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 Provide a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan.	)))))))	Case No. 14-1297-EL-SSO

REHEARING DIRECT TESTIMONY
OF
MATTHEW I. KAHAL

On Behalf of the
The Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
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JUNE 22, 2016

TABLE OF CONTENTS

<u>Page</u>

I. OVERVIEW

Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A1. My name is Matthew I. Kahal. I am employed as an independent consultant retained by the Office of the Ohio Consumers' Counsel ("OCC") to address certain issues in this docket. My business address is 1108 Pheasant Crossing, Charlottesville, VA 22901.

Q2. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS CASE?

A2. Yes. On December 22, 2014, the OCC and the Northeast Ohio Public Energy Council ("NOPEC") submitted direct testimony that I prepared that addresses the statutory test for the Electric Security Plan ("ESP") versus the Market Rate Offer ("MRO") alternative. That testimony includes a statement of my qualifications and listing of past testimony. On March 2, 2015, the OCC and NOPEC submitted supplemental testimony that I prepared that evaluated the first stipulation ("First Stipulation") submitted in this docket on December 22, 2014. On December 30, 2015, the OCC and NOPEC submitted my testimony concerning the Third Stipulation, which testimony was labeled Second Supplemental Direct Testimony. At this time, I am submitting Rehearing Direct Testimony which is prepared on behalf of the OCC.

Q3. ***WHAT IS THE PURPOSE OF YOUR REHEARING DIRECT TESTIMONY?***

A3. On May 2, 2016, the three FE Utilities (Ohio Edison Company, Cleveland Electric Illuminating Company, and the Toledo Edison Company) submitted in this docket an Application for Rehearing contesting several rulings in this Commission's March 31, 2016 Opinion and Order ("The March 31 Order"). Beginning at page 14 of that filing, the FE Utilities submitted a proposed revised version of the Retail Rate Stability Rider ("Rider RRS"). In addition, the FE Utilities filed Rehearing Testimony of Eileen M. Mikkelsen. The principal purpose of that testimony is to describe and support the new Rider RRS proposal. My Rehearing Direct Testimony comments on and critiques this new proposal for Rider RRS.

Q4. ***RIDER RRS WAS SUBMITTED AND APPROVED, SUBJECT TO CERTAIN COMMISSION MODIFICATIONS, AS PART OF A STIPULATION. HAS A NEW STIPULATION WITH THE NEW RIDER RRS BEEN SUBMITTED?***

A4. No, not formally. However, in a letter to the Commission submitted on May 4, 2016, the FE Utilities maintain that the proposed change to Rider RRS has substantial support from the signatories to the Third Stipulation. Although it should be noted in a letter filed by FirstEnergy in this case on May 4, 2016 the Staff of the PUCO was still reviewing the Application for Rehearing and the testimony of Ms. Mikkelsen and therefore, not officially supporting the modified Rider RRS proposal.

Q5. GIVEN THE COMMISSION'S APPROVAL OF THE RIDER RRS, WHY ARE THE FE UTILITIES SUBMITTING A NEW PROPOSAL AT THIS TIME?

A5. The PUCO approved Rider RRS as a "hedge" mechanism that is based on a long-term, cost-of-service purchase power agreement ("PPA") between the FE Utilities (as the buyers) and their unregulated merchant affiliate, FirstEnergy Solutions ("FES") (as seller). Because this is a wholesale contract, it is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). On April 27, 2016, the FERC issued a decision rescinding the FES affiliate transaction waiver as applicable to the subject PPA. As a practical matter, this means that FES and the FE Utilities must file at the FERC the PPA for approval. While the Application for Rehearing takes no position on whether the FERC would approve the PPA, it does express concern regarding the regulatory delay associated with obtaining the required approval.

Q6. HOW WOULD THE NEW RIDER RRS AVOID FERC APPROVAL DELAY?

