

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio :  
Edison Company, The Cleveland Electric : Case No. 14-1297-EL-SSO  
Illuminating 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. :

**REHEARING TESTIMONY  
OF  
HISHAM M. CHOUEIKI, PH.D., P.E.  
RATES AND ANALYSIS DEPARTMENT  
PUBLIC UTILITIES COMMISSION OF OHIO**

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

**June 29, 2016**

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1 **EMPLOYER**

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

3 A. My name is Hisham Choueiki. I am employed by the Public Utilities Com-  
4 mission of Ohio (PUCO or Commission) as a Senior Energy Specialist.  
5 My business address is 180 East Broad Street, Columbus, Ohio 43215.

6  
7 2. Q. Are you the same Hisham Choueiki that previously provided written testi-  
8 mony in this proceeding?

9 A. Yes. My pre-filed testimony was docketed on September 18, 2015.

10 **ACADEMIC BACKGROUND AND PROFESSIONAL EXPERIENCE**

11 3. Q. Please describe your educational background and professional experience.

12 A. I am a Registered Professional Engineer in Ohio. I hold a Philosophy Doc-  
13 torate in Industrial and Systems Engineering from The Ohio State Univer-  
14 sity. I currently serve as a Senior Energy Specialist in the Rates and Analy-  
15 sis Department at the Public Utilities Commission of Ohio.

16  
17 I started my career in utility regulation as a Graduate Researcher at the  
18 National Regulatory Research Institute while attending graduate school.  
19 My tenure at the PUCO commenced when I joined the Forecasting Division  
20 as a Senior Utility Rate Analyst. I was later promoted to a Utility Rate  
21 Analyst Manager, an Energy/Telecommunications Specialist, and finally to

1 my current position. Between 1996 and 1998, I was on sabbatical from the  
2 PUCO, and was a visiting faculty member in the College of Engineering  
3 and Petroleum at Kuwait University where I taught operations research,  
4 design of experiments, and forecast modeling.

5  
6 At the PUCO, I have contributed to numerous rule-making proceedings in  
7 gas, electric, and telephone; co-authored several energy forecasting and tel-  
8 ecommunications reports; lectured at the PUCO and at national and inter-  
9 national technical conferences in the areas of forecast modeling, design of  
10 experiments, and artificial neural networks; and have published in peer-  
11 reviewed engineering journals.

12  
13 4. Q. Please describe some of your present responsibilities at the PUCO.

14 A. I am a technical/policy advisor on energy related matters. I have other  
15 responsibilities, including: a) leading the development of empirically valid,  
16 and logically consistent, short-term and long-term analytical forecasting  
17 models for assessing and characterizing the behavior of energy and eco-  
18 nomic systems in utility service areas in Ohio, and in the United States; b)  
19 leading the review of the long-term forecast reports of electric distribution  
20 utilities in Ohio; and c) leading the retail and wholesale market monitoring  
21 functions at the PUCO.

1 I serve as the Ohio member on the Staff Steering Committee in the Organ-  
2 ization of PJM States, Inc. (OPSI), a technical advisor to the Eastern Inter-  
3 connection States Planning Council (EISPC), and a member of the National  
4 Association of Regulatory Utility Commissioners (NARUC) international  
5 delegates' team that trains other nations on reforming and developing  
6 energy markets.

7  
8 I also serve as a reviewer for several engineering journals; including *IEEE*  
9 *Transactions on Power Systems*, *IEEE Transactions on Neural Networks*,  
10 *Computers and Industrial Engineering*, and *European Journal of Industrial*  
11 *Engineering*.

12  
13 5. Q. Have you testified in previous cases at the PUCO?

14 A. Yes. I have testified in numerous cases, including: long-term forecast hear-  
15 ings, telecommunications alternative regulation hearings, telecommunica-  
16 tions merger hearings, and in Standard Service Offer (SSO) hearings.

## BRIEF HISTORY

### Rider RRS as Originally Proposed

Q. What was the purpose of including the Retail Rate Stability rider (Rider RRS) in the Companies'<sup>1</sup> electric security plan IV (ESP IV)?

A. Rider RRS, as proposed by the Companies, was developed to “provide customers more stable, predictable and less costly pricing through May 2031.”<sup>2</sup> The Companies were proposing to include in Rider RRS all the costs and revenues associated with the following power stations owned by First-Energy Solutions Corp. (FES):<sup>3</sup>

- The Davis-Besse nuclear power station (Davis-Besse plant)<sup>4</sup>
- The W. H. Sammis power stations (Sammis plant)<sup>5</sup>
- FES’s share<sup>6</sup> of the Ohio Valley Electric Corporation (OVEC) power stations<sup>7</sup>

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<sup>1</sup> The Companies or the FirstEnergy Companies refer to the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company.

