ORIGINAL

IN THE SUPREME COURT OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. §4928.143 in the Form of an Electric Security Plan.	))))))	Case No. 2013-0513 On Appeal from the Public Utilities Commission of Ohio PUCO Case No. 12-1230-EL-SSO

APPELLANT NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S MOTION TO EXPEDITE ORAL ARGUMENT AND OPINION

Glenn S. Krassen (Reg. No. 0007610)
Counsel of Record
BRICKER & ECKLER LLP
1001 Lakeside Avenue, Suite 1350
Cleveland, OH 44114
Telephone: (216) 523-5405
Facsimile: (216) 523-7071
gkrassen@bricker.com

Dane Stinson (Reg. No. 0019101)
Mathew W. Warnock (Reg. No. 0082368)
J. Thomas Siwo (Reg. No. 0088069)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
dstinson@bricker.com
mwarnock@bricker.com
tsiwo@bricker.com

COUNSEL FOR APPELLANT
NORTHEAST OHIO PUBLIC ENERGY
COUNCIL

Richard Michael DeWine (Reg. No. 0009181)
Attorney General of Ohio

William L. Wright (Reg. No. 0018010)
Section Chief, Public Utilities Section
Thomas McNamee (Reg. No. 0017352)
Counsel of Record
Assistant Attorneys General
PUBLIC UTILITIES COMMISSION OF OHIO
180 East Broad Street, 6th Floor
Columbus, OH 43215
Telephone: (614) 466-4397
Facsimile: (614) 644-8764
William.wright@puc.state.oh.us
Thomas.mcnamee@puc.state.oh.us

COUNSEL FOR APPELLEE, PUBLIC
UTILITIES COMMISSION OF OHIO

FILED
AUG 28 2014
CLERK OF COURT
SUPREME COURT OF OHIO

Robert Kelter (admitted pro hac vice)
(Counsel of Record)
Justin Vickers (admitted pro hac vice)
ENVIRONMENTAL LAW AND POLICY CENTER
1207 Grandview Avenue, Suite 201
Columbus, OH 43212
Telephone: (614) 488-3301
Facsimile: (614) 487-7510
rkelter@elpc.org
jvickers@elpc.org
nmcdaniel@elpc.org

COUNSEL FOR APPELLANT
ENVIRONMENTAL LAW AND POLICY CENTER

David A. Kutik (Reg. No. 0006418)
(Counsel of Record)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
dakutik@jonesday.com

James W. Burk (Reg. No. 0043808)
Carrie M. Dunn (Reg. No. 0076952)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
Telephone: (330) 384-5861
Facsimile: (330) 384-3875
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

COUNSEL FOR INTERVENING APPELLEES OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY

IN THE SUPREME COURT OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. §4928.143 in the Form of an Electric Security Plan.	))))))	Case No. 2013-0513 On Appeal from the Public Utilities Commission of Ohio PUCO Case No. 12-1230-EL-SSO

APPELLANT NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S MOTION TO EXPEDITE ORAL ARGUMENT AND OPINION

Pursuant to S.Ct.Prac.R. 4.01 and R.C. 4903.20, Appellant Northeast Ohio Public Energy Council respectively moves this Honorable Court for an Order expediting oral argument and consideration of the merits of this appeal to the Court's earliest convenience. As explained in the attached Memorandum in Support, Intervening Appellees in this appeal recently have instituted a proceeding before the Public Utilities Commission of Ohio that raises the same central issue appealed in this case. Appellant respectfully submits that expedition is necessary to resolve the proper construction of the statutory test for approving a utility company's electric security plan in order to avoid considerable time and expense of relitigating this pivotal issue.

Respectfully submitted,

Dane Stinson (Reg. No. 0019101)
Mathew W. Warnock (Reg. No. 0082368)
J. Thomas Siwo (Reg. No. 0088069)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
dstinson@bricker.com
mwarnock@bricker.com
tsiwo@bricker.com

Glenn S. Krassen (Reg. No. 0007610)
BRICKER & ECKLER LLP
1001 Lakeside Avenue, Suite 1350
Cleveland, OH 44114
Telephone: (216) 523-5405
Facsimile: (216)523-7071
gkrassen@bricker.com

MEMORANDUM IN SUPPORT

Appellant Northeast Ohio Public Energy Council ("NOPEC") filed this appeal on March 29, 2013, from the Public Utilities Commission of Ohio's ("Commission") Opinion and Order issued July 18, 2012, approving Appellees' third electric security plan ("ESP III") pursuant to R.C. 4928.143. The pivotal question in that proceeding was whether the proposed ESP satisfied the statutory test for approval, *i.e.*, whether the proposed ESP III was more favorable in the aggregate than the alternate market rate offer ("MRO'). R.C. 4928.143(C)(1).

