

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

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**JOINT MOTION FOR EXTENSION OF THE PROCEDURAL SCHEDULE  
AND  
REQUEST FOR EXPEDITED RULING  
BY  
OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP,  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,  
ENVIRONMENTAL LAW AND POLICY CENTER,  
OHIO ENVIRONMENTAL COUNCIL,  
ENVIRONMENTAL DEFENSE FUND  
AND  
SIERRA CLUB**

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Under Rule 4901-1-12 and 4901-1-14, Ohio Administrative Code (O.A.C.), the Ohio Manufacturers' Association Energy Group (OMAEG), Ohio Consumers' Counsel (OCC), Environmental Law and Policy Center, Ohio Environmental Council, Environmental Defense Fund, and Sierra Club (collectively, Joint Movants) respectfully request that the Public Utilities Commission of Ohio (Commission) extend the procedural schedule established in the June 3, 2016 Entry. The extension is especially needed in light of recent testimony filed by three witnesses for the Public Utilities Commission of Ohio Staff (Staff).<sup>1</sup> The Staff's testimony presents a new proposal requiring customers to fund a \$393 million subsidy to provide credit support for FirstEnergy Corp. in the form of a Distribution Modernization Rider. The Staff's

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<sup>1</sup> Rehearing Testimony of Tamara S. Turkenton, filed June 29, 2016; Rehearing Testimony of Joseph P. Buckley, filed June 29, 2016; Rehearing Testimony of Hisham M. Choueiki, filed June 29, 2016.

proposal unexpectedly broadens the scope of the Modified Rider RRS evidentiary rehearing established by the Attorney Examiner. Joint Movants request expedited review of this request due to the impending hearing that begins July 11, 2016.

Due process in this case means allowing all parties the ample discovery rights required by law for thorough and adequate case preparation for participation in Commission proceedings.<sup>2</sup> Parties must also be afforded adequate time to present evidence to the Commission. Accordingly, a just and reasonable schedule should be ordered as follows:

- A. Prehearing and discovery conference: July 11, 2016
- B. Intervenors' supplemental testimony: July 22, 2016
- C. Written Discovery deadline: July 27, 2016
- D. Evidentiary hearing on rehearing: August 3, 2016 at 10:00 a.m.

The reasons for granting this motion to extend the procedural schedule are more fully explained in the attached memorandum in support.

Respectfully submitted,

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<sup>2</sup> See, e.g., R.C. 4903.082.

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Plan. )

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**MEMORANDUM IN SUPPORT OF  
JOINT MOTION FOR EXTENSION OF THE  
PROCEDURAL SCHEDULE  
AND  
REQUEST FOR EXPEDITED RULING**

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**I. INTRODUCTION**

On May 2, 2016, the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (the Companies) filed an Application for Rehearing, which included a new Rider RRS proposal (Modified Rider RRS Proposal<sup>3</sup>) containing a number of substantive changes to the Rider RRS mechanism that was approved by the Commission in the March 31, 2016 Opinion and Order.<sup>4</sup> On June 3, 2016, the Attorney Examiners established a procedural schedule regarding the Companies' new proposal and requiring intervening parties to file testimony, complete the discovery process, and prepare for an evidentiary hearing to begin

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<sup>3</sup> While Joint Movants maintain that the new proposed Rider RRS mechanism is not merely a modification of the original Rider RRS mechanism, Joint Movants will refer to the proposal as the Modified Rider RRS Proposal in order to remain consistent with the Companies' application. The Companies' Application for Rehearing at 19 (May 2, 2016).

<sup>4</sup> Opinion and Order (March 31, 2016).

on July 11, 2016.<sup>5</sup> Given the compressed schedule and impending hearing established by the Attorney Examiners, OCC, NOAC, and OMAEG filed a motion for extension of the procedural schedule on June 10, 2016,<sup>6</sup> which was denied on June 30, 2016.<sup>7</sup>

