

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Determination of the )  
Significantly Excessive Earnings for 2017 )  
Under the Electric Security Plans of Ohio ) Case No. 18-857-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and The Toledo )  
Edison Company. )

In the Matter of the Determination of the )  
Significantly Excessive Earnings for 2018 )  
Under the Electric Security Plans of Ohio ) Case No. 19-1338-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and The Toledo )  
Edison Company. )

In the Matter of the Determination of the )  
Significantly Excessive Earnings for 2019 )  
Under the Electric Security Plans of Ohio ) Case No. 20-1034-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and The Toledo )  
Edison Company. )

In the Matter of the Quadrennial Review )  
Required by R.C. 4928.143 (E) for the )  
Electric Security Plans of Ohio Edison ) Case No. 20-1476-EL-UNC  
Company, The Cleveland Electric )  
Illuminating Company, and The Toledo )  
Edison Company. )

**DIRECT TESTIMONY  
OF  
DANIEL J. DUANN, Ph.D.**

**On Behalf of  
The Office of the Ohio Consumers' Counsel**  
*65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215*

**April 5, 2021**

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1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.***

4 ***A1.*** My name is Daniel J. Duann. My business address is 65 East State Street,  
5 Columbus, OH 43215. I am the Assistant Director of Analytical Services  
6 Department with the Office of the Ohio Consumers' Counsel ("OCC").

7

8 ***Q2. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND***  
9 ***EDUCATIONAL BACKGROUND.***

10 ***A2.*** I joined OCC in January 2008 as a Senior Regulatory Analyst. I was promoted to  
11 the position of Principal Regulatory Analyst in November 2011 and to my current  
12 position in June 2018. My primary responsibility is to assist OCC by participating  
13 in proceedings before the Public Utilities Commission of Ohio ("PUCO") and the  
14 Federal Energy Regulatory Commission ("FERC"). These proceedings include,  
15 among others, rate cases, cost of capital, fuel adjustment clause, standard service  
16 offer, and infrastructure replacement programs.

17

18 Prior to joining OCC, I was an independent consultant. Before that, I was a Senior  
19 Institute Economist at the National Regulatory Research Institute ("NRRI") at  
20 The Ohio State University. NRRI has been a policy research center funded by the  
21 National Association of Regulatory Utility Commissioners and state public  
22 utilities commissions since 1976. NRRI is currently located in Washington, DC  
23 and is no longer a part of The Ohio State University. My work at NRRI involved

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1 research, publishing, and public services in the areas of utility regulation and  
2 energy policy. Before NRRI, I held various positions with the Forecasting Section  
3 of the Ohio Division of Energy (the Forecasting Section was later transferred to  
4 the PUCO), the Center of Health Policy Research at the American Medical  
5 Association, and the Policy Analysis and Research Division of the Illinois  
6 Commerce Commission.

7  
8 I received my Ph.D. degree in Public Policy Analysis and M.S. degree in Energy  
9 Management and Policy from the University of Pennsylvania. I also have an M.A.  
10 degree in Economics from the University of Kansas. I completed my  
11 undergraduate study in Business Administration at the National Taiwan  
12 University, Taiwan, Republic of China. I have been a Certified Rate of Return  
13 Analyst by the Society of Utility and Regulatory Financial Analysts since 2011.

14  
15 ***Q3. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY OR TESTIFIED***  
16 ***BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO AND OTHER***  
17 ***AGENCIES OR LEGISLATURES?***

18 **A3.** Yes. I have submitted expert testimony or testified on behalf of the OCC before  
19 the PUCO in many cases. A list of these cases is included in Attachment DJD-1.  
20 Outside of PUCO, I have testified before the California State Legislature  
21 (specifically, the Senate Committee on Energy and Public Utilities) in 1989  
22 regarding a legislation banning “sweetheart deals” between electric utilities and  
23 their non-regulated affiliates (SB 769). I also testified in 1987 before the Illinois

1 Commerce Commission regarding a divestiture of three nuclear power plants by  
2 the Commonwealth Edison Company.

3

4 ***Q4. HAVE YOU PREVIOUSLY PUBLISHED OR PRESENTED IN ACADEMIC***  
5 ***JOURNALS, TRADE PUBLICATIONS, AND PROFESSIONAL***  
6 ***CONFERENCES?***

7 ***A4.*** Yes. I have published in several academic journals and trade publications. I have  
8 also presented in many conferences on issues related to utility regulation, energy  
9 policy, and emerging energy technology. A selected list of these publications and  
10 presentations is included as Attachment DJD-2.

11

12 ***Q5. ARE YOU FAMILIAR WITH THE IMPLEMENTATION OF THE***  
13 ***SIGNIFICANTLY EXCESSIVE EARNINGS TEST AND ELECTRIC***  
14 ***SECURITY PLANS IN OHIO?***

15 ***A5.*** Yes. I am familiar with the implementation of the Significantly Excessive  
16 Earnings Test (“SEET”) and Electric Security Plans (“ESP”), which are governed  
17 by R.C. 4928.143. Specifically, I participated extensively in the SEET workshop  
18 proceeding (Case No. 09-786-EL-UNC) on the initial implementation of the  
19 SEET statute in Ohio. I have filed testimony in several SEET proceedings  
20 including Ohio Power Company’s 2010, 2014, 2016 and 2018 SEET proceedings,  
21 Ohio Edison Company’s 2017 SEET proceeding, and Dayton Power and Light  
22 Company’s 2018 and 2019 SEET proceedings. I also testified on SEET-related

1 provisions in FirstEnergy's ESP III (Case No. 12-1230-EL-SSO) and ESP IV  
2 (Case No. 14-1297-EL-SSO) proceedings.

3

4 **II. PURPOSE AND RECOMMENDATION**

5

6 ***Q6 WHAT IS THE PURPOSE OF YOUR TESTIMONY?***

7 ***A6.*** My testimony addresses a variety of subjects in the four cases consolidated in this  
8 proceeding.

9

10 First, it updates my recommendation regarding the 2017 earnings (profits) test of  
11 Ohio Edison Company ("Ohio Edison"), which the PUCO previously ruled on  
12 and is now before the PUCO again after the case was remanded by the Ohio  
13 Supreme Court.<sup>1</sup>

14

15 Second, my testimony presents the analysis and recommendation regarding the  
16 refunds due to consumers for the significantly excessive profits earned by three  
17 Ohio electric distribution utilities ("EDUs") of FirstEnergy Corporation  
18 ("FirstEnergy Corp.") in 2018 and 2019.<sup>2</sup> The three Ohio EDUs are Ohio Edison,  
19 The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison  
20 Company ("Toledo Edison"), and collectively as "FirstEnergy" or "Utilities".

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<sup>1</sup> *In re Determination of Existence of Significantly Excessive Earnings for 2017 Under Electric Security Plan of Ohio Edison Co.*, 2020-Ohio-5450 (hereinafter *Ohio Edison*).

<sup>2</sup> PUCO Case Nos. 19-1338-EL-UNC and 20-1034-EL-UNC.

1 I also comment regarding the prospective profits test required in the quadrennial  
2 review of the current ESP. The recently enacted H.B. 128, which was signed by  
3 Governor DeWine on March 31, 2021, would require the PUCO to conduct both  
4 the annual profits test and the prospective profits test of 2020 to 2024 on an  
5 individual utility basis, not on a combined basis.