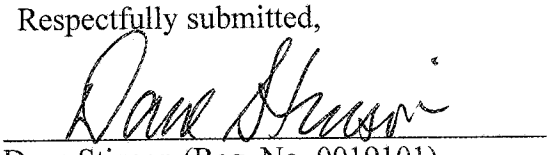
In approving ESP III, the Commission considered alleged "qualitative" (non-quantifiable) benefits that it believed made the proposed ESP more favorable than the alternative MRO. Appellant NOPEC appealed to this Court, alleging that it is unlawful "to consider 'qualitative benefits' in a comparison of an electric security plan ('ESP') to a market rate offer ('MRO') under R.C. 4928.143 (C)(1), when the statutory framework and this Court's precedent provide only for a consideration of quantitative benefits." Appellant NOPEC Merit Br. at 2; see, also, Appellant NOPEC Br. at 4-31. This appeal was fully briefed on September 30, 2013 and is awaiting scheduling for oral argument.

During the pendency of this appeal, Intervening Appellees, The Cleveland Electric Illuminating Company, The Toledo Edison Company, and Ohio Edison Company, recently filed their fourth ESP ("ESP IV") on August 4, 2014. In applying R.C. 4928.143(C(1), Intervening Appellees again rely on alleged "qualitative" benefits to support that the proposed ESP IV is more favorable than the alternative MRO. See attached pre-filed direct testimony of Santino L. Fanelli, at 6-10. Intervening Appellee Utilities propose a procedural schedule in the ESP IV case that calls for hearings to commence on January 20, 2015, in order to meet the statutory 275-day deadline for issuance of the Commission's decision. R.C. 4928.143(C)(1).

Based upon the Court's considerable case load and the release of its current oral argument calendar, Appellant NOPEC is concerned that this appeal may not be heard until after hearings before the Commission on ESP IV have begun, or after an order is issued. Expedition of oral argument and the Court's resolution of this central issue would permit the parties to the ESP IV proceeding to avoid the considerable time and expense of relitigating this issue.

Appellant NOPEC notes that the Court has exclusive jurisdiction over appeals from Commission orders (R.C. 4903.12) because of their potentially significant effect in terms of the hundreds of millions, if not billions, of dollars at stake – both for the utilities and their several million utility customers – for a basic and necessary service. Appellant further notes, that for this reason, R.C. 4903.20 permits this Court to take up and dispose of appeals from Commission orders "out of their order on the docket." Cognizant of the Court's considerable case load, the preference that R.C. 4903.20 affords appeals from Commission orders, and the unique posture of this pending ESP III appeal in relation to the recently filed ESP IV proceeding before the Commission, which raises the same central issue, Appellant NOPEC respectfully requests the Court to expedite oral argument and consideration of the merits of this appeal to the Court's earliest convenience.

Respectfully submitted,



Dane Stinson (Reg. No. 0019101)
Mathew W. Warnock (Reg. No. 0082368)
J. Thomas Siwo (Reg. No. 0088069)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
dstinson@bricker.com
mwarnock@bricker.com
tsiwo@bricker.com

Glenn S. Krassen (Reg. No. 0007610)
BRICKER & ECKLER LLP
1001 Lakeside Avenue, Suite 1350
Cleveland, OH 44114
Telephone: (216) 523-5405
Facsimile: (216)523-7071
gkrassen@bricker.com

Company Exhibit_____

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan	)))))))	Case No. 14-1297-EL-SSO

DIRECT TESTIMONY OF

SANTINO L. FANELLI

ON BEHALF OF

OHIO EDISON COMPANY
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY
THE TOLEDO EDISON COMPANY

AUGUST 4, 2014

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.**

3 A. My name is Santino L. Fanelli. I am employed by FirstEnergy Service Company in the
4 Rates and Regulatory Affairs Department as Manager, Revenue Requirements. My
5 business address is 76 South Main Street, Akron, Ohio 44308.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
7 **PROFESSIONAL EXPERIENCE.**

8 A. I graduated from John Carroll University in 2004 with a Bachelor of Science degree in
9 Mathematics. I joined FirstEnergy Service Company in September 2004 as an Assistant
10 Business Analyst. During my first three years, I provided analytic support services as part
11 of a rotational program which included assignments in Rates and Regulatory Affairs, the
12 Controller's Department, Internal Auditing, Treasury, and Investor Relations. I have
13 worked in Rates and Regulatory Affairs since 2007 and have taken on roles of increasing
14 responsibility, primarily providing support for the FirstEnergy Corp. operating companies
15 in Ohio and New Jersey. In 2012, I received a Master of Science degree in Operations
16 Research from Rutgers University. In 2013, I was named to my current position.