Joints Movants, as well as other parties, proceeded with the preparation of the case and participated in a deposition of Companies' witness Eileen Mikkelsen on June 29, 2016 regarding relevant rehearing topics as defined by the Attorney Examiners. Subsequent to Ms. Mikkelsen's deposition, Staff filed three pieces of testimony, which included an entirely new proposal under which FirstEnergy would collect \$393 million in subsidies from customers over a three-year period, and potentially \$655 million over five years. The customer-funded subsidy is to provide credit support for the Companies' parent company, FirstEnergy Corp. "to maintain investment grade by the major credit rating agencies."<sup>8</sup>

Staff's entirely new proposal filed six business days before the scheduled hearing raises new issues and questions for intervening parties, which must be thoroughly reviewed and considered prior to the start of the hearing. Staff's proposal also raises novel issues with regard to whether it is proper for jurisdictional customers to subsidize the Companies' parent company, FirstEnergy Corp., the impact of the subsidy on regulated utilities and competing entities, and other jurisdictional issues. Due to the significant cost of \$393 million to customers over a three-year period, due process must be afforded to the parties.

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<sup>5</sup> Attorney Examiner Entry at 5 (June 3, 2016).

<sup>6</sup> Motion for an Extension of the Attorney Examiner's Procedural Schedule and Request for Expedited Ruling by Northwest Ohio Aggregation Coalition, Ohio Manufacturers' Association Energy Group and The Office of the Ohio Consumers' Counsel (June 10, 2016).

<sup>7</sup> Attorney Examiner Entry at 12 (June 30, 2016).

<sup>8</sup> Buckley Rehearing Testimony at 2 (June 29, 2016); see also Turkenton Rehearing Testimony at 3 (June 29, 2016) and Choueiki Rehearing Testimony at 15 (June 29, 2016).

In light of this new proposal, Joint Movants respectfully request that the Commission extend the procedural schedule established in this proceeding and adopt Joint Movants' procedural schedule. Additionally, Joint Movants request expedited review of this motion due to the impending evidentiary hearing that is scheduled to begin July 11, 2016.

## II. ARGUMENT

The June 3, 2016 procedural schedule established in this proceeding is prejudicial in light of recent developments in this case. Those developments surround the Staff's newly filed proposal and the Companies' failure to timely serve discovery responses regarding that testimony on all parties. The Staff's proposal, explained through the testimony of three witnesses was filed six business days before the scheduled hearing. The Staff now supports the creation of a new Distribution Modernization Rider. The Staff's proposal relies upon discovery responses received from the Companies --responses that the Companies failed to provide to the Joint Movants, until July 1, 2016. Notably, the Companies provided the responses after the Staff's testimony was filed and after the deposition of Companies' witness Eileen Mikkelsen and four business days before the scheduled hearing. The responses were only provided after Joint Movants expressly requested them,<sup>9</sup> which can only be viewed as subverting the PUCO's discovery rules. As a result, further consideration of an extension of the current procedural schedule is warranted.

First, as previously mentioned, Staff filed testimony regarding the Companies' Modified Rider RRS Proposal and included in the testimony an entirely new proposal to have

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<sup>9</sup> The Rehearing Testimony of Staff witness Buckley, which was filed and served at 5:22 p.m. on June 29, 2016, establishes that the Companies provided responses to PUCO DRs 34 and 35 on June 28, 2016. See Buckley Rehearing Testimony at 6, In 4 (referencing FirstEnergy's "response to Staff DR. #35"). These discovery responses, however, were not served on other parties until July 1, 2016 – the discovery cut-off date – and then only after counsel for OCC and OMAEG specifically requested that the Companies do so.

customers subsidize FirstEnergy Corp through a Distribution Modernization Rider. According to Staff witness Buckley, the Distribution Modernization Rider will allow the Companies to collect from customers \$131 million per year for a period of three years, and potentially five years. The money collected from the electric distribution utilities' customers is intended to provide financial support to the Companies' parent company in order for the parent company to maintain investment grade.<sup>10</sup>

Staff's new proposal presents entirely new issues for consideration by intervening parties and their expert witnesses. Because Staff's proposal was filed after the intervening parties' witnesses' testimony, no intervening party has had an opportunity to address this proposal. As such, parties need adequate time to fully assess this new proposal in order to properly prepare and advocate on for customers who would foot the bill for the Distribution Modernization rider. Additional discovery and supplemental testimony are necessary, regarding Staff's new proposal and FirstEnergy Corp.'s claims regarding its need for credit support from the Companies. The Staff's proposal also raises issues of the necessity of credit support from Ohio's distribution utilities, alternative measures that could assist FirstEnergy Corp. with their credit ratings, the transfer and flow of money from the parent company to the subsidiaries, and the stated intentions of FirstEnergy Corp. regarding its business model and activities. At this time, no witness has had the opportunity to evaluate and/or respond to Staff's new proposal as Staff's testimony was filed five business days after intervenor testimony was filed.<sup>11</sup> A fair proceeding on these issues of great concern for Ohioans requires a fully developed record which warrants additional time for discovery and supplemental testimony.