A6. The new proposal would implement the "hedge" on a retail basis through Rider RRS without any underlying wholesale PPA. This would be done by using the year-by-year power plant costs and MWh generation supply projected and presented by FE Utilities witnesses for the power plants during the case. As a reminder, the power plants included in the now defunct PPA include the Davis Besse nuclear plant (908 MW), the Sammis coal-fired plant (2,210 MW), and the

Utilities' 4.85 percent entitlement in the Ohio Valley Electric Corporation (116 MW of coal-fired capacity), or a total of about 3,200 MW.

Q7. PLEASE EXPLAIN THE MECHANICS OF THE NEW RIDER RRS.

A7. For purposes of the new proposal, the cost of service for the power plants listed above, the role of FES and the PPA all disappear from the operation of the rider. The new Rider RRS hedge is simply the difference between the year-by-year projected dollar cost stream (which is now fixed in dollar terms and locked in) and the "simulated" (as opposed to actual) year-by-year market revenue (capacity, energy, ancillary services, etc.). The "simulated" market revenue, essentially, is calculated as the actual PJM capacity and spot energy (day-ahead locational marginal prices) multiplied by the (on-peak and off-peak) generation output (and cleared capacity) from the PPA power plants that was projected by the FE Utilities' dispatch model.

For example, assume that FE Utilities' projected cost of service for the power plants in 2018 is $500 million. Further assume that the simulated market revenue (based on actual PJM spot market prices combined with projected generation output and cleared capacity) is $400 million. In that case, utility customers pay the FE Utilities $500 million minus $400 million, or $100 million. Similarly, if actual market prices in 2018 are much higher producing simulated revenue of $600 million, customers under Rider RRS would receive a credit of $100 million.

(Mechanically, the FE Utilities would initially use projections of PJM market prices and later true up with actuals.)

Q8. HOW DO THE FE UTILITIES CHARACTERIZE THE MODIFIED RIDER RRS PROPOSAL?

A8. The Application for Rehearing and Witness Mikkelsen's testimony contend that the new proposal represents an improvement by reducing customer risk, streamlining regulatory oversight through simplification and removing a number of objections voiced during this case by intervening parties.[1] The Application refers to the new Rider RRS as "a narrow change" (page 16) and "slight modification" (page 22) as compared to the Commission-approved Rider RRS. The May 4 letter refers to the new proposal as a "modest" change to what was previously approved.

Q9. DO YOU AGREE WITH THE FE UTILITIES' CHARACTERIZATION OF THE MODIFIED RIDER RRS PROPOSAL AS AN IMPROVEMENT OVER THE PREVIOUS PROPOSAL?

A9. No. I disagree with that characterization. It is not an improvement. In addition, Witness Mikkelsen's testimony raises an entirely new issue regarding Rider RRS that was not present with the previous form of that rider. At page 18 of her Rehearing testimony, she argues that earnings the FE Utilities may obtain from

[1] See Mikkelsen's Rehearing Testimony at pages 9-11.

Rider RRS should be exempted from the Significantly Excessive Earnings Test ("SEET"). She argues that such an exemption would preserve the "balance" associated with this mechanism. The merits of this exemption proposal are specifically addressed by OCC Witness Duann.

Q10. DOES WITNESS MIKKELSEN ADDRESS HOW THE NEW RIDER RRS IMPACTS THE ESP VERSUS MRO TEST?

A10. Yes. Her rehearing testimony notes that the Commission's March 31 Order determined that the Third Stipulation passes the ESP versus MRO test. At page 18, she states that the new Rider RRS proposal can be expected to provide hedge and rate benefits similar to the previous Rider RRS construct. Consequently, she concludes that the new and revised Rider RRS proposed in the Rehearing Application will not alter the Commission's positive findings on this test. Specifically, she contends that the Commission's March 31 Order finding that Rider RRS (per the Third Stipulation) is estimated to provide a quantified net benefit of $256 million over eight years would continue to apply to the new Rider RRS proposal, at least as an approximation.

Q11. WHAT ARE YOUR MAIN FINDINGS CONCERNING THIS NEW RIDER RRS PROPOSAL?