17 **Q. WHAT ARE YOUR CURRENT JOB DUTIES AND AREAS OF**
18 **RESPONSIBILITY?**

19 A. Among other things, I am responsible for analyzing financial data of Ohio Edison
20 Company ("OE"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo
21 Edison Company ("TE") (collectively, the "Companies") for various projects, preparing
22 state regulatory filings and associated rate case materials, and working with the Staff of the
23 Public Utilities Commission of Ohio ("Commission"). I have experience in a number of

matters that have come before the Commission and also provide support to the Companies' customer service representatives on issues related to the Companies' rates and tariffs. In performing my duties, I interact with various groups within FirstEnergy Service Company and the Companies that are responsible for business planning, reporting, and customer service.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO?

A. Yes. I testified on behalf of the Companies in Case No. 09-906-EL-SSO.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to address the following aspects of the Companies' proposed fourth electric security plan entitled Powering Ohio's Progress (also referred to as "ESP IV"):

- Revenue caps for the Companies' Delivery Capital Recovery Rider ("Rider DCR");
- Estimated customer impacts of ESP IV;
- Pro forma financial statements for the term of ESP IV;
- ESP vs. MRO "in the aggregate" test; and
- Methodology for preparing the Companies' Significantly Excessive Earnings Test ("SEET").

I am also sponsoring the proposed changes to the Companies' Electric Service Regulations, included in Attachment 3 to the Companies' Application, that are not addressed by Company witness Smialek.

1 **DELIVERY CAPITAL RECOVERY RIDER ("RIDER DCR")**

2 **Q. WHAT PROVISIONS OF RIDER DCR WILL YOUR TESTIMONY ADDRESS?**

3 A. In my testimony, I will address the proposed revenue caps for Rider DCR. Other aspects
4 of Rider DCR are addressed by Company witness Mikkelsen.

5 **Q. WHAT ARE THE PROPOSED RIDER DCR REVENUE CAPS FOR ESP IV?**

6 A. The proposed annual aggregate Rider DCR revenue caps across all three Companies during
7 ESP IV are as follows: $240 million for the period June 1, 2016 through May 31, 2017;
8 $270 million for the period June 1, 2017 through May 31, 2018; and $300 million annually
9 for the period June 1, 2018 through the end of ESP IV. In addition, the individual company
10 annual revenue caps will continue to be the following percentages of the aggregate revenue
11 caps: OE = 50%, CEI = 70%, and TE = 30%. For any year that the Companies' spending
12 would produce revenue in excess of that period's cap, the overage shall be recovered in the
13 following cap period subject to such period's cap. For any year the revenue collected under
14 Rider DCR is less than the annual cap allowance, as established above, then the difference
15 between the revenue collected and the cap shall be applied to increase the level of the
16 subsequent period's cap.

17 **Q. WHAT IS THE BASIS FOR THE PROPOSED RIDER DCR REVENUE CAPS**
18 **UNDER ESP IV?**

19 A. The proposed annual aggregate Rider DCR revenue caps are based on the existing revenue
20 caps under ESP III (Case No. 12-1230-EL-SSO), with annual increases of $30 million.
21 The individual company caps are consistent with the current Rider DCR under ESP III.
22 The $30 million annual aggregate revenue cap increase is based on the actual average
23 annual Rider DCR revenue requirement increase since the Companies' last base rate case.

The date certain in the Companies' last base distribution rate case was May 31, 2007. In the Companies' most recent Rider DCR filing, the annual Rider DCR revenue requirement based on Rate Base balances as of May 31, 2014 was $208.4 million across the three Companies[1], which is an average annual increase of approximately $30 million over the seven years since the last base distribution rate case. In combination with all distribution related provisions of the proposed ESP IV, these proposed Rider DCR revenue caps are reasonable. They will allow the Companies to continue to make necessary infrastructure investments in their distribution system, subject to Commission review, to promote the safe and reliable provision of electric service during ESP IV for the benefit of customers, while permitting timely recovery of the costs of those investments.

ESTIMATED CUSTOMER IMPACTS

Q. HAVE THE COMPANIES ESTIMATED THE RATE IMPACTS ON CUSTOMERS OF THE PROPOSED ESP IV?

A. Yes. Typical bills estimating the annual rate impacts of the proposed ESP IV on non-shopping customers at various usage levels are shown on Attachment 7 included with the Companies' Application.

Q. WHAT WERE THE PRIMARY ASSUMPTIONS MADE IN THE DEVELOPMENT OF THESE ESTIMATED CUSTOMER IMPACTS?

A. The primary assumptions used in the development of the estimated typical bills were:

- Rider DCR tariff rates are based on the aggregate revenue caps, including proposed increases of $30 million annually across the Companies as part of ESP IV;

[1] *See* the Companies' July 2, 2014 Rider DCR filings in Case No. 13-2005-EL-RDR, Case No. 13-2006-EL-RDR, and Case No. 13-2007-EL-RDR.