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<sup>10</sup> Buckley Rehearing Testimony at 2.

<sup>11</sup> The Companies have also recognized the possibility of the need to respond to Staff's recommendations through additional testimony by the Companies. See Motion of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for a Protective Order at 8 and 10 (July 5, 2016).



Second, the Companies' failure to provide timely discovery responses to intervening parties as required by Rule 4901-1-18, Ohio Administrative Code (O.A.C.), provides additional good cause for extending the established procedural schedule. Specifically, Rule 4901-1-18, O.A.C., requires discovery requests and responses to be served upon all parties. Notwithstanding this Rule, the Companies failed to timely provide to Joint Movants the discovery responses that underlie Staff Witness Buckley's testimony. According to the Companies' recently-filed motion for protective order these discovery responses were served on Staff on June 28, 2016. But these responses were not timely provided to the other parties in this case. Joint Movants did not receive these discovery responses until July 1<sup>st</sup> (the discovery cut-off date), which was after the deposition of Companies' witness Eileen Mikkelsen, and only after they were specifically requested by OMAEG and OCC.

Not only was this failure to serve discovery on all parties a violation of Rule 4901-1-18, O.A.C., it also impeded the ability of intervening parties to conduct discovery on and critically evaluate "the provisions of, and alternatives to, the Modified RRS Proposal."<sup>12</sup> Additionally, there are discovery disputes pending that warrant a discovery conference, something that would be difficult to accomplish without extending the procedural schedule.<sup>13</sup>

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<sup>12</sup> Attorney Examiner Entry at 5 (June 3, 2016).

<sup>13</sup> See Companies' Motion for Protective Order (July 5, 2016) and OCC's electronic correspondence to the parties and examiners notifying the parties of pending discovery disputes (July 2, 2016). Several of the Joint Movants also take issue with the Companies' claims that they "dutifully have responded" to discovery requests. For example, see the Companies' response to OMAEG-Set 8-INT-7 (The response offers objections as outside the scope and that "[t]his request also seeks an improper narrative response." The response then refers OMAEG to the Commission's March 31, 2016 Order, which could not possibly speak to the Modified RRS Rider Proposal.) See also, e.g., the Companies' responses to OMAEG-Set 8-INT-1, OMAEG-Set 8-INT-10, OMAEG-Set 8-INT-11, OMAEG-Set 8-INT-14, OMAEG-Set 8-INT-15, OMAEG-Set 8-INT-20, OCC-Set 21-INT-4, OCC-Set 21-INT-7, OCC-Set 21-INT-8, OCC-Set 21-INT-19, OCC-Set 21-INT-23, OCC-Set 21-INT-31, OCC-Set 21-INT-32, OCC-Set 21-INT-34 through OCC-Set 21-INT-43, SC-Set 13-INT-231, SC-Set 13-INT-232, SC-Set 13-INT-258, SC-Set 13-INT-259, and SC-Set 13-INT-262, which are either non-responsive or offer circular responses and vague references to orders that were issued prior to the creation of the Modified Rider RRS Proposal (Attachment A). Moreover, Joint Movants also disagree with the Companies' assertions that responses to Staff's data requests may be deemed privileged per the "common interest privilege")

Such impediments created by the Companies are unjust, unreasonable, and unduly prejudicial to Joint Movants.