<sup>2</sup> Direct Testimony of Eileen M. Mikkelsen at 3 (Aug. 4, 2014).

<sup>3</sup> FES is an affiliate of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company not regulated by the PUCO.

<sup>4</sup> Davis-Besse is a 908 megawatt (MW) nuclear power station located in Oak Harbor, Ohio.

<sup>5</sup> W. H. Sammis power stations represent 2,220 MW of coal-fired generation (Sammis 1-7) and 13 MW of diesel-fired generation (Sammis Diesel). The Sammis Plant is located in Stratton, Ohio.

1 7. Q. What type of a transaction or an agreement was associated with Rider  
2 RRS?

3 A. The Companies stated that Rider RRS would be comprised of a Federal  
4 Energy Regulatory Commission (FERC) jurisdictional Power Purchase  
5 Agreement (PPA) between the Companies and FES. The Companies  
6 would purchase the output<sup>8</sup> of the Davis-Besse plant, the Sammis plant at  
7 cost plus a return on investment, and FES's share of OVEC power stations  
8 at cost.<sup>9</sup> The Companies would then sell that output in the PJM capacity,  
9 energy and ancillary services markets, and use 100% of the revenues earned  
10 to cover the given plants' costs, plus the associated returns on investment.  
11 The difference between the revenues and the costs will be netted as a credit  
12 or a charge in Rider RRS.

13  
14 8. Q. What was the original term of the PPA as proposed?

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<sup>6</sup> FirstEnergy Solution Corp. owns a 4.85% share of the OVEC power stations (Article 1 of the Amended and Restated Inter-Company Power Agreement, 9/10/2010). FES's share of the OVEC power stations is about 116 MW.

<sup>7</sup> The OVEC power stations are coal-fired and include the 1,086 MW Kyger Creek power stations (Kyger 1-5), in Cheshire, Ohio, and the 1,304 MW Clifty Creek power stations (Clifty 1-6) near Madison, Indiana (The preamble to the Amended and Restated Inter-Company Power Agreement, Sep. 10, 2010) .

<sup>8</sup> The proposed PPA included an output of 3,257 MW: 908 MW (Davis-Besse plant) + 2,220 MW (Sammis plant - coal) + 13 MW (Sammis plant – diesel) + 116 MW (FES's share of the OVEC power stations).

<sup>9</sup> Direct Testimony of Jay A. Ruberto at 3 (Aug. 4, 2014).

1 A. The Companies proposed the term of the PPA to be a 15-year period com-  
2 mencing on June 1, 2016 (the start of ESP IV) and concluding on May 31,  
3 2031.<sup>10</sup>

4  
5 9. Q. Was Rider RRS, as proposed, non-bypassable?

6 A. The Companies asserted that Rider RRS should be non-bypassable since all  
7 distribution customers (shoppers and non-shoppers) would benefit from the  
8 price stability.<sup>11</sup> It was the Companies' opinion that Rider RRS acted as a  
9 mechanism to hedge all consumers in their service areas against market  
10 volatility.

11 **Staff's Position on Rider RRS as Originally Proposed**

12 10. Q. What was Staff's position in regard to Rider RRS - as originally proposed  
13 in the Companies' ESP IV Application?<sup>12</sup>

14 A. Staff recommended that the Commission deny Rider RRS as proposed.

15 Staff did, however, state that Rider RRS, if properly conceived, may be in  
16 the public interest.<sup>13</sup>

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<sup>10</sup> Direct Testimony of Steven E. Strah at 5 (Aug. 4, 2014).

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company Application for Authority to Provide for a Standard Service Offer Pursuant to Ohio Revised Code 4928.143 in the Form of an Electric Security Plan* (Application at 9) (Aug. 4, 2014).

<sup>13</sup> Pre-filed Testimony of Hisham Choueiki at 11 (Sep. 18, 2015).



1       **Staff's Position on Rider RRS as modified by the Third Supplemental**  
2       **Stipulation and Recommendation**

3   11.   Q.    Was Staff a signatory party to the Third Supplemental Stipulation and Rec-  
4           ommendation?

5       A.    Yes. On December 1, 2015, the Companies, Staff, and a large number of  
6           intervenors in the case filed the Third Supplemental Stipulation and Rec-  
7           ommendation (Stipulation Agreement). In the Stipulation Agreement,  
8           Rider RRS was revised to address several concerns that were raised in  
9           Staff's pre-filed testimony; such as the term of Rider RRS, the inclusion of  
10          a risk sharing mechanism and a severability provision, and the Companies'  
11          agreement to rigorous regulatory oversight of Rider RRS and to full infor-  
12          mation sharing.<sup>14</sup>

13       **Commission Opinion and Order**

14   12.   Q.    Did the Commission grant the inclusion of Rider RRS as revised in the  
15           Third Supplemental Stipulation and Recommendation that was filed on  
16           December 1, 2015?