- Economic Development Rider ("Rider EDR") tariff rates are adjusted during ESP IV to reflect the expiration of current provisions (b), (c), (f), (g), (h), and (i), and the proposed changes to current provision (d);
- Demand Side Management and Energy Efficiency Rider ("Rider DSE") tariff rates are adjusted during ESP IV to reflect the expiration of the Economic Load Response Program Rider ("Rider ELR");
- Alternative Energy Resource Rider ("Rider AER") tariff rates are adjusted during ESP IV to reflect the proposed rate design changes discussed in the testimony of Company witness Jurica;
- Estimated tariff rates for the Retail Rate Stability Rider ("Rider RRS") calculated in the testimony of Company witness Savage are in effect during ESP IV; and
- All other applicable tariff pricing as of July 1, 2014 remains in effect during ESP IV, unless tariff changes are otherwise known.

PROJECTED FINANCIAL STATEMENTS

Q. HAVE THE COMPANIES INCLUDED IN THEIR APPLICATION PROJECTED FINANCIAL STATEMENTS FOR THE TERM OF ESP IV?

A. Yes. Attachment 6 to the Companies' Application provides projected financial statements for the term of ESP IV, including projected balance sheets, income statements, and sources and uses of funds.

Q. WHAT WERE THE MAIN ASSUMPTIONS INCLUDED IN THE DEVELOPMENT OF THESE PROJECTED FINANCIAL STATEMENTS?

1 A. The basis for the projected financial statements is the Companies' most recent long-term
2 financial forecast, which was prepared by the Companies in the ordinary course of their
3 businesses using a new financial forecasting tool. Estimated impacts of the proposed ESP
4 IV are also incorporated into these projections. The main assumptions related to the
5 proposed ESP IV used in the development of these projected financial statements were:

6 - Base distribution rates remain frozen at current levels during ESP IV;
7 - Recovery of lost distribution revenue continues during ESP IV;
8 - Rider DCR revenue increases by $30 million annually across the
9 Companies starting June 1, 2016, consistent with the proposed revenue
10 caps;
11 - The Companies incur expenses and collect revenues associated with Rider
12 RRS, as estimated in the testimony of Company witness Ruberto;
13 - Other existing riders continue during ESP IV, except as otherwise noted in
14 the testimony of Company witness Mikkelsen.

15 **ESP VS. MRO TEST**

16 **Q. WHAT IS THE ESP VS. MRO "IN THE AGGREGATE" TEST?**

17 A. In general, as specified in Ohio Revised Code Section 4928.143(C)(1), the ESP vs. MRO
18 Test evaluates whether a proposed ESP, including its pricing and all other terms and
19 conditions, is more favorable in the aggregate as compared to the expected results that
20 would otherwise apply under a Market Rate Offer ("MRO").

21 **Q. IN RECENT ESP CASES, HOW HAS THE COMMISSION EVALUATED**
22 **WHETHER A PROPOSED ESP IS MORE FAVORABLE IN THE AGGREGATE**
23 **THAN THE EXPECTED RESULTS OF AN MRO?**

1 A. In recent ESP cases, the Commission has considered both quantitative and qualitative
2 factors to determine whether a proposed ESP is more favorable in the aggregate than the
3 expected results of an MRO.[2]

4 **Q. QUANTITATIVELY, HOW DOES THE PROPOSED ESP IV COMPARE TO THE**
5 **RESULTS THAT WOULD OTHERWISE OCCUR UNDER AN MRO?**

6 A. As discussed in the testimony of Company witness Stein, the Companies propose to
7 conduct competitive auctions to procure generation service for all SSO load during the
8 term of ESP IV. Since the Companies would also use a competitive process to procure
9 generation service for all SSO customers under an MRO, there is no quantifiable difference
10 related to the resulting SSO pricing between the proposed ESP and an MRO.
11 The proposed ESP IV includes a provision for recovery of distribution-related capital costs
12 through Rider DCR. Consistent with the Commission's decision in the Companies' most
13 recent ESP III case and other companies' cases, because these distribution-related capital
14 costs would also be recoverable under an MRO through a base distribution rate case, there
15 is no quantifiable cost of the proposed ESP IV associated with this provision.[3]
16 Consistent with the analysis relied upon in the PUCO Order in the Companies' ESP III, the
17 Companies' commitment to provide up to $3 million for economic development over the
18 term of ESP IV is a quantitative benefit. These funding commitments will be borne by
19 shareholders of the Companies, not customers