6

7 ***Q7. PLEASE SUMMARIZE YOUR FINDINGS AND RECOMMENDATIONS.***

8 ***A7.*** The refund to consumers for the significantly excessive profits of a regulated  
9 utility under an ESP is an essential part of the Ohio law that protects consumers  
10 from paying unjust and unreasonable rates. A summary of my analysis regarding  
11 the annual profits review of FirstEnergy from 2017 to 2019 is shown in Table 1. It  
12 shows that Ohio Edison has had significantly excessive profits from its ESP  
13 during the period of 2017 to 2019. The calculation of these refunds to consumers  
14 by Ohio Edison is further explained later in my testimony and Attachments DJD-  
15 3, DJD-5, and DJD-6.

16

17

18

**Table 1  
Summary of 2017, 2018, and 2019 Annual Profits Review**

<b>Year</b>	<b>OE</b>	<b>CEI</b>	<b>TE</b>	<b>OCC- proposed ROE Threshold (%)</b>	<b>Utility with Significantly Excessive Profits</b>	<b>Refund to Consumers (\$million)</b>
<b>2017</b>	17.39%	7.30%	10.74%	13.80%	Ohio Edison	\$60.9
<b>2018</b>	18.16%	8.66%	11.09%	12.50%	Ohio Edison	\$86.4
<b>2019</b>	16.53%	8.01%	12.34%	12.40%	Ohio Edison	\$64.0

19

20

Source: Attachments DJD-3, DJD-5, DJD-6.

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1           Based on these findings and additional analysis, I recommend:

2                   (1)     the PUCO order Ohio Edison to provide \$60.9 million in refunds  
3                             to consumers for its significantly excessive profits in 2017, and  
4                             \$86.4 million in refunds for its significantly excessive profits in  
5                             2018. Such refunds should be credited to customers over a six-  
6                             month period immediately after a PUCO order;

7                   (2)     the PUCO review the 2019 profits of Ohio Edison, CEI, and  
8                             Toledo Edison separately and individually as required under the  
9                             recently-enacted H.B. 128, not on a combined basis as proposed by  
10                            FirstEnergy;

11                  (3)     the PUCO order Ohio Edison to provide \$64 million in refunds for  
12                             its 2019 significantly excessive profits and such refund be credited  
13                             to customers over a six-month period immediately after an order  
14                             has been issued;

15                  (4)     the PUCO order Ohio Edison to include interest, calculated at its  
16                             approved cost of long-term debt of 6.54%<sup>3</sup>, in the amounts of the  
17                             2017, 2018, and 2019 refunds to consumers; and

18                  (5)     the PUCO reject the profits threshold of 22.2% proposed by  
19                             FirstEnergy for the prospective significantly excessive profits test  
20                             for the period of 2020 to 2024.

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<sup>3</sup> This cost of long-term debt of 6.54% was approved in the last rate case approved in Case No. 07-551-EL-AIR et al. (January 21, 2009).



1 **III. BACKGROUND**

2

3 **Q8. PLEASE EXPLAIN THE SIGNIFICANTLY EXCESSIVE EARNINGS TEST**  
4 **IN OHIO.**

5 **A8.** Under the Significantly Excessive Earnings Test (“SEET”) enacted in the 2008  
6 energy restructuring law (R.C. 4928.143(F)), if an electric utility is found to have  
7 significantly excessive profits resulting from its electric security plan, the excess  
8 profits are to be returned to customers.<sup>4</sup> The purpose of the annual profits review  
9 (or SEET) is to protect customers from paying unjust and unreasonable rates  
10 under an approved ESP. The annual profits review examines the totality (“in the  
11 aggregate”) of the earnings of the electric distribution utility related to all the  
12 rates, riders, and conditions and terms of service approved in a utility’s ESP.<sup>5</sup>

13

14 It is also my understanding that the language in the statute “with such adjustments  
15 for capital structure as may be appropriate” indicates that the capital structure of  
16 the public companies can be considered as a factor for selecting the comparable  
17 group in administering the earnings review.<sup>6</sup> However, this language does not

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<sup>4</sup> See R.C. 4928.143(F). Specifically, (if a utility’s ESP resulted in “significantly excessive earnings,” the PUCO “shall require the electric distribution utility to return to customers the amount of the excess by prospective adjustments”).

<sup>5</sup> See R.C. 4928.143 (F).

<sup>6</sup> See R.C. 4928.143 (F). Specifically, (“that was earned during the same period by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate.”)

1 mean the annual earnings review can be used as a tool to adjust (on paper only)  
2 the capital structure of the regulated utility that is subject to the profits review.

3

4 ***Q9. SHOULD THE SIGNIFICANTLY EXCESSIVE EARNINGS TEST BE***  
5 ***APPLIED TO PROVIDE MAXIMUM PROTECTION TO CONSUMERS?***

6 ***A9.*** Yes. The 2008 energy law only provides refunds to consumers if a utility's profits  
7 are "significantly excessive."<sup>7</sup> In other words, it allows a utility's profits to be  
8 excessive—just not *significantly* excessive. In this regard, the annual profits  
9 review, while designed to protect consumers, offers only a minimum level of  
10 protection.

11

12 Consequently, the PUCO should apply this profits review strictly and not  
13 unnecessarily or unreasonably dilute or water-down the profits test (SEET) for  
14 superficial or unsupported claims. For example, the PUCO should not deprive  
15 customers of SEET refunds that they may be otherwise entitled to under the law  
16 by using an unreasonably high earnings threshold for the profits review.

17 Similarly, the PUCO should not consider any unsubstantiated claims of future  
18 capital requirements or commitments, or other factors to be used to deny refunds  
19 to consumers.

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<sup>7</sup> R.C. 4928.143(F).

1 ***Q10. IS THE ANNUAL PROFITS REVIEW A RETROSPECTIVE REVIEW OF***  
2 ***ACTUAL EARNINGS RECORDED AND PRESENTED IN THE FINANCIAL***  
3 ***STATEMENTS?***

4 ***A10.*** Yes. The starting point of a SEET review should be the reported financial  
5 statements of the electric distribution utility. This has been the approach used by  
6 all Ohio electric utilities—including the 2017 to 2019 Applications filed by  
7 FirstEnergy. Some adjustments to earnings and average common equity for out-  
8 of-state affiliates or non-electric operations and profits or losses from assets sales  
9 may be allowed. But these adjustments are made based on actual financial records  
10 and accepted and sound accounting principles. Any improper accounting record-  
11 keeping and misallocation of expenses, revenues, and capital investments should  
12 be identified and corrected and fully reflected in profits and common equity  
13 balances for SEET purpose.<sup>8</sup>

14  
15 ***Q11. SHOULD A HYPOTHETICAL CAPITAL STRUCTURE BE USED IN THE***  
16 ***ANNUAL RETROSPECTIVE SEET REVIEW?***

17 ***A11.*** No. In a recent case involving another utility, the PUCO Staff recommended that  
18 the PUCO use a “hypothetical” capital structure instead of the utility’s actual

---

<sup>8</sup> For example, the PUCO recently ordered a third-party audit of FirstEnergy utilities’ Delivery Capital Recovery rider be expanded to investigate whether payments recently disclosed by FirstEnergy were improperly included in rates charged to customers. In a recent 10-K filing FirstEnergy submitted to the SEC it identified “certain transactions ... that were either improperly classified, misallocated ... or lacked supporting documentation”. See Case No. 20-1629-EL-UNC, Entry (March 10, 2021).