17       A.    Yes. On March 31, 2016, the Commission issued its Opinion and Order  
18           granting the inclusion of Rider RRS in the Companies' ESP IV. The  
19           Commission did, however, include additional customer protection condi-  
20           tions, such as the review of bilateral contracts between the Companies and

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<sup>14</sup> See, Third Supplemental Stipulation and Recommendation at 7-9 (Dec. 1, 2015). See also, Pre-filed Testimony of Hisham Choueiki at 15-17 (Sep. 18, 2015).

any of their affiliates, assigning all generation-related performance penalties to the Companies, and reducing the customer exposure to power plant outages to no more than 90 days.<sup>15</sup>

#### **FERC Informational Filings**

13. Q. When did FES and the Companies notify FERC of the Commission Opinion and Order?

A. On April 4, 2016, FES and the Companies filed a notice at FERC stating that the PUCO had issued an Opinion and Order on March 31, 2016, approving Rider RRS.<sup>16</sup>

14. Q. When did FES notify FERC of the execution of the PPA?

A. On April 6, 2016, FES docketed an informational filing to notify FERC that it had executed a PPA on April 1, 2016, with its affiliates, the FirstEnergy Companies.<sup>17</sup>

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<sup>15</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company Application for Authority to Provide for a Standard Service Offer Pursuant to Ohio Revised Code 4928.143 in the Form of an Electric Security Plan* (Opinion and Order at 86-92) (Mar. 31, 2016).

<sup>16</sup> *Notice of Issuance of Public Utilities Commission of Ohio Order of the FirstEnergy Companies*, FERC Docket EL16-34-000 (Apr. 4, 2016).

<sup>17</sup> *Informational Filing of Form 8-K Filing Noticing Unit Power Agreement of FirstEnergy Solutions Corp. et al.*, FERC Docket EL16-34-000 (Apr. 6, 2016).

1                   **PURPOSE OF STAFF’S REHEARING TESTIMONY**

2    15.    Q.    What is the purpose of filing Staff’s rehearing testimony?

3            A.    The purpose of this testimony is to present Staff’s position in regard to the  
4                   Companies’ proposed *modifications* to the *Retail Rate Stability Rider*  
5                   (*Modified Rider RRS*) that are described in the Companies’ Application for  
6                   Rehearing.<sup>18</sup>

7  
8                   I will also present a Staff alternative proposal for a new Distribution  
9                   Modernization Rider that the Commission may wish to consider, to the  
10                  extent the Commission accepts Staff witness Buckley’s recommendation.

11                   **REASON FOR MODIFYING RIDER RRS**

12                   **Modified Rider RRS**

13    16.    Q.    What is Staff’s opinion on why the Companies propose to modify Rider  
14                   RRS?

15            A.    On January 27, 2016, the Electric Power Supply Association (EPSA),  
16                   Retail Energy Supply Association (RESA), Dynegy Inc., Eastern Genera-  
17                   tion LLC, NRG Power Marketing LLC, and GenOn Energy Management  
18                   LLC, filed a complaint at FERC requesting that FERC rescind the affiliate  
19                   power sales waiver that it had previously granted to FirstEnergy Corpora-

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<sup>18</sup>                   *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company Application for Authority to Provide for a Standard Service Offer Pursuant to Ohio Revised Code 4928.143 in the Form of an Electric Security Plan* (Application for Rehearing at 17) (May 2, 2015).

1           tion's market-regulated affiliates. The complainants argued that there is a  
2           regulatory gap because the PPA is outside the jurisdiction of the PUCO due  
3           to its wholesale nature and that the PPA would not be reviewed by FERC  
4           due to the affiliate waiver previously granted by FERC to the FirstEnergy  
5           market-regulated affiliates. (FERC Docket EL16-34-000 at 19-21).

6  
7           On April 27, 2016, FERC issued an Order in Docket No. EL-16-34-000  
8           rescinding the waiver of FirstEnergy Corporation's market regulated power  
9           sales to affiliates, and ordered FES to submit the affiliate PPA for review  
10          under the *Edgar* and *Allegheny* standards.<sup>19</sup> FERC further ordered FES to  
11          make a compliance filing to its market-based tariff within 30 days.<sup>20</sup> It is  
12          for this reason that the Companies, in their rehearing application on May 2,  
13          2016, requested that the charges and credits in Rider RRS *be modified such*  
14          *that they are no longer tied to the affiliate PPA.*

15  
16   17.   Q.   Please describe briefly the Modified Rider RRS.