A11. The Rehearing Application and supporting testimony emphasize and present the new Rider RRS construct as being very similar to the version approved by the

Commission with the principal change being simplicity and reduced need for regulatory oversight. I disagree with that characterization.

This new proposal is profoundly different from the approved Rider RRS because it cuts the crucial link between the physical attributes and operation of the subject power plants (Davis Besse and Sammis) and the new Rider RRS. The FE Utilities submitted extensive testimony earlier in this docket regarding the closure threat at those plants and the vast array of quantified and qualitative public interest benefits that would be provided from the continued operation that would be facilitated by Rider RRS. That vast record now is meaningless under the new proposal. The proposed new Rider RRS quite simply does not depend on nor does it financially facilitate continued operation of these specific power plants. [2] The vast array of these asserted benefits now disappear.

The second crucial difference resulting from the new proposal is the complete removal of FES from the operation of the Rider RRS mechanism. As Witness Mikkelsen points out, at page 18, the previous (approved) Rider RRS was designed to be essentially revenue and earnings neutral for the FE Utilities. The Utilities would pay FES its cost of service (per the PPA terms) and sell the actual generation supply from those power plants into the wholesale market. That resulting revenue stream would either "finance" the ratepayer credit, or ratepayers

[2] See Mikkelsen Rehearing Testimony at 15 where she states: "Rider RRS will help ensure the continued operation of 3,200 MWs of fuel diverse baseload generation."

would "finance" (i.e., cover) the Utilities' revenue shortfall. In either case, the Utilities' financial position is fully protected under this design.

Under this new construct, with FES gone, the FE Utilities are absorbing the financial consequences of the hedge risk. The Rider RRS will enrich the Utilities with potentially hundreds of millions of dollars per year (and billions of dollars total) of excess profits if market prices remain lower than the Utilities' sponsored projections (and with no SEET protection for customers). However, if the Utilities' energy market outlook is correct, then their pre-tax earnings will be impaired by $561 million, with adverse implications for Utilities' financial integrity and the ability to meet utility service obligations. Obviously either outcome is possible, and neither is desirable. In fact, a potential financial loss of $561 million would raise questions as to whether the hedge is even financially feasible for the Utilities. Quite simply, neither the prospects of enormous unwarranted excess profits (unrelated to any capital investment) nor large financial losses is an acceptable outcome for a regulated utility.

Q12. DO YOU ACCEPT WITNESS MIKKELSEN'S REPRESENTATION THAT THE NEW MECHANISM WILL PROVIDE CUSTOMERS WITH A SAVINGS?

A12. No, I do not. While Ms. Mikkelsen correctly notes that the Commission March 31 Order concluded, based on the record, that Rider RRS may provide an eight-year customer benefit of $256 million, this finding is based on data that now is stale and superseded by better recent information.

OCC Witness Wilson provides an update, using the latest available information from the Energy Information Administration "Annual Energy Outlook", that shows that the Rider RRS will produce a net detriment for customers over eight years of $1.344 using the Reference Case and $3.575 billion using Witness Wilson's case using current forward energy market data. Based on this updated, new information, the Third Stipulation does <u>not</u> pass the ESP versus MRO test as it now produces a net quantified customer detriment of $1.293 billion to $3.524 billion.

Even if I utilize the FE Utilities' woefully out of date benefit estimate of $561 million in the test (averaged with the Annual Energy Outlook Reference Case per the Commission's order), there is still a quantified net detriment to customers of $341 million. Please note that this updated quantified detriment under this test is based on accepting all other aspects of the Commission's March 31 Order's quantification. This accepts the PUCO's treatment of Rider DCR as a wash, even though I testified that Rider DCR produced a substantial ratepayer net cost.

Q13. WITNESS MIKKELSEN ALSO ARGUES THAT THE THIRD STIPULATION, AS NOW MODIFIED, PASSES THE COMMISSION'S "THREE-PRONGED" TEST. DO YOU AGREE?

