey

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From: webmaster@puc.state.oh.us
To: PUCO ContactThePUCO
Subject: PUCO CONTACT FORM: 106049
Received: 3/26/2016 5:06:11 PM
Message:
WEB ID: 106049 AT:03-26-2016 at 05:05 PM

Related Case Number:

TYPE: Comment

NAME: Mr. James Brancheau

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E-MAIL: jamesbrancheau@ameritech.net

INDUSTRY:Electric

ACCOUNT INFORMATION:

- Company: First Energy / Toledo Edison
- Name on account: 110 018 238 060
- Service address: 1378 Wildwood Rd. Toledo, Ohio
- Service phone: 419 389 91229
- Account Number: Same as above

COMMENT DESCRIPTION:

With what First Energy is paying there officers they can cut there salaries and use that money to make the improvements they want to make. Ohio already pays the highest utility rates in the country it is time we get a break from there reckless spending.

From: webmaster@puc.state.oh.us
To: PUCO ContactThePUCO
Subject: PUCO CONTACT FORM: 106086
Received: 3/29/2016 12:43:53 PM
Message:
WEB ID: 106086 AT:03-29-2016 at 12:43 PM

Related Case Number:

TYPE: Question

NAME: Mr. David Lawrence

CONTACT SENDER ? Yes

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- Wadsworth , Ohio 44281
- USA

PHONE INFORMATION:

- Home: 3305926070
- Alternative: *(no alternative phone provided?)*
- Fax: *(no fax number provided?)*

E-MAIL: lawrencedgolf@yahoo.com

INDUSTRY:Electric

ACCOUNT INFORMATION:

- Company: Ohio Edison
- Name on account: David Lawrence
- Service address: 1815 Fixler Rd
- *(no service phone number provided?)*
- Account Number: 110 010 042 833

QUESTION DESCRIPTION:

with the pending rate case 14 1297 EL SSO since i have electric heat that is being changed each year with higher rates am I looking at a double rate increase here ?? I hope that the PUCO does not forget that the electric heat customers are in rate shock now !! The proposed rate increase- is it going to be a double hit for the homes that have electric heat ?? Please call me 330-592-6070