In order to assure a just proceeding that includes full and complete consideration and development of the issues surrounding the Companies' proposed Modified Rider RRS Mechanism as well as Staff's alternative Distribution Modernization Rider, Joint Movants propose an extension of the current procedural schedule established by the Attorney Examiners and request the Commission adopt the following schedule:

- |    |                                      |                              |
|----|--------------------------------------|------------------------------|
| A. | Prehearing and discovery conference: | July 11, 2016                |
| B. | Intervenors' supplemental testimony: | July 22, 2016                |
| C. | Written Discovery deadline:          | July 27, 2016                |
| D. | Evidentiary hearing on rehearing:    | August 3, 2016 at 10:00 a.m. |

This proposed procedural schedule is just and reasonable given Staff's newly proposed Distribution Modernization Rider, as well as recent knowledge by intervening parties regarding deficiencies in discovery responses from the Companies. In the interest of developing a complete and thorough record, the Commission should adopt this proposed procedural schedule and assure parties the "ample rights of discovery"<sup>14</sup> to which they are entitled by law.

### III. CONCLUSION

Joint Movants respectfully request that the Commission grant an extension to the procedural schedule as set forth herein in order to provide all parties and their expert witnesses adequate time to review and consider Staff's recommendations, including its new proposal for a

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<sup>14</sup> Section 4903.82, Ohio Revised Code.

customer-funded \$393 million subsidy to FirstEnergy Corp. The established procedural schedule does not afford parties, or the numerous clients they represent, the time necessary for development of a complete record, or a just and reasonable hearing regarding the new issues raised by Staff six business days prior to the commencement of the evidentiary hearing. The present schedule also does not accommodate the filing of supplemental testimony responding to the Staff's new proposal. The Commission, thus, should extend the procedural schedule and adopt the proposed schedule set forth by Joint Movants. Further, Joint Movants request expedited review of this motion given the impending evidentiary hearing.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on July 6, 2016.

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**OMAEG Set 8**  
**Witness: Eileen M. Mikkelsen**  
**As to Objections: Carrie M. Dunn**

**Case No. 14-1297-EL-SSO**  
**Ohio Edison Company, The Cleveland Electric 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**

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-7**

Referring to the Rehearing Testimony of Eileen Mikkelsen on page 5, line 1, (date) how will the Modified Rider RRS mechanism serve as a "hedging function?"

**Response:** Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. This request also seeks an improper narrative response. See Penn Cent. Transp. Co. v. Armco Steel Corp., 271 N.E.2d 877 (Montgomery Co., 1971) (improper use of discovery device or interrogatory to require detailed narrative response). Subject to and without waiving the foregoing objections, see the March 31, 2016 Commission Order in Case No. 14-1297-EL-SSO at pages 78-80.



**OMAEG Set 8**  
**Witness: Eileen M. Mikkelsen**

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-1**      What are the "greater benefits to customers" that the Modified Rider RRS will provide, as  
stated in the Companies' Application for Rehearing on page 14?

**Response:**      Refer to page 5, line 18 through page 6, line 14 of the Rehearing Testimony of Eileen  
Mikkelsen.

**OMAEG Set 8**  
**Witness: Eileen M. Mikkelsen**  
**As to Objections: Carrie M. Dunn**

**Case No. 14-1297-EL-SSO**  
**Ohio Edison Company, The Cleveland Electric 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**

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-10**

**Do the Companies project credits/payments to customers under the Modified Rider RRS proposal?**

**Response:** Objection. This request is vague and ambiguous in its use of "project" and "credits/payments." Subject to and without waiving the foregoing objection, See the Rehearing Testimony of Eileen M. Mikkelsen at page 4, lines 18 – 22 and page 18, lines 18-21.

**OMAEG Set 8**  
**Witness: Eileen M. Mikkelsen**

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-11**

If the answer to OMAEG-INT-R1-010 is in the affirmative, what are the projected credits/payments to customers under the Modified Rider RRS proposal for each year of the ESP IV term?

**Response:** See the Companies' response to OMAEG Set 8-INT-10.

**OMAEG Set 8**  
**Witness: Eileen M. Mikkelsen**

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-14**

Referring to the Rehearing Testimony of Eileen Mikkelsen (date) on page 7, lines 4-6,  
what are the "remaining terms, conditions, and commitments" the Companies will remain  
obligated to fulfill pursuant to the Stipulated ESP IV?