A13. No, I do not. I believe that it does not pass that test. There are troubling but fundamental differences between this new proposed mechanism and the previous one that was approved by the Commission (which the Commission found passed the three-pronged test). The next section of my testimony explains why this new proposed rider fails the Commission's three-pronged test.

Q14. WHAT ARE YOUR RECOMMENDATIONS?

A14. I recommend that the Commission reject the proposed new Rider RRS proposal and, by implication, the as-modified Third Stipulation, which includes that proposal. The Commission instead should find that due to updated market information the proposed ESP IV does not pass the statutory ESP versus MRO test. I recommend that the Commission rely on OCC Witness Wilson's updated projections because the Utilities' vintage 2014 projections are unacceptably out of date and the FE Utilities have chosen not to provide an update with the new proposal.

Finally, if the Commission decides to accept the proposed new Rider RRS, consistent with OCC Witness Duann, I recommend that FE Utilities' gains and losses on the hedge be included in the SEET. While doing so will not correct all the disadvantages of Rider RRS, it can serve to mitigate its expected adverse impacts on customers and the FE Utilities' improper enrichment with monopoly profits.

The next section of my testimony discusses further the basis of my recommendations.

II. DISCUSSION OF FINDINGS AND RECOMMENDATIONS

Q15. THE FE UTILITIES CHARACTERIZE THE NEW RIDER RRS PROPOSAL AS BEING ONLY A "MODEST" CHANGE FROM THE APPROVED RIDER RRS. (REFERENCE: MAY 4, 2016 LETTER) WHAT PROMPTED THIS ALLEGEDLY "MODEST" CHANGE?

A15. It appears to be prompted by the FERC's decision that the FES PPA would not be exempt from its affiliate transaction rules and review (i.e., the "waiver"). This rescinding of the waiver is not necessarily a FERC rejection of the PPA, but it does mean FES and the FE Utilities must file for and obtain approval for any such PPA transaction at FERC. It appears that FES and the FE Utilities have chosen not to pursue such approval, even though that remains an option, purportedly out of concern for regulatory delay entailed in obtaining such approval. Moreover, as I note, the Rehearing Application maintains that the FERC approval problem can be circumvented with only a "modest" change, thereby allegedly preserving the benefit of Rider RRS.

Q16. DO YOU AGREE WITH THE NEED TO CHANGE RIDER RRS TO AVOID DELAY AT FERC?

A16. No, I do not. FES and the FE Utilities are certainly entitled to withdraw or not seek approval at FERC of the PPA. However, regulatory delay concerns are not a valid reason for the new Rider RRS proposal. The FE Utilities plainly admit that the Rider RRS hedge likely harms rather than benefits customers during the first couple of years. More importantly, the new Rider RRS differs in major respects—not modestly—from the Commission-approved mechanism.

Q17. WHAT ARE THE SALIENT DIFFERENCES?

A17. The approved Rider RRS is essentially a "reregulation" proposal for 3,200 MW of legacy baseload coal and nuclear generation capacity through a PPA mechanism. The way this has been portrayed, FES would accept full cost of service pricing compensation (no more, no less). In return ratepayers would receive a financial hedge, $561 million over eight years in estimated rate savings and the preservation of the 3,200 MW of physical capacity that otherwise might be retired. FES, of course, also would benefit through greatly reduced risk as these otherwise merchant power plants also are hedged through the long-term PPA.

As explained on pages 17-18 of the Rehearing Application, the new proposal severs the link to FES and the power plants. That linkage was intended to help ensure that the power plants continue to operate. The FE Utilities' direct testimony in this case suggested that by preserving the power plants, ratepayers and the Ohio economy would obtain (or might obtain) a vast array of public interest benefits including: (a) reliability of generation supply; (b) fuel/power supply diversity; (c) thousands of power plant and "linked" jobs, with associated income and tax revenue for the state; and (d) avoidance of costly transmission investment.