1 capital structure during the profits review year.<sup>9</sup> It is improper to use a  
2 hypothetical capital structure to adjust the reported common equity and thus  
3 distort the calculated return on equity (“ROE”) for the earnings test. Doing so  
4 could improperly reduce or eliminate the refund that customers would otherwise  
5 be entitled to under the annual profits review.

6  
7 The annual profits review is a factual review of the actual earnings of an electric  
8 utility in a particular year subject to certain limited adjustments. The use of a  
9 hypothetical capital structure is not one of the allowed adjustments. There is no  
10 valid reason for using a hypothetical capital structure for the annual profits  
11 review. For example, the average ROE earned by the comparable group such as  
12 those companies making up the SPDR Select Sector Fund – Utility (XLU), a  
13 comparable group that has been used in some prior SEET proceedings, is  
14 calculated by using the actual common equity (with some adjustments if needed),  
15 not by a common equity derived from a hypothetical capital structure.

16

17 ***Q12. WHAT IS THE PURPOSE OF AN EARNINGS THRESHOLD IN THE***  
18 ***ANNUAL EARNINGS REVIEW?***

19 ***A12.*** An earnings or profits threshold (typically expressed as the return on  
20 equity or ROE) is an essential part of the annual profits review. It is the

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<sup>9</sup> See *In re Applications of the Dayton Power & Light Co. for Administration of the Significantly Excessive Earnings Test Under R.C. 4928.143(E) & Ohio Adm. Code 4901:1-35-10 for 2018 and 2019*, Case Nos. 19-1121-EL-UNC, 20-1041-EL-UNC, Testimony of Joseph P. Buckley (Jan. 4, 2021).

1 benchmark used by the PUCO in determining if an electric utility had  
2 significantly excessive profits in comparison to other public companies  
3 with similar business and financial risk. If an electric utility operating  
4 under an approved ESP, such as Ohio Edison, has a SEET-adjusted ROE  
5 that is higher than the SEET ROE threshold, the electric utility is  
6 considered to have significantly excessive earnings and would be required  
7 to refund consumers the amount of profits above the SEET ROE threshold  
8 (grossed up to revenue collection).

9

10 ***Q13. WHAT IS YOUR UNDERSTANDING OF THE SUPREME COURT OF***  
11 ***OHIO DECISION REGARDING THE INCLUSION OF DISTRIBUTION***  
12 ***MODERNIZATION REVENUES FOR THE ANNUAL PROFITS REVIEW?***

13 ***A13.*** It is my understanding that in *Ohio Edison*, the Supreme Court of Ohio (“Court”)  
14 ruled that the PUCO violated the law when it allowed Ohio Edison to exclude  
15 distribution modernization rider (DMR) revenues from its annual earnings  
16 review.<sup>10</sup> The Court further directed the PUCO to include the DMR revenues in  
17 the annual profits (SEET) review because the DMR was a provision of the ESP.<sup>11</sup>

18

19 In addition, the Court agreed with OCC that the PUCO never established the  
20 SEET threshold in adopting the stipulation of the 2017 Ohio Edison SEET case,

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<sup>10</sup> See *Ohio Edison* ¶ 21.

<sup>11</sup> See *Ohio Edison* ¶¶ 26-27.

1 and the PUCO was instructed to establish the SEET threshold in the remand  
2 proceeding.<sup>12</sup>

3

4 **IV. THE REMAND OF THE 2017 SIGNIFICANTLY EXCESSIVE EARNINGS**  
5 **TEST OF OHIO EDISON**

6

7 ***Q14. DID YOU REVIEW THE REVISED SEET NET INCOME, SEET COMMON***  
8 ***EQUITY, AND SEET RETURN ON EQUITY FILED BY FIRSTENERGY ON***  
9 ***MARCH 1, 2021?***

10 ***A14.*** Yes. As a result of the Court's decision in remanding the 2017 Ohio SEET case  
11 and the consolidation of several other proceedings by the PUCO, Ohio Edison,  
12 CEI, and Toledo Edison filed supplemental information regarding their 2017,  
13 2018, and 2019 SEET Applications on March 1, 2021.

14

15 In these filings, FirstEnergy's witness, Tracy M. Ashton, revised the SEET  
16 earnings of Ohio Edison, CEI, and Toledo Edison by including the Rider DMR  
17 revenues that were previously excluded from the original Applications.<sup>13</sup> She  
18 kept two other SEET net income (profits) adjustments included in the original  
19 Applications: Affiliate Company Earnings and Special/Extraordinary Item.<sup>14</sup> She

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<sup>12</sup> See *Ohio Edison* ¶¶ 59-61.

<sup>13</sup> Direct and Supplemental Testimony of Tracy M. Ashton, Schedule TMA-5 (March 1, 2021).

<sup>14</sup> *Id.*

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1           also made adjustments to the average common equity in the original Applications  
2           to account for the inclusion of Rider DMR revenues.<sup>15</sup>

3  
4           In its filings, FirstEnergy proposed a revised 2017 return on equity for Ohio  
5           Edison, CEI, and Toledo Edison at 17.4%, 7.3%, and 10.7%, respectively.<sup>16</sup>

6  
7           Based on my review of publicly available financial information, the original  
8           SEET Applications, the filings of March 1, 2021, and the discovery responses  
9           provided by FirstEnergy, I have no further adjustments to those revised SEET  
10          earnings, average common equity, and return on equity calculation shown in  
11          Schedule TMA-4.

12  
13          Despite this, I do not agree with the SEET ROE thresholds proposed by  
14          FirstEnergy. Nor do I agree that the 2019 profits review should be done on a  
15          combined basis as proposed by FirstEnergy.<sup>17</sup> And I do not agree with the  
16          FirstEnergy Utilities' conclusion that there were no significantly excessive  
17          earnings in 2017, 2018, and 2019 for the Utilities as claimed by the utilities in the  
18          original Applications and supplemental filings.

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<sup>15</sup> See Direct and Supplemental Testimony of Ashton, Schedule TMA-6 (March 1, 2021).

<sup>16</sup> See Direct and Supplemental Testimony of Ashton, Schedule TMA-4, Page 1 of 3 (March 1, 2021).

<sup>17</sup> As discussed earlier, the recently-enacted H.B. 128 would require the PUCO to conduct the annual profits review, as well as the prospective profits test of 2020 to 2024, of FirstEnergy on a separated and individual basis.

1 ***Q15. PLEASE SUMMARIZE THE REVISED 2017 SEET-ADJUSTED NET***  
2 ***INCOME, AVERAGE COMMON EQUITY, AND RETURN ON EQUITY OF***  
3 ***OHIO EDISON.***

4 ***A15.*** Ohio Edison's revised 2017 SEET earnings of \$184,838,588, and average  
5 common equity of \$1,062,702,154 are shown on Schedule TMA-4, page 1 of 3.  
6 These numbers are the same as what I have calculated in my prior testimony filed  
7 on October 16, 2018.<sup>18</sup> My own calculation would indicate the 2017 SEET ROE  
8 of Ohio Edison was 17.39% (which Ohio Edison rounded-up to 17.4%). See  
9 Attachment DJD-3.