**Response:** See the March 31, 2016 Commission Order in Case No. 14-1297-EL-SSO.

**Case No. 14-1297-EL-SSO**  
**Ohio Edison Company, The Cleveland Electric 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**

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-15**

Referring to the statement "while many of the Signatory Parties have expressed support" in the Rehearing Testimony of Eileen Mikkelsen on page 9, line 16, which Signatory Parties have expressed support?

**Response:** See page 9, lines 14-21 of the Rehearing Testimony of Eileen Mikkelsen and the letter filed by the Companies on May 4, 2016.

**OMAEG Set 8**  
**As to Objections: Carrie M. Dunn**

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OMAEG**  
**Set 8 INT-20**

Were the Signatory Parties identified in response to OMAEG-INT-R1-015 required to support the Modified Rider RRS proposal in order to maintain the benefits that they received under the Stipulated ESP IV?

**Response:** Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information pertaining to confidential settlement discussions.

**OCC Set 21**  
**Witness: Eileen M. Mikkelsen**  
**As to Objections: Carrie M. Dunn**

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OCC Set 21 –  
INT-4**

Please state whether there are any agreements, relating in any way to matters raised in the Companies' rehearing application or the rehearing testimony of Ms. Mikkelsen, between FirstEnergy and any Intervenor (including the PUCO staff), any member or affiliate of an Intervenor, or a representative or counsel for any Intervenor. The term "Agreements" means written or oral terms agreed upon by the participants or any other commitments made between FirstEnergy and any Intervenor. For purposes of this Interrogatory, for each agreement, state:

- (a) The parties to the agreement;
- (b) The date of the agreement;
- (c) Whether the agreement was written or oral; and
- (d) The subject matter of the agreement.

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy" and "relating in any way," as well as overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, please see the letter filed by the Companies on May 4, 2016.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

**OCC Set 21** = Referring to the May 4, 2016 correspondence from Carrie M. Dunn, filed at the PUCO:  
**INT-7**

- a) Please describe the review that Signatory parties conducted of the "filing" i.e. the FirstEnergy application for rehearing and the Rehearing testimony of Ms. Mikkelsen?
- b) Were draft copies of the correspondence circulated to the Signatory Parties, prior to them signing on?
- c) Did the Companies receive approval from each Signatory party with respect to the application for rehearing filed by FirstEnergy? If so, in what form was the approval given and by whom?
- d) Did any of the Signatory parties review Ms. Mikkelsen's Rehearing testimony prior to it be filed at the PUCO? If so, which signatory parties reviewed that testimony?
- e) Were any of the signatory parties provided copies of FirstEnergy's application for rehearing or Ms. Mikkelsen's Rehearing testimony prior to the filing of those documents at the PUCO?

**Response:**

- a) Objection. This request is vague and ambiguous in its use of "FirstEnergy" and "review," overly broad and unduly burdensome, and seeks an improper narrative response. See *Penn Cent. Transp. Co. v. Armco Steel Corp.*, 271 N.E.2d 877 (Montgomery Co., 1971) (improper use of discovery device or interrogatory to require detailed narrative response). It also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence, as well as information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. In addition, it seeks information outside the Companies' possession, custody or control. Subject to and without waiving the foregoing objections, the Companies do not have this information.
- b) Objection. This request is vague and ambiguous in its use of "FirstEnergy," and seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. It also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.
- c) Objection. This request is vague and ambiguous in its use of "FirstEnergy" and "approval," as well as the scope of the phrase "application for rehearing." This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence, and information outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. Subject to and without waiving the foregoing objections, see the Rehearing Testimony of Eileen M. Mikkelsen, at page 9, lines 15-18.



- d) Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. It also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.
- e) Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. It also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

OCC Set 21 –      After the FERC Order<sup>2</sup> was issued, what options did FirstEnergy consider in relation to  
INT-8              the Stipulated ESP IV?

**Response:**      Objection. This request is vague and ambiguous in its use of "options," "FirstEnergy" and "in relation to." This request also seeks information which is protected by the attorney-client and work product privileges. In addition, this request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence, as well as information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

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<sup>2</sup> *EPSA v. FirstEnergy Solutions Corp.*, 155 FERC ¶61,101, FERC Docket No. EL16-34-000, Order Granting Complaint (Apr. 27, 2016)

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

OCC Set 21 – Please explain the basis for concluding that modified Rider RRS "operates as a financial  
INT-19 limitation on the consequences of customer shopping."