Perhaps, just as important, under the new Rider RRS proposal, the mechanism no longer would be financially neutral for the FE Utilities. Rider RRS under the new proposal has the potential to provide the FE Utilities with either vast riches (at ratepayer expense) or enormous financial losses, in either case introducing considerable earnings instability, which should not be undertaken by regulated utilities. As Witness Mikkelsen correctly emphasized, by comparison the approved Rider RRS was designed to be "financially neutral."

These changes under the new proposal simply cannot be described as "modest" nor "financially neutral."

Q18. WITNESS MIKKELSEN CLAIMS THAT THE NEW RIDER RRS WILL PROVIDE CUSTOMERS WITH THE HEDGE BENEFIT AND SAVINGS OF $561 MILLION, SIMILAR TO THE APPROVED RIDER RRS ARRANGEMENT. DO YOU AGREE?

A18. No. This assertion, while theoretically possible, is not a reasonable or realistic expectation, as OCC Witness Wilson explains. In a narrow sense, the approved Rider RRS and the new Rider RRS differ because the approved mechanism is based on the actual power plant cost of service whereas the new proposal simply "locks in" that cost of service (in dollar terms) as the hedge. Due to forecast error associated with that cost of service, inevitably they will not produce the same hedge result.

The cost of service forecast error, however, is not my salient concern. Rather, Witness Mikkelsen is making the totally fantastic assertion that the FE Utilities are advocating a mechanism in which they lose $561 million in order to benefit their customers, with that financial loss being completely unhedged. This is simply neither credible nor plausible. She also cites to the Commission's more moderate finding of a $256 million customer savings from Rider RRS — or alternatively "only" a $256 FE Utilities' loss. The FE Utilities' management cannot possibly believe either outcome is even remotely likely or they would not be submitting this proposal (along with other concessions such as the $51 million in shareholder contributions in the Third Stipulation). The only plausible explanation for the new proposal is that FE Utilities management must believe that the new Rider RRS will produce a large customer loss—which translates into huge FE Utilities profits—consistent with OCC Witness Wilson's analysis.

The new Rider RRS is now a case of FE Utilities entering into a highly risky, multi-billion dollar "hedging" transaction with the potential for extracting vast profits through subsidies from captive customers, depending on market prices, with no investment whatsoever of utility capital. Or, if management loses this risky bet, the FE Utilities could incur vast financial losses. Management, of course, must expect to "win" this bet (and win big) or it would not be making this proposal.

Q19. SETTING ASIDE MARKET ENERGY PRICE PROJECTIONS, IS IT APPROPRIATE FOR DISTRIBUTION UTILITIES TO PROVIDE CUSTOMERS WITH MARKET HEDGES?

A19. Yes, it could be, depending on the public policy positions of a given state and its utility regulators. It is not the purpose of my testimony to either advocate for or oppose the use of market hedges to protect customers. As examples, this Commission supports hedging for the utility SSO generation procurement through multi-year, fixed-price contracts. Gas utilities often make use of futures markets to hedge the cost of at least a portion of customer gas supply. Vertically-integrated utilities build or buy generation assets, priced at cost of service, to hedge wholesale market energy purchases for their customers. Utilities typically finance rate base to a large extent with long-term debt, as opposed to short-term debt, in order to hedge capital market movements. Depending on state policy, hedging can be a useful and appropriate tool for utilities to protect customers.

These observations about the use of hedging by utilities do not apply to the FE Utilities proposal in this case. Utility hedging activity is normally financially neutral for that utility, i.e., it is not intended to alter that utility's earned rate of return on equity, and in many cases (e.g., SSO hedges) the costs/benefits of the hedge are dollar-for-dollar revenue neutral as well as earnings neutral. Additionally a utility-supplied hedge normally would be backed up by physical assets or a financial instrument, and the FE Utilities have not shown which of these (or any at all) would be utilized for this transaction.