10

11 ***Q16. WHAT IS OHIO EDISON'S PROPOSED 2017 SEET RETURN ON EQUITY***  
12 ***THRESHOLD FOR THE REMAND PROCEEDING?***

13 ***A16.*** Ohio Edison did not revise its 2017 SEET ROE threshold in its March 1, 2021  
14 filings.<sup>19</sup> It continues to propose a SEET ROE Threshold of 19.2%, which was  
15 included in the original Application.<sup>20</sup>

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<sup>18</sup> See Case No. 18-857-EL-UNC, Direct Testimony of Daniel J. Duann at 11-12 (October 16, 2018).

<sup>19</sup> See Direct and Supplemental Testimony of Ashton at 9 (March 1, 2021).

<sup>20</sup> See Direct Testimony of Joanne M. Savage at 5 (May 15, 2018).



1 ***Q17. WHAT IS AN APPROPRIATE AND REASONABLE ROE THRESHOLD***  
2 ***FOR THE 2017 PROFITS REVIEW OF OHIO EDISON?***

3 ***A17.*** Another OCC witness Matthew I. Kahal provides testimony supporting his  
4 recommendation on a reasonable SEET ROE (profits) threshold for FirstEnergy.<sup>21</sup>  
5 He proposes a ROE threshold of 13.80% for the 2017 profits review. I will use  
6 this ROE threshold of 13.80% in determining if Ohio Edison has significantly  
7 excessive profits in 2017 and the amount of refund owed to consumers.

8

9 ***Q18. DID OHIO EDISON HAVE SIGNIFICANTLY EXCESSIVE EARNINGS AS***  
10 ***A RESULT OF THE ELECTRIC SECURITY PLAN IN 2017?***

11 ***A18.*** Yes. Ohio Edison did have significantly excessive earnings in 2017 because it  
12 had a SEET-adjusted ROE of 17.39%, which exceeded the OCC-proposed SEET  
13 ROE Threshold of 13.80%.

14

15 ***Q19. HOW MUCH MONEY SHOULD BE RETURNED TO CONSUMERS BASED***  
16 ***ON THE SIGNIFICANTLY EXCESSIVE PROFITS MADE BY OHIO***  
17 ***EDISON IN 2017?***

18 ***A19.*** Ohio Edison should refund consumers approximately \$60.9 million (\$60,866,968)  
19 for its significantly excessive profits in 2017. This is consistent with the method  
20 of calculating customer SEET refunds previously approved by the PUCO.<sup>22</sup> The

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<sup>21</sup> See Direct Testimony of Matthew I. Kahal (April 5, 2021).

<sup>22</sup> See PUCO Case No. 11-4571-EL-UNC, Opinion and Order at 28 (October 23, 2013).

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1 Tax Gross-Up Factor of 1.5939732 is the gross-up factor approved in the most  
2 recent rate case and based on an income tax rate of 35%,<sup>23</sup> which was applicable  
3 to Ohio Edison in 2017. The calculation of the Tax Gross-up Factor is shown in  
4 Attachment DJD-4. The calculation of the 2017 Ohio Edison SEET refund to  
5 consumers is summarized in Table 2.

6 **Table 2**  
7 **Calculation of 2017 SEET Refund to Ohio Edison's Customers**  
8

SEET-adjusted Net Income	(1)	\$184,838,588
SEET-adjusted Average Equity	(2)	\$1,062,702,154
SEET ROE Threshold	(3)	13.80%
Allowed Net Income at ROE Threshold	(4) = (2) * (3)	\$146,652,897
Excessive Net Income	(5) = (1) – (4)	\$38,185,691
Tax Gross-up Factor	(6)	1.5939732
Pre-tax Revenue to Be Refunded to Customers	(7) = (5) * (6)	\$60,866,968

9  
10

11 ***Q20. HOW SOON SHOULD CONSUMERS RECEIVE THIS \$60.9 MILLION***  
12 ***REFUND FROM OHIO EDISON'S SIGNIFICANTLY EXCESSIVE***  
13 ***PROFITS REVIEW?***

14 ***A20.*** Consumers paid for the significantly excessive profits earned by Ohio Edison  
15 through the ESP rates charged in 2017, four years ago. There is no reason for any  
16 delay for consumers to get their money back. In addition, many electricity

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<sup>23</sup> See Case No. 07-551-EL-AIR et al., Staff Report of Investigation, Schedule A-1.1 (December 4, 2007).

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1 consumers served by Ohio Edison are currently facing very challenging health  
2 and economic conditions brought on by the Covid-19 pandemic. Any amount of  
3 help is needed and welcome. Furthermore, I recommend the PUCO should direct  
4 Ohio Edison to pay interest (at an interest rate of 6.54% per year) to consumers  
5 for not returning the \$60.9 million for the two-year period of 2019 to 2020. This  
6 additional interest payment to consumer is approximately \$8 million.<sup>24</sup> I  
7 recommend this 2017 SEET refund plus interest payment be returned to  
8 customers as soon as possible, over no more than a six-month period after the  
9 PUCO order is issued.

10

11 Furthermore, for fairness and equity, I recommend the refund plus interest  
12 payment be allocated to different customer classes based on the revenue  
13 requirement allocation of base distribution rate and the refund should be returned  
14 to customers on an energy usage (kWh) basis within each customer class.

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<sup>24</sup> \$7,961,399 = \$60,866,968 \* 0.0654 \* 2.

1 **V. THE 2018 SIGNIFICANTLY EXCESSIVE EARNINGS TEST**

2

3 ***Q21. WHAT ARE THE REVISED 2018 SEET-ADJUSTED NET INCOME,***  
4 ***AVERAGE COMMON EQUITY, AND RETURN ON EQUITY OF***  
5 ***FIRSTENERGY?***

6 ***A21.*** As discussed earlier, FirstEnergy has filed supplemental information that included  
7 Rider DMR revenues previously excluded from the original 2018 Application.  
8 The revised 2018 returns on equity for Ohio Edison, CEI, and Toledo Edison  
9 were 18.2%, 8.7%, and 11.1%, respectively.<sup>25</sup> I have no further adjustments to  
10 those revised SEET profits, or the average common equity shown in Schedule  
11 TMA-4. My own calculation indicates that Ohio Edison would have a revised  
12 2018 SEET earnings of \$210,589,880, average common equity of  
13 \$1,159,350,650, and SEET ROE of Ohio Edison of 18.16%. See Attachment  
14 DJD-5.

15

16 ***Q22. WHAT IS THE 2018 SEET RETURN ON EQUITY THRESHOLD***  
17 ***PROPOSED BY OHIO EDISON?***

18 ***A22.*** Ohio Edison did not propose a new ROE threshold in its revised filings of March  
19 1, 2021. Ohio Edison continues to propose a ROE threshold of 19.3% that was  
20 included in its initial Application filed on July 15, 2019.<sup>26</sup>

21

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<sup>25</sup> See Direct and Supplemental Testimony of Ashton, Schedule TMA-4, Page 2 of 3 (March 1, 2021).

<sup>26</sup> See Direct Testimony of Thomas J. Dolezal at 4 (July 15, 2019).