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<sup>19</sup>           Under the Edgar and Allegheny standards, the power purchase solicitation must be competitive, the products purchased must be clearly defined, the evaluation of the bids must be standardized and applied fairly, and a third party must administer the competitive process and the bid evaluation prior to the selection. *See*: 55 FERC ¶ 61,132, at 62,167 (1991) (Edgar); 108 FERC ¶ 61,082, at 18 (2004) (Allegheny). *An example of the standards being applied is the process that the Commission follows in administering the SSO auctions.*

<sup>20</sup>           On May 27, 2016, FirstEnergy Corp. filed compliance tariffs in Docket ER16-1807 in response to FERC's April 27, 2016 Order stating that the PPA between FES and the Companies is currently suspended.

1           A.     The Companies state in their Application for Rehearing that the Modified  
2           Rider RRS *is no longer dependent on a PPA* with FES. Rather, the Com-  
3           panies are offering directly to all distribution customers a retail hedging  
4           service through the Modified Rider RRSS.<sup>21</sup> The charges and credits that  
5           would populate the Modified Rider RRS are as follows:<sup>22</sup>

- 7                     ▪   The charges that would be used in the Modified Rider RRS are the  
8                     estimated costs of the three power stations as represented in the  
9                     record. The charges, according to the Companies, will remain fixed.
- 10                    ▪   The energy output (measured in megawatt-hours (MWh)) that would  
11                    be used in the determination of the energy-related credits in the  
12                    Modified Rider RRS is the estimated generation output from the  
13                    three power stations as represented in the record. The energy output,  
14                    according to the Companies, will remain fixed. The prices (meas-  
15                    ured in dollars per megawatt-hour (\$/MWh)) that would be used in  
16                    the determination of the energy credits are the actual monthly aver-  
17                    age on-peak and off-peak day-ahead locational marginal prices at the  
18                    AEP-Dayton trading Hub.
- 19                    ▪   The capacity output (measured in MW) that would be used in the  
20                    determination of the capacity-related credits in the Modified Rider

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<sup>21</sup> Rehearing Testimony of Eileen Mikkelsen at 4-5 (May 2, 2016).

<sup>22</sup> *Id.* at 5-6.

1 RRS is the estimated unforced capacity output of the three power  
2 stations as represented in the record. The capacity output, according  
3 to the Companies, will remain fixed. The prices (measured in dol-  
4 lars per megawatt-day (\$/MW-day)) that would be used in the deter-  
5 mination of the capacity credits are the actual clearing prices in the  
6 PJM Base Residual Auctions in the American Transmission  
7 Systems, Inc. (ATSI) zone.<sup>23</sup>

- 8 ■ The ancillary services and environmental attributes that would be  
9 used as credits in the Modified Rider RRS are the estimated reve-  
10 nues from selling the ancillary services and environmental attributes  
11 associated with the three power stations as represented in the record.

12  
13 According to the Companies, the Modified Rider RRS is “an improvement  
14 over the originally-proposed Rider RRS” as customers are no longer  
15 exposed to plant outages, increases in plant costs, or generation perfor-  
16 mance penalties.<sup>24</sup> Additionally, since the costs and generation output in  
17 MW and MWh are known *a priori*, the Companies claim that the Modified  
18 Rider RRS will be easier to audit.

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<sup>23</sup> ATSI is a transmission affiliate of the Companies.

<sup>24</sup> Rehearing Testimony of Eileen Mikkelsen at 5 (May 2, 2016).

1           **Staff's Recommendation on the Modified Rider RRS**

2   18.   Q.    What is Staff's recommendation to the Commission in regard to the pro-  
3           posed Modified Rider RRS?

4           A.   Staff recommends that the Commission deny the Companies' proposed  
5           Modified Rider RRS for the following two reasons:

- 6
- 7                   ▪   The Commission's Opinion and Order that was issued on March 31,  
8                   2016, clearly stated that two of the benefits of the PPA between the  
9                   Companies and FES are resource diversity in the state and the posi-  
10                  tive impacts that these power stations have on the local economies.<sup>25</sup>  
11                  The purpose of granting Rider RRS, according to the Commission,  
12                  was not simply to provide a financial hedge to all the Companies'  
13                  distribution customers but also to preserve resource diversity in the  
14                  state and to protect the local economies from the negative impacts of  
15                  power station closures. *The Modified Rider RRS is no longer com-*  
16                  *prised of a PPA that is tied to specific power stations in the state*  
17                  *and, accordingly, eliminates two important benefits that the Com-*  
18                  *mission highlighted in its Opinion and Order referenced above.*

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<sup>25</sup>           *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company Application for Authority to Provide for a Standard Service Offer Pursuant to Ohio Revised Code 4928.143 in the Form of an Electric Security Plan* (Opinion and Order at 87-88) (Mar. 31, 2016).