A second standard practice attribute of utility hedging is that the cost of the hedge is either market based or must pass a market test (such as a competitive bid). That is, the utility's role is merely one of acquiring the hedge from the competitive market (e.g., SSO fixed-price contracts, issuing long-term debt, purchasing gas futures). The utility is essentially a pass through for these hedges procured from competitive markets. Even in the case of utility self-build or self-supply for vertically-integrated utilities (contrary to Ohio public policy as explained by OCC Witness Rose), the utility's decision and investment is normally subject to a "market test" requirement as a ratepayer safeguard.

FE Utilities' proposal for the new Rider RRS fails to adhere to either of these standard utility practices. FE Utilities are not procuring the hedge from competitive markets, nor are they subjecting it to a rigorous market test. Further, the FE Utilities are not providing the hedge on a "financially neutral" basis, per normal utility practice, instead asking that all profits from this activity be unregulated. As there is no actual utility investment involved, such profits, by definition, would be excess and monopoly profits.

Q20. ARE YOU AWARE OF ANY PRECEDENT FOR THIS PROPOSAL?

A20. No. I acknowledge that hedging in some form is a normal utility function. But such hedges normally are either market procured or market tested. I am hard pressed to identify exceptions. Moreover, cost premiums and/or savings from hedges are financially neutral to the utility. The scope of the hedge being proposed in this case in enormous—involving billions of dollars— and they are non-market with the resulting hedge profits unregulated. It differs profoundly from the Commission-approved, financially-neutral PPA-based Rider RRS. The new proposal therefore is improper and should be rejected.

Q21. IN LIGHT OF THESE VIOLATIONS OF NORMAL UTILITY HEDGING PRACTICE, WHAT DO YOU RECOMMEND?

A21. I recommend rejection of the new Rider RRS proposal as improper and financially risky for both the FE Utilities and customers. The perceived need for market hedging can be addressed through other means such as SSO fixed-price contracts.

Q22. YOU EMPHASIZE THE IMPORTANCE OF THE HEDGE BEING MARKET BASED. HASN'T THIS ALREADY BEEN ADDRESSED BY THE COMMISSION'S ORDER OF MARCH 31 ADOPTING THE $256 MILLION MARKET HEDGE SAVINGS?

A22. No, that finding would not be applicable to the new Rider RRS proposal due to the passage of time. The Commission relied on a combination of the FE Utilities' mid 2014 vintage market projections and 2015 vintage Annual Energy Outlook Reference Case in deriving the $256 million estimated benefit. While this was the information available to the Commission at the time of its Order, as Witness Wilson explains, the Annual Energy Outlook Reference Case was updated in May 2016. This is the latest information available from that authoritative source and therefore should be relied upon by the Commission in place of the stale 2015 vintage forecast. OCC Witness Wilson notes that the 2016 Reference Case produces a customer detriment of $1.344 billion over eight years, which is a much worse result for customers than implied by the 2015 Reference Case forecast from that source.

The FE Utilities' sponsored mid 2014 vintage market forecast is now woefully out of date. The Application on Rehearing, proposing a fundamentally new hedging arrangement, certainly would be an appropriate opportunity for the FE Utilities to submit an update to their stale forecast. Quite simply, during the past two years energy markets and the outlook for those markets have changed substantially, as Witness Wilson demonstrates. The FE Utilities' 2014 vintage forecast must be rejected as being unacceptably out-of-date. In the alternative, the Commission could require the FE Utilities' to submit an updated forecast study if it believes such information is needed. If the Commission decides to reject the Rider RRS outright, an updated forecast from the FE Utilities would not be needed.

While requiring an updated forecast would delay a final ruling, given the billions of dollars of customer costs at risk from the FE Utilities' new proposal, such a delay would be entirely justified.

Q23. DOES YOUR DISCUSSION OF THE ATTRIBUTES OF THE PROPOSED NEW RIDER RRS HAVE IMPLICATION FOR THE COMMISSION'S THREE-PRONGED TEST OF SETTLEMENTS?