1 **Q23. WHAT IS A REASONABLE ROE THRESHOLD FOR THE 2018 PROFITS**  
2 **REVIEW OF OHIO EDISON?**

3 **A23.** I will use the ROE threshold of 12.50% proposed by OCC witness Kahal in  
4 determining whether Ohio Edison had significantly excessive profits in 2018 and  
5 the amount of refund to consumers.<sup>27</sup>

6

7 **Q24. DID OHIO EDISON HAVE SIGNIFICANTLY EXCESSIVE PROFITS AS A**  
8 **RESULT OF THE ELECTRIC SECURITY PLAN RATES PAID BY**  
9 **CUSTOMERS IN 2018?**

10 **A24.** Yes. Ohio Edison did have significantly excessive profits in 2018 based on a  
11 comparison of its SEET-adjusted ROE of 18.16% and the OCC-proposed SEET  
12 ROE Threshold of 12.50%.

13

14 **Q25. HOW MUCH MONEY AND HOW SOON IT SHOULD BE RETURNED TO**  
15 **CONSUMERS BASED ON THE SIGNIFICANTLY EXCESSIVE PROFITS**  
16 **MADE BY OHIO EDISON IN 2018?**

17 **A25.** My calculation indicates that Ohio Edison should refund its customers  
18 approximately \$86.4 million (\$86,439,724) for its significantly excessive profits  
19 resulting from the ESP in 2018. The calculation of the 2018 SEET refund to  
20 consumers is shown in Table 3.

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<sup>27</sup> See Direct Testimony of Matthew I Kahal (April 5, 2021).

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1 Like my recommendation regarding the 2017 SEET refund, this refund should be  
2 returned to consumers as soon as possible, within six months of a PUCO order.  
3 Furthermore, I recommend Ohio Edison should be required to pay interest (at an  
4 interest rate of 6.54% per year) to consumers for not returning the \$86.4 million  
5 for the one-year period of 2020. This additional interest payment to consumer is  
6 approximately \$5.7 million.<sup>28</sup> Likewise, the refunds should and be allocated to  
7 different customer classes similar to the allocation of base distribution rate  
8 revenue requirement and be returned to customers within the same class on an  
9 energy usage (kWh) basis.

**Table 3  
Calculation of 2018 SEET Refund to Ohio Edison's Customers**

SEET-adjusted Net Income	(1)	\$210,589,880
SEET-adjusted Average Equity	(2)	\$1,159,350,650
SEET ROE Threshold	(3)	12.50%
Allowed Net Income at ROE Threshold	(4) = (2) * (3)	\$144,918,831
Excessive Net Income	(5) = (1) – (4)	\$66,671,049
Tax Gross-up Factor	(6)	1.3162531
Pre-tax Revenue to Be Refunded to Customers	(7) = (5) * (6)	\$86,439,724

<sup>28</sup> \$5,653,158 = \$86,439,724 \* 0.0654.

1 **VI. THE 2019 SIGNIFICANTLY EXCESSIVE EARNINGS TEST**

2

3 ***Q26. DID FIRSTENERGY PROVIDE INDIVIDUAL FINANCIAL***  
4 ***INFORMATION OF OHIO EDISON, CEI, AND TOLEDO EDISON IN ITS***  
5 ***ORIGINAL APPLICATION FILED ON MAY 15, 2020?***

6 **A26.** No. FirstEnergy did not do so in its original 2019 Application.<sup>29</sup> FirstEnergy  
7 claimed that the three Ohio EDUs operated under a joint ESP, and the annual  
8 profits review should use the combined return on equity per Ohio Revised Code  
9 4928.143(F).

10

11 ***Q27. DO YOU AGREE WITH THIS CLAIM BY FIRSTENERGY REGARDING***  
12 ***THE 2019 ANNUAL PROFITS REVIEW?***

13 **A27.** No. I do not agree with this claim by FirstEnergy. As a result of the enactment of  
14 H.B. 128, which would become effective in 90 days after Governor DeWine  
15 signed it on March 31, 2021, the PUCO is required to conduct the annual profits  
16 review (as well as the prospective profits review under R.C. 4928.143. (E)) of  
17 Ohio Edison, CEI, and Toledo Edison individually and separately. It is my  
18 understanding that this requirement is applicable to the 2019 annual profit review  
19 of FirstEnergy.

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<sup>29</sup> Case No. 20-1034-EL-UNC, Application (May 15, 2020).

1 **Q28. HAS FIRSTENERGY PROVIDED THE 2019 NET INCOME, AVERAGE**  
2 **COMMON EQUITY, AND RETURN ON EQUITY INFORMATION OF**  
3 **OHIO EDISON, CEI, AND TOLEDO EDISON SEPARATELY IN ITS**  
4 **SUPPLEMENTAL FILINGS?**

5 **A28.** Yes. As directed by the Court and the PUCO, FirstEnergy filed supplemental  
6 information of the 2019 profits and average common equity of the three Ohio  
7 EDUs individually and separately. The supplemental filings also included Rider  
8 DMR revenues that were previously excluded from 2019 profits.

9 In the supplemental filings, FirstEnergy calculated a revised 2019 return on equity  
10 of 16.5% for Ohio Edison, 8.0% for CEI, and 12.3% for Toledo Edison.<sup>30</sup> I have  
11 no further adjustments to those revised SEET earnings and average common  
12 equity shown in Schedule TMA-4. My own calculation indicates that Ohio Edison  
13 would have a revised profit of \$194,619,637, average common equity of  
14 \$1,177,088,426, and SEET ROE of 16.53% in 2019. See Attachment DJD-6.

15

16 **Q29. WHAT IS THE 2019 SEET RETURN ON EQUITY THRESHOLD**  
17 **PROPOSED BY FIRSTENERGY?**

18 **A29.** FirstEnergy did not propose a new earnings threshold for the 2019 profit review  
19 in its revised filings on March 1, 2021. FirstEnergy proposed a SEET ROE  
20 Threshold of 17.8% in its initial Application filed on May 15, 2020.<sup>31</sup>

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<sup>30</sup> See Direct and Supplemental Testimony of Ashton, Schedule TMA-4, Page 3 of 3 (March 1, 2021).

<sup>31</sup> See Direct Testimony of Thomas J. Dolezal (May 15, 2020) at 4.



1 **Q30. WHAT IS A REASONABLE RETURN ON EQUITY THRESHOLD FOR THE**  
2 **2019 EARNINGS REVIEW OF OHIO EDISON?**

3 **A30.** I will use the ROE threshold of 12.40% proposed by OCC witness Kahal in  
4 determining whether Ohio Edison had significantly excessive earnings in 2019  
5 and the amount of refund to consumers resulting from its significantly excessive  
6 earnings.<sup>32</sup>

7

8 **Q31. DID OHIO EDISON HAVE SIGNIFICANTLY EXCESSIVE PROFITS AS A**  
9 **RESULT OF THE ELECTRIC SECURITY PLAN RATES PAID BY**  
10 **CUSTOMERS IN 2019?**

11 **A31.** Yes. Because Ohio Edison had a SEET-adjusted ROE of 16.53%, which  
12 exceeded the OCC-proposed SEET ROE Threshold of 12.40%, it did have  
13 significantly excessive profits in 2019.

14

15 **Q32. HOW MUCH MONEY AND HOW SOON SHOULD BE RETURNED TO**  
16 **CONSUMERS GIVEN THE SIGNIFICANTLY EXCESSIVE PROFITS**  
17 **MADE BY OHIO EDISON IN 2019?**

18 **A32.** My calculation indicates that Ohio Edison should refund its customers  
19 approximately \$64.0 million (\$64,049,762) for its significantly excessive profits  
20 in 2019. See Table 4. As discussed earlier, consumers have paid for the  
21 significantly excessive profits earned by Ohio Edison through the ESP rates over

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<sup>32</sup> Direct Testimony of Matthew I. Kahal (April 5, 2021).