**Response:** Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. In addition, this request is overly broad and unduly burdensome, and seeks an improper narrative response. See *Penn Cent. Transp. Co. v. Armco Steel Corp.*, 271 N.E.2d 877 (Montgomery Co., 1971) (improper use of discovery device or interrogatory to require detailed narrative response). Subject to and without waiving the foregoing objections, see the Commission's Order of March 31, 2016 at page 109.

**OCC Set 21**  
**Witness: Eileen M. Mikkelsen**

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OCC Set 21 –** Please identify the "economic value of Commission approved Stipulated ESP IV that is  
**INT-23** maintained for the Companies and its customers." (page 13 of Ms. Mikkelsen's Rehearing  
testimony).

**Response:** Please see the Rehearing Testimony of Ms. Mikkelsen at page 13, lines 1-8.

**OCC Set 21**  
**Witness: Eileen M. Mikkelsen**  
**As to Objections: Carrie M. Dunn**

**Case No. 14-1297-EL-SSO**

**Ohio Edison Company, The Cleveland Electric 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**

**RESPONSES TO REQUEST**

**OCC Set 21 –** Please explain how Sammis and Davis-Besse are being substituted by other units, as  
**INT-31** referred to at page 16 of Ms. Mikkelsen's Rehearing testimony.

**Response:** Objection. This request is vague and ambiguous in its use of "substituted." Subject to and without waiving the foregoing objections, see the Rehearing Testimony of Ms. Mikkelsen at pages 15-16.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OCC Set 21 –** If the ESP is terminated before its eight year term, will the modified Rider RRS continue, or  
**INT-32** does it terminate with the ESP?

**Response:** Objection. This request calls for a legal conclusion. This request also seeks mental impressions of the Companies' attorneys which is protected work product. In addition, this request calls for speculation. This request further seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence, and information which is outside the scope of discovery permitted by the Attorney Examiners' June 3, 2016 Entry.

**OCC Set 21**  
**As to Objections: Carrie M. Dunn**

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OCC Set 21 –** Please identify all communications made by the Companies, or on their behalf, to credit  
**INT-34** ratings agencies regarding the modified rider RRS.

**Response:** Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

**OCC Set 21**  
**As to Objections: Carrie M. Dunn**

**Case No. 14-1297-EL-SSO**

**Ohio Edison Company, The Cleveland Electric 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**

**RESPONSES TO REQUEST**

**OCC Set 21 –** Please identify all communications made by the Companies, or on their behalf, to financial  
**INT-35** analysts regarding the modified rider RRS

**Response:** Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.



**Case No. 14-1297-EL-SSO**

Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OCC Set 21** — **Has FirstEnergy Corporation issued its 2016 guidance, considering the ESP, as modified**  
**INT-36** **and approved by the PUCO, as referred to by Chuck Jones during the 2016 Earnings**  
**Analyst Conference call of April 26, 2016?**

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy Corporation." This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

**Case No. 14-1297-EL-SSO**

**Ohio Edison Company, The Cleveland Electric 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**

**RESPONSES TO REQUEST**

**OCC Set 21 –** Has FirstEnergy Corporation issued its 2016 guidance, as referenced by Chuck Jones,  
**INT-37** during the 2016 Earnings Analyst Conference call of April 26, 2016) considering the PPA?

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy Corporation." This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

**OCC Set 21 –** Has First Energy Corporation issued its 2016 guidance, "without the ESP baked into it," as  
**INT-38** referenced by Chuck Jones, during the 2016 Earnings Analyst Conference call of April 26,  
2016.

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy Corporation." This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

**OCC Set 21 –** With the FERC order, as issued, what is value of the Companies going forward with the  
**INT-39** ESP, as referenced by Chuck Jones during the 2016 Earnings Analyst Conference call of  
April 26, 2016.