- 1                   ▪ The Modified Rider RRS, though no longer comprised of a PPA  
2                   between the Companies and FES, *is at its core a generation rider*.  
3                   As a matter of fact, all of its credits and charges are explicit func-  
4                   tions of 3,257 MWs of unspecified generation. Although not a legal  
5                   conclusion, the Modified Rider RRS may potentially be construed as  
6                   a transition charge, and may have potential implications with  
7                   FERC’s authority over wholesale power markets.

## 8                   **STAFF’S ALTERNATIVE PROPOSAL**

9   19.   Q.   To the extent the Commission agrees with Staff witness Buckley’s recom-  
10           mendation and authorizes the Distribution Modernization Rider, what grid  
11           modernization and distribution system initiatives would Staff recommend  
12           that the Companies pursue?

13       A.   It is the policy of the state to encourage the modernization of the distribu-  
14           tion grid, the offerings of innovative services, and the diversity of supply  
15           and suppliers. This is articulated in R.C. 4928.02 (C) and (D):

16  
17           (C)   Ensure diversity of electricity supplies and  
18           suppliers, by giving consumers effective choices over  
19           the selection of those supplies and suppliers and by  
20           encouraging the development of distributed and small  
21           generation facilities;

22  
23           (D)   Encourage innovation and market access for  
24           cost-effective supply- and demand-side retail electric  
25           service including, but not limited to, demand-side



1 management, time-differentiated pricing, and imple-  
2 mentation of advanced metering infrastructure.  
3

4 Should the Commission agree with Staff witness Buckley's recommenda-  
5 tion, Staff recommends that the Commission institute a new Distribution  
6 Modernization Rider per R.C. 4928.143(B)(2)(h). The credit support  
7 amount recommended by Staff witness Buckley will be collected in the  
8 Distribution Modernization Rider. As Staff witness Buckley stated, this  
9 credit support by the Companies' customers will assist the Companies in  
10 receiving more favorable terms when accessing the capital market.<sup>26</sup>

11 Accessing the capital market, in turn, will enable the Companies to procure  
12 funds to jumpstart their distribution grid modernization initiatives.  
13

14 Accordingly, the Commission should direct the Companies to invest in  
15 modernizing the distribution grid. This effort would be accomplished  
16 through the deployment of advanced hardware and software with the goal  
17 of bringing about the intelligence of the distribution grid all the way to the  
18 customers' premises. Customers would then be able to interact and transact  
19 with retail suppliers and third party providers of innovative products and  
20 services, such as energy efficiency and demand response products, green  
21 energy, distributed generation, and others. This initiative can begin with

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<sup>26</sup> In other words, to the extent FirstEnergy Corporation falls below investment grade, Staff witness Buckley states that future financing costs to the Companies could increase.

1 the Companies working with parties to ensure a quick resolution in  
2 Case No. 16-0481-EL-UNC, but should not be limited to that case.

### 3 SUMMARY OF RECOMMENDATIONS

4 20. Q. Would you summarize your recommendations?

5 A. *Staff recommends that the Commission deny the Companies' proposed*  
6 *Modified Rider RRS.* Staff believes that granting such a generation-related  
7 rider violates two important benefits that the Commission relied upon in  
8 granting the originally proposed Rider RRS, may potentially be construed  
9 as a transition charge, and may potentially have implications with FERC's  
10 authority over wholesale power markets.

11  
12 Finally, should the Commission agree with Staff witness Buckley's recom-  
13 mendation and deem it just and reasonable to authorize the new Distribu-  
14 tion Modernization Rider, Staff recommends that the Commission direct  
15 the Companies to begin investing in distribution assets with the objective of  
16 developing one of the nation's most intelligent distribution grids.

17  
18 21. Q. Does this conclude your testimony?

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

## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Rehearing Testimony of Hisham M. Choueiki, submitted on behalf of the Staff of the Public Utilities Commission of Ohio via electronic mail upon the following parties of record, this 29<sup>th</sup> day of June, 2016

/s/ Thomas W. McNamee

Thomas W. McNamee

Assistant Attorney General

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Summary: Testimony Rehearing Testimony of Hisham M. Choueiki electronically filed by Ms. Tonneta Scott on behalf of PUC