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1 several years ago. There is no reason for additional delay for consumers to get  
2 their money back. I recommend this 2019 SEET refund be returned to customers  
3 as soon as possible, over no more than a six-month period after the PUCO order is  
4 issued. If there is any further delay in providing the refund to customers beyond a  
5 reasonable time period in 2021, I recommend Ohio Edison be required to pay  
6 interest (at its approved cost of long-term debt of 6.54%) to consumers on the  
7 amount of refund not timely returned or credited.

8  
9 I further recommend this refund be returned to different customer classes  
10 proportional to the revenue requirement allocation of base distribution rates and  
11 be returned to customers within the same class based on an energy usage (kWh)  
12 basis.

**Table 4  
Calculation of 2019 SEET Refund to Ohio Edison's Customers**

SEET-adjusted Net Income	(1)	\$194,619,637
SEET-adjusted Average Equity	(2)	\$1,177,088,426
SEET ROE Threshold	(3)	12.40%
Allowed Net Income at ROE Threshold	(4) = (2) * (3)	\$144,958,965
Excessive Net Income	(5) = (1) – (4)	\$48,660,672
Tax Gross-up Factor	(6)	1.3162531
Pre-tax Revenue to Be Refunded to Customers	(7) = (5) * (6)	\$64,049,762

17

1 **VII. ADDITIONAL COMMENTS AND CONCLUSION**

2

3 **Q33. DO YOU HAVE ADDITIONAL COMMENTS REGARDING THE**

4 **RETROSPECTIVE ANNUAL PROFITS REVIEW OF FIRSTENERGY?**

5 **A33.** Yes. As discussed earlier, the retrospective annual profits review is a minimum  
6 essential consumer protection enacted by the Ohio General Assembly as a part of  
7 the 2008 Energy Law. The annual profits review for the period of 2017 to 2019 is  
8 of particular importance in protecting the 1.9 million residential customers of  
9 FirstEnergy (944,000 are served by Ohio Edison) from paying unjust and  
10 unreasonable ESP rates.

11

12 The Court has found that the Distribution Modernization Rider (“DMR”) charge  
13 collected by Ohio Edison, CEI, and Toledo Edison from January 2017 to June  
14 2019 was not allowed under the law and should be removed from tariffs.<sup>33</sup>  
15 Unfortunately, even with the victory in the Court, consumers did not receive any  
16 refund of this illegal \$456 million DMR charge<sup>34</sup> collected by the three Ohio  
17 EDUs of FirstEnergy. This was because the PUCO failed to collect the charge  
18 subject to refund, as had been requested by OCC and OMA. .<sup>35</sup>

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<sup>33</sup> *In re Application of Ohio Edison Co.*, 157 Ohio St.3d 73, 2019-Ohio-2401. ¶¶ 14-22.

<sup>34</sup> Approximately \$204 million in 2017, \$168 million in 2018, and \$84 million for the first six months of 2019.

<sup>35</sup> *In re Application of Ohio Edison Co.*, 157 Ohio St.3d 73, 2019-Ohio-2401. ¶¶ 23.

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1 Under this circumstance, the annual earnings review may be the only opportunity  
2 for consumers to get a partial refund for the illegal charge approved by the PUCO  
3 and collected by Ohio Edison. For example, a significant portion of the 2017  
4 earnings of Ohio Edison (\$184.8 million) were collected from the illegal DMR  
5 charges (\$58.5 million, after-tax).<sup>36</sup>

6 There is no reason for the PUCO to use an unreasonably high earnings threshold  
7 or consider unwarranted factors (such as future capital requirements)<sup>37</sup> in denying  
8 or lowering the amount of refunds by Ohio Edison to consumers.

9

10 ***Q34. DO YOU AGREE WITH THE PROFIT THRESHOLD OF 22.20 PERCENT***  
11 ***PROPOSED BY FIRSTENERGY FOR THE PROSPECTIVE SEET TEST***  
12 ***UNDER THE QUADRENNIAL REVIEW?***

13 ***A34.*** No. This profit threshold proposed by FirstEnergy for the prospective 2020 to  
14 2024 profits review is unreasonable and should not be adopted by the PUCO.  
15 This proposed threshold of 22.20% is based on faulty methodology and does not  
16 provide meaningful protection of consumers as intended by the General  
17 Assembly.

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<sup>36</sup> See Attachment DJD-3.

<sup>37</sup> It should be noted that FirstEnergy itself did not request the PUCO to consider this and other factors in its annual SEET Applications.

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1 **Q35. PLEASE EXPLAIN.**

2 **A35.** This profits threshold of 22.20% for the prospective significantly excessive  
3 earnings test for the period of 2020 to 2024 was proposed by FirstEnergy witness,  
4 Dr. Bente Villadsen.<sup>38</sup> This prospective SEET threshold was based on an average  
5 return on equity of 10.9% and a standard deviation of 6.8%.<sup>39</sup>

6 In short, this 22.20% ROE threshold itself is exceedingly high and will not  
7 provide meaningful protection for consumers from paying unreasonably high ESP  
8 rates. It is more than double the current authorized return on equity of 10.50% of  
9 FirstEnergy. Significantly, the PUCO has not adopted any profits threshold  
10 comparable to this very high threshold in prior SEET cases. Most importantly,  
11 this 22.20% ROE threshold is largely a result of the very high standard deviation  
12 of 6.8%, which would result in an ROE adder of 11.3% (as calculated by 6.9% \*  
13 1.64).<sup>40</sup>

14  
15 The absurdity of the ROE thresholds proposed by FirstEnergy is further  
16 confirmed in Figure 1 of the direct testimony of Dr. Bente Villadsen.  
17 Specifically, because of the increase in standard deviation from 3.0% in 2020 to  
18 7.4% in 2021, the profit threshold would increase from 14.8% to 23.2% even  
19 though the average ROE would only increase from 9.9% to 11.0%. There is no  
20 plausible economic explanation that the profits of comparable companies would

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<sup>38</sup> See Direct Testimony of Dr. Bente Villadsen at 10 (March 1, 2021).

<sup>39</sup> *Id.* Figure 1.

<sup>40</sup> *Id.*

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1           be more volatile in 2021 to 2024 than in 2020 or the benchmark for determining  
2           significantly excessive profits for a regulated utility would increase 8.4% (as  
3           calculated by 23.2% - 14.8%) from 2020 to 2021.

4

5           The profit threshold of 22.20% proposed by FirstEnergy in its supplemental  
6           filings for the prospective SEET test is nothing but a blind application of a faulty  
7           methodology. The PUCO should reject this proposed profit threshold.

8

9           ***Q36. DOES THIS CONCLUDE YOUR TESTIMONY?***

10          ***A36.*** Yes. But I reserve the right to supplement my testimony if additional testimony is  
11          filed, or if new information or data in connection with this proceeding becomes  
12          available.

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Daniel J. Duann, Ph.D. on Behalf of the Office of the Ohio Consumers' Counsel* was served via electronic transmission to the persons listed below on this 5<sup>th</sup> day of April 2021.