**Response:** Objection. This request is vague and ambiguous in its use of “value of the Companies.” This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner’s June 3, 2016 Entry.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

- OCC Set 21** — During the 2016 Earnings Analyst Conference call of April 26, 2016, Chuck Jones stated  
**INT-40** that "it is our obligation to structure this Company and operate it in a way where we could  
get our credit issues behind us without having to use equity to do that."
- (a) Please identify the "credit issues" referred to
- (b) Is the modified Rider RRS a means to get the credit issues taken care of? If so, please  
explain how this can occur

**Response:** Objection. This request seeks information which is irrelevant and is not reasonably  
calculated to lead to the discovery of admissible evidence. This request also seeks  
information which is outside the scope of discovery permitted by the Attorney Examiner's  
June 3, 2016 Entry.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

**OCC Set 21 –** Has FirstEnergy Corporation given "clarification" on the impact of the PPAs on its bottom  
**INT-41** line, as Chuck Jones indicated he would do, at the 2016 Earnings Analyst Conference Call  
of April 26, 2016?

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy Corporation."  
This request also seeks information which is irrelevant and is not reasonably calculated to  
lead to the discovery of admissible evidence. In addition, this request seeks information  
which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016  
Entry.

**Case No. 14-1297-EL-SSO**

Ohio Edison Company, The Cleveland Electric 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

**RESPONSES TO REQUEST**

**OCC Set 21 –** Please identify the impact of the modified Rider RRS on the expected generation open  
**INT-42** position of FirstEnergy Corporation (See Donny Schneider remarks at the 2016 Earnings  
Analyst Conference Call of April 26, 2016).

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy Corporation."  
This request also seeks information which is irrelevant and is not reasonably calculated to  
lead to the discovery of admissible evidence. In addition, this request seeks information  
which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016  
Entry.

Case No. 14-1297-EL-SSO

Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

**OCC Set 21 –** Please identify each meeting, teleconference, or communication (written or oral), between  
**INT-43** FirstEnergy and the PUCO regarding the matters raised in the Companies' May 13, 2016  
tariff filing. For purposes of this Interrogatory:

- (a) For each meeting, teleconference, or oral communication, state the date and each person who participated at same.
- (b) For each written communication, identify the date, author and addressee (including any person designated as receiving copies, including blind copies), and the form of the communication (i.e., whether it was a letter, memorandum, email or some other form of written communication).

**Response:** Objection. This request is vague and ambiguous in its use of "FirstEnergy" and "tariff filing." This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.



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Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

**SC Set 13 –  
INT-231**

State whether, if the Commission were to reject the Companies' proposed Modified RRS, the Companies would proceed with the Rider RRS approved in the Commission's March 31, 2016 Order and with the PPA.

1. If not, explain why not.

**Response:**

Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. This request also calls for speculation and is vague and ambiguous. In addition, this request seeks information that is protected by the attorney-client and work product privileges.

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

SC Set 13 –  
INT-232

Refer to page 3 line 22 to page 4 line 4 of Ms. Mikkelsen's Rehearing Testimony.

- a. Confirm that FirstEnergy entered into the PPA with FES referenced therein on or about April 1, 2016.
- b. State whether the PPA has been terminated.
  - i. If so:
    1. Explain the basis for such termination.
    2. Identify which entity (FES or FirstEnergy) initially proposed the termination of the PPA.
  - ii. If not, state whether FirstEnergy intends to terminate the PPA if Modified RRS is approved and, if so, when FirstEnergy intends to do so.
- c. Refer to the Revised Term Sheet, Companies' Ex. 156.
  - i. State whether, consistent with section 20 of the Revised Term Sheet, the PPA authorizes FES to terminate the PPA if FES learns that a required governmental approval is lacking and, after reasonable effort, is not and will not be forthcoming.
    1. If so, state whether FES has terminated, or proposed to terminate, the PPA pursuant to the authority described in section 20 of the Revised Term Sheet.
    2. If not, identify which provision(s) of the PPA allows for termination. For each provision identified, state whether termination is allowed in the present situation, and explain why termination is allowed.

**Response:**

Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. In addition, this request calls for legal conclusions. Further, this request seeks information which is protected by the attorney-client and work product privileges.

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

SC Set 14 –  
INT-258

Refer to page 7, lines 10-11 of Ms. Mikkelsen's Rehearing Testimony. Confirm that the  
"Commission-ordered mechanism limiting average customer bills" would be in effect under the  
Companies' Modified Rider RRS proposal.