A23. Yes, very definitely. I previously discussed and described that evaluation test in my Supplemental Direct Testimony. I do not discuss at this time the Commission's first prong, which concerns the diversity and capabilities of the settling parties

The second prong concerns whether the settlement provision is consistent with accepted regulatory practices and principles. As explained above, the new Rider RRS clearly cannot meet this approval criterion even if one accepts that the previous (PPA-based) Rider RRS does satisfy this criterion. The new, proposed Rider RRS does not meet the normal utility standard that I described earlier of being "financially neutral," (e.g., SSO generation supply contracts). The new proposal turns the provisions of a hedge for customers into a utility "profit center." This is improper since the creation of the hedge product itself is more properly an unregulated activity that should be supplied by market participants such as energy traders and financial institutions, not by the utility. FE Utilities are proposing to provide this essentially unregulated product to captive customers, with no limitations on resulting earnings, on a monopoly basis. Consequently, this new proposal fails this second prong criterion.

The third prong concerns expected customer benefits and the public interest. The new Rider RRS also fails this third prong and criterion. It no longer serves the previously asserted public interest benefit of continued operation of Davis Besse and Sammis, as the Rehearing Application concedes. More crucially, OCC Witness Wilson estimates that, based on updating his earlier projections, the new proposal is expected to produce a range of losses of $1.344 billion to $3.575 billion for utility customers over eight years. These onerous customer losses would be monopoly profits for the FE Utilities.

Q24. WHY DO YOU AGREE WITH OCC WITNESS DUANN THAT IF THE NEW RIDER RRS PROPOSAL IS APPROVED IT SHOULD NOT BE EXEMPT FROM THE SEET?

A24. The SEET is intended to be an important customer protection, and the requested exemption will only serve to weaken that projection. It is improper to exempt Rider RRS profits from the SEET because (a) the FE Utilities are supplying the hedge on a sole source, rather than competitive, basis; and (b) the FE Utilities are providing this hedge product as a profit center on a monopoly rather than competitive basis.

Q25. WHAT IS YOUR FINDING CONCERNING THE ESP VERSUS MRO TEST?

A25. The Commission's March 31 Order addressed three quantitative elements in the ESP versus MRO test. It recognized $51 million in shareholder contributions for low income, economic development, and similar grants; a zero net benefit for the distribution capital investment tracker (Rider DCR); and a $256 million benefit for the then-proposed Rider RRS. This is a total benefit in excess of $300 million during the eight-year term of ESP IV.

These ESP versus MRO results change dramatically with OCC Witness Wilson's update, which estimates a customer detriment for Rider RRS of $1.344 billion. If one continues to assume that Rider DCR is a "wash" (i.e., no quantified impact), then the quantified customer impact for ESP IV is a range of $1.293 billion to $3.524 billion customer detriment using Witness Wilson's update (based on the May 2016 Annual Energy Outlook Reference Case and the June 2016 forward energy market data). I note that the Commission's March 31 Order averaged the FE Utilities' mid-2014 vintage forecast with the 2015 vintage Annual Energy Outlook Reference Case. The FE Utilities' projection estimates a customer benefit of $561 million. While the FE Utilities' vintage mid-2014 study clearly overstates the benefit and is now unacceptably stale, that average now becomes a customer detriment of $392 million (the average of a $561 million benefit and a $1.344 million detriment). This produces an ESP IV net detriment of $341 million ($392 million minus the shareholder contributions of $51 million). With the new Rider RRS proposal and Witness Wilson's update, the proposed and modified Third Stipulation with the new Rider RRS clearly fails the ESP versus MRO test.

Q26. DOES THIS CONCLUDE YOUR REHEARING DIRECT TESTIMONY?

A26. Yes, it does at this time. However, I reserve the right to update and revise my testimony as discovery responses and new information become available.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Rehearing Direct Testimony of Matthew I. Kahal, on Behalf of the Office of the Ohio Consumers' Counsel* was served via electronic transmission this 22nd day of June 2016 upon the parties below.

*/s/ Larry S. Sauer*____________________
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Deputy Consumers' Counsel

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