/s/ Christopher Healey  
Christopher Healey (0086027)  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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**Daniel J. Duann, Ph.D.**  
**List of Testimonies Filed Before PUCO**

1. *Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 08-1094-EL-SSO (January 26, 2009).
2. *Application of Ohio American Water Company to Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area*, Case No. 09-391-WS-AIR (January 4, 2010).
3. *Application of Aqua Ohio, Inc. for Authority to Increase its Rates and Charges in its Masury Division*, Case No. 09-560-WW-AIR (February 22, 2010).
4. *Application of Aqua Ohio, Inc. for Authority to increase its Rates and Charges in its Lake Erie Division*, Case No. 09-1044-WW-AIR (June 21, 2010).
5. *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and AEP Company*, Case Nos. 09-872-EL-FAC and 09-873-EL-FAC (August 16, 2010).
6. *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Asset (Remand)*, Case Nos. 08-917-EL-SSO et al (June 30, 2011).
7. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Modify and further Accelerate its Pipeline Infrastructure Replacement Program and to Recover the Associated Costs et al.*, Case Nos. 11-2401-GA-ALT and 08-169-GA-ALT (July 15, 2011).
8. *In the Matter of the Application of Columbus Southern Power Company and AEP Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code in the Form of an Electric Security Plan (ESP)*, Case Nos. 11-346-EL-SSO, et al (July 25, 2011).
9. *In the Matter of the Application of Columbus Southern Power Company and AEP Company for Authority to Merge and Related Approval (ESP Stipulation)*, Case Nos. 10-2376-EL-UNC, et al (September 27, 2011).
10. *In the Matter of the 2010 Annual Filing of Columbus Southern Power Company and AEP Company Required by Rule 4901:1-35-10, Ohio Administrative Code*, Case Nos. 11-4571-EL-UNC and 11-4572-EL-UNC (October 12, 2011).
11. *In the Matter of the Application of Ohio American Water Company to Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area*, Case No. 11-4161-WS-AIR (March 1, 2012).



12. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code in the Form of an Electric Security Plan (Modified ESP), Case Nos. 11-346-EL-SSO, et al (May 4, 2012).*
13. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form Of an Electric Security Plan, Case No. 12-1230-EL-SSO (May 21, 2012).*
14. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, et al. Case Nos. 12-1682-EL-AIR (February 19, 2013).*
15. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates, Case Nos. 12-1685-GA-AIR, et al (February 25, 2013).*
16. *In the Matter of the Application of Dayton Power & Light Company for Authority to Establish a Standard Service Offer in the Form Of an Electric Security Plan Pursuant to R.C. 4928.143, Case No. 12-426-EL-SSO et al. (March 1, 2013).*
17. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover of Certain Storm-related Service Restoration Costs, Case Nos. 12-3062-EL-RDR, et al. (January 31, 2014).*
18. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover of Certain Storm-related Service Restoration Costs, Case Nos. 12-3062-EL-RDR, et al. (May 23, 2014).*
19. *In the Matter of the Application of Aqua Ohio, Inc. to Increase Its Rates and Charges for Its Waterworks Service, Case No. 13-2124-WW-AIR (August 4, 2014).*
20. *In the Matter of the Application Seeking Approval of AEP Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Ride, Case No. 14-1693-EL-RDR, et al. (September 11, 2015).*
21. *In the matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternative Rate Plan Pursuant to R.C. 4929.05, Revised Code, for an Accelerated Service Line Replacement Program, Case No. 14-1622-GA-ALT (November 6, 2015).*
22. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.141 in the Form of an Electric Security Plan, Case No. 14-1297-EL-SSO (June 22, 2016).*

23. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2014 under Section 4928.143 (F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 16-1105-El-UNC (August 15, 2016).*
24. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2014 under Section 4928.143 (F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 16-1105-El-UNC (September 19, 2016).*
25. *In the Matter of the Application of Aqua Ohio, Inc. for Authority to Increase Its Rates and Charges for Its Waterworks Service. Case No. 16-0997-WW-AIR (December 19, 2016).*
26. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2016 Under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 17-1230-EL-UNC (January 12, 2018).*
27. *In the Matter of the Annual Application of Duke Energy Ohio, Inc., for an Adjustment to Rider AMRP Rates. Case No. 17-2318-GA-AIR (April 5, 2018).*
28. *In the Matter of the Application of the Dayton Power and Light Company for an Increase in Electric Distribution Rates. Case No. 15-1380-EL-AIR (April 11, 2018).*
29. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Distribution Rates. Case No. 17-0032-EL-AIR et al., (June 25, 2018).*
30. *In the Matter of the Determination of the Existence of Significantly Excessive Earnings Test for 2017 Under the Electric Security Plan of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company. Case No. 18-0967-EL-UNC, (October 16, 2018).*
31. *In the Matter of the Application of Suburban Natural Gas Company for an Increase in Gas Distribution Rates. Case No. 18-1205-GA-AIR et al., (March 8, 2019).*
32. *In the Matter of the Application of Suburban Natural Gas Company for an Increase in Gas Distribution Rates. Case No. 18-1205-GA-AIR et al., (June 21, 2019).*
33. *In the Matter of the Application of Northeast Ohio Gas Corp. for an Increase in Gas Distribution Rates. Case No. 18-1720-GA-AIR et al., (July 25, 2019).*

34. *In the Matter of the Application of Northeast Ohio Gas Corp. for an Increase in Gas Distribution Rates.* Case No. 18-1720-GA-AIR et al., (September 5, 2019).
35. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2018 Under Section 4029.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code.* Case No. 19-1098-EL-UNC, (August 30, 2019).
36. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2018 Under Section 4029.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code.* Case No. 19-1098-EL-UNC, (November 5, 2019).

**Selected Publications of Daniel J. Duann, Ph.D.****Journal Articles**

*Regulation: The Cato Review of Business & Government*, "Turning up the Heat in the Natural Gas Industry," Vol. 19, 1996, (with Kenneth W. Costello).

*Managerial and Decision Economics*, "Designing a Preferred Bidding Procedure for Securing Electric Generating Capacity," Vol. 12, 1991.

*The Journal of Energy and Development*, "Direct Gas Purchases by Local Distribution Companies: Supply Reliability and Cost Implications," Vol. 14, 1989.

*Public Utilities Fortnightly*, "Alternative Searching and Maximum Benefit in Electric Least-Cost Planning," December 21, 1989.

**Research Reports and Presentations**

The National Regulatory Research Institute, **Pricing Local Distribution Services in A Competitive Market**, 1995.

Ninth NARUC Biennial Regulatory Information Conference, Ohio State University, **The Unbundling and Restructuring of Local Distribution Services in the Post-636 Gas Market**, 1994.

The National Regulatory Research Institute, **A Survey of Recent State Initiatives on EPACT and FERC Order 636**, 1994 (with Belle Chen).

The National Regulatory Research Institute, **Restructuring Local Distribution Services: Possibilities and Limitations**, 1994.

The National Regulatory Research Institute, **The FERC Restructuring Rule: Implications for Local Distribution Companies and State Public Utilities Commissions**, 1993.

The National Regulatory Research Institute, **A Synopsis of the Energy Policy Act of 1992: New Tasks for State Public Utility Commissions**, 1993.

International Symposium on Energy, Environment & Information Management, Argonne National Laboratory, **Natural Gas Vehicles: Barriers, Potentials, and Government Policies**, 1992.