- a. If not confirmed, explain why the Companies are proposing to eliminate the  
"Commission-ordered mechanism limiting average customer bills."
- b. If confirmed:
  - i. State whether the Companies have created or reviewed any estimate of  
the financial impact that the "Commission-ordered mechanism" would  
have on the Companies for any time period between June 1, 2016, and  
May 31, 2018.
    1. If so, describe the estimated financial impact in dollars and/or  
percent.
    2. If not, explain why the Companies have not created or reviewed  
an estimate.

**Response:** Objection. This request is vague and ambiguous in its use of "under the Companies' Modified Rider RRS proposal," "financial impact" and "on the Companies." This request also seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry and this request calls for a legal conclusion.

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

SC Set 14 –  
INT-259      Refer to page 10, lines 12-14 of Ms. Mikkelsen's Rehearing Testimony and your response to SC-INT-243.

- a. What level – expressed in dollars per MWh – would power prices need to reach in order for Rider RRS market revenues to exceed the level of assumed costs?
- b. Assuming the market prices for capacity and ancillary services that the Companies used in calculating charges and credits under Rider RRS, admit that energy prices would need to be greater than ~~32.4~~ MWh (nominal \$/MWh) in order for customers to begin to see credits under Modified Rider RRS.
  - i. If not admitted, identify the level that energy prices would need to reach in order for customers to begin to see credits under Modified Rider RRS.

**Response:**

a-b. Objection. This request is vague and ambiguous in its use of "expressed in dollars per MWh" and "power prices." This request also mischaracterizes the referenced Rehearing Testimony. In addition, this request seeks information which is irrelevant and which is not reasonably calculated to lead to the discovery of admissible evidence. Further, this request seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry.

Case No. 14-1297-EL-SSO  
Ohio Edison Company, The Cleveland Electric 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

RESPONSES TO REQUEST

SC Set 14 –  
INT-262

Assuming that the Modified Rider RRS proposal is approved by the Commission:

- a. Identify the Companies' projected Net Income for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

- b. Identify the Companies' projected Deferred Income Taxes for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

- c. Identify the Companies' projected Changes in Working Capital for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

- d. Identify the Companies' projected Net Change in Debt for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

- e. Identify the Companies' projected Net Change in Short Term Debt for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

- f. Identify the Companies' projected Net Change in Investments for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

- g. Identify the Companies' projected Total Sources for the following time periods:
  - i. June 1, 2016, through December 31, 2016;
  - ii. each of the years 2017 through 2023;
  - iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

h. Identify the Companies' projected Cash Construction for the following time periods:

- i. June 1, 2016, through December 31, 2016;
- ii. each of the years 2017 through 2023;
- iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

i. Identify the Companies' projected Dividends Paid for the following time periods:

- i. June 1, 2016, through December 31, 2016;
- ii. each of the years 2017 through 2023;
- iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

j. Identify the Companies' projected Total Uses for the following time periods:

- i. June 1, 2016, through December 31, 2016;
- ii. each of the years 2017 through 2023;
- iii. January 1, 2024, through May 31, 2024.

Please provide the requested information separately for each of the three Companies.

Note: For purposes of this request, the terms "Net Income," "Deferred Income Taxes," "Changes in Working Capital," "Net Change in Debt," "Net Change in Short Term Debt," "Net Change in Investments," "Total Sources," "Cash Construction," "Dividends Paid," and "Total Uses" should be interpreted consistent with the Companies' use of those terms in the Projected Sources and Uses of Funds found on pages 7-9 of Attachment 6 to the Companies' August 4, 2014 Application.

**Response:**

a-j. Objection. This request seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This request also seeks information which is outside the scope of discovery permitted by the Attorney Examiner's June 3, 2016 Entry. This request also calls for speculation.

**This foregoing document was electronically filed with the Public Utilities**

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

Summary: Motion Joint Motion For Extension Of The Procedural Schedule And Request For Expedited Ruling By Ohio Manufacturers' Association Energy Group, The Office Of The Ohio Consumers' Counsel, Environmental Law And Policy Center, Ohio Environmental Council, Environmental Defense Fund And Sierra Club electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group