The National Regulatory Research Institute, **Natural Gas Vehicles and the Role of State**

**Public Service Commissions**, 1992 (with Youssef Hegazy).

The National Regulatory Research Institute, **Incentive Regulation for Local Gas Distribution Companies under Changing Industry Structure**, 1991 (with Mohammad Harunuzzaman, Kenneth W. Costello, and Sung-Bong Cho).

The National Regulatory Research Institute, **Discussion Papers on Competitive Bidding And Transmission Access and Pricing issues in the Context of Integrated Resource Planning**, 1990 (with Robert E. Bums, Kenneth Rose, Kevin Kelly, and Narayan Rau).

The National Regulatory Research Institute, **Gas Storage: Strategy, Regulation, and Some Competitive Implications**, 1990 (with Peter A. Nagler, Mohammad Harunuzzaman, and Govindarajan Iyyuni).

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## ATTACHMENT DJD-3

### 2017 Significantly Excessive Earnings Test (SEET) Return on Equity and Refund Calculation

Line	Description	OE	CEI	TE	Source
<b>APPLICATION</b>					
1	SEET Net Income	126,320,235	58,142,960	34,110,490	Schedule JSP-1, Line 1
2	SEET Common Equity	1,033,641,759	1,400,048,781	537,337,568	Corrected by OCC from Schedule JSP-1, Line 2
3	SEET Return on Equity	12.22%	4.15%	6.35%	Calculation: Line 1 / Line 2
<b>DMR REVENUE ADJUSTMENT</b>					
4	DMR Net Income	58,518,353	45,752,174	24,948,727	Schedule JSP-2, Line 3
5	DMR Equity Adjustment	29,060,395	22,719,781	12,372,401	OCC Calculation using Schedule JSP-3
<b>REVISED APPLICATION</b>					
6	SEET Net Income including DMR	184,838,588	103,895,134	59,059,217	Calculation: Line 1 + Line 4
7	SEET Common Equity including DMR Adjustment	1,062,702,154	1,422,768,562	549,709,969	Calculation: Line 2 + Line 5
8	<b>Revised SEET Return on Equity</b>	17.39%	7.30%	10.74%	Calculation: Line 6 / Line 7
9	<b>SEET ROE Threshold</b>	13.80%	13.80%	13.80%	
10	Allowed Earnings at ROE Threshold	146,652,897	196,342,062	75,859,976	Calculation: Line 7 * Line 9
11	Excessive Earnings Using 13.80% SEET Threshold*	38,185,691	0	0	Calculation: Line 6 - Line 10
12	Tax Gross Up Factor	1.5939732			
13	SEED Refund to Customers using 13.80% SEET Threshold**	60,866,968	0	0	Calculation: Line 11 * Line 12

## ATTACHMENT DJD-4

### Calculation of Gross Conversion Factor

Line No.	Description	2017 % of Incremental Gross Revenues	2018* % of Incremental Gross Revenues	2019** % of Incremental Gross Revenues
1	Operating Revenue	100.0000%	100.0000%	100.0000%
2	Less:			
3	Uncollectible Accounts	0.7585%	0.7585%	0.7585%
4	PUCO Annual Assessment	0.0000%	0.0000%	0.0000%
5	OCC Annual Assessment	0.0000%	0.0000%	0.0000%
6	CATT Tax	0.1560%	0.2600%	0.2600%
7	Income Before Federal Income Tax = (1) - (3 through 6)	99.0855%	98.9815%	98.9815%
8	State and Municipal Income Tax 2.5918% x (7)	2.5681%	2.8129%	2.8129%
9	Income Before Federal Income Tax (7) -(8)	96.5174%	96.1686%	96.1686%
10	Federal Income Tax (9) x 35%	33.7811%	20.1954%	20.1954%
11	Operating Income Percentage (9-10)	62.7363%	75.9732%	75.9732%
12	Gross Revenue Conversion Factor 100.0000% / (11)	1.5939732	1.3162531	1.3162531

Notes:

\*: In 2018, the CATT Tax was updated to 0.26%, the municipal income tax was updated from 2.25% to 2.50%, and the deferral income tax was reduced from 35% to 21%.

\*\* : In 2019, the CATT Tax was updated to 0.26%, the municipal income tax was updated from 2.25% to 2.50%, and the deferral income tax was reduced from 35% to 21%.

# ATTACHMENT DJD-5

## 2018 Significantly Excessive Earnings Test (SEET) Return on Equity and Refund Calculation

Line	Description	OE	CEI	TE	Source
<b>APPLICATION</b>					
1	SEET Net Income	148,242,054	86,219,827	32,960,209	Schedule TMA-1, Line 1
2	SEET Common Equity	1,068,644,043	1,477,118,872	480,272,962	Schedule TMA-1, Line 2
3	SEET Return on Equity	13.87%	5.84%	6.86%	Calculation: Line 1 / Line 2
<b>DMR REVENUE ADJUSTMENT</b>					
4	DMR Net Income	62,347,826	47,842,848	24,469,258	Schedule TMA-2, Line 3
5	DMR Equity Adjustment	90,706,607	70,462,345	37,525,929	Calculation using Schedule TMA-3
<b>REVISED APPLIATION</b>					
6	SEET Net Income including DMR	210,589,880	134,062,675	57,429,467	Calculation: Line 1 + Line 4
7	SEET Common Equity including DMR Adjustment	1,159,350,650	1,547,581,217	517,798,891	Calculation: Line 2 + Line 5
8	<b>Revised SEET Return on Equity</b>	18.16%	8.66%	11.09%	Calculation: Line 6 / Line 7
9	<b>SEET ROE Threshold</b>	12.50%	12.50%	12.50%	
10	Allowed Earnings at ROE Threshold	144,918,831	193,447,652	64,724,861	Calculation: Line 7 * Line 9
11	Excessive Earnings Using 12.50% SEET Threshold*	65,671,049	0	0	Calculation: Line 6 - Line 10
12	Tax Gross Up Factor**	1.3162531			
13	SEED Refund to Customers using 12.50% SEET Threshold	86,439,724	0	0	Calculation: Line 11 * Line 12



# ATTACHMENT DJD-6

## 2019 Significantly Excessive Earnings Test (SEET) Return on Equity and Refund Calculation

Line	Description	OE	CEI	TE	Ohio	Source
<b>REVISED APPLICATION</b>						
1	SEET Net Income including DMR	194,619,637	118,197,236	58,228,421	371,045,294	Schedule TMA-5, page 3, Line 5
2	SEET Common Equity including DMR Adjustment	1,177,088,426	1,475,027,395	471,759,595	3,123,875,416	Schedule TMA-6, page 6, Line 66
3	<b>Revised SEET Return on Equity</b>	16.53%	8.01%	12.34%	11.88%	Calculation: Line 1 / Line 2
4	<b>SEET ROE Threshold</b>	12.40%	12.40%	12.40%	12.40%	
5	Allowed Earnings at ROE Threshold	145,958,965	182,903,397	58,498,190	387,360,552	Calculation: Line 2 * Line 4
6	Excessive Earnings Using 12.40% SEET Threshold*	48,660,672	0	0	0	Calculation: Line 1 - Line 5
7	Tax Gross Up Factor**	1.3162531				
8	SEED Refund to Customers using 12.40% SEET Threshold	64,049,762	0	0	0	Calculation: Line 7 * Line 8

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Summary: Testimony Direct Testimony of Daniel J. Duann, Ph.D. on Behalf of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Healey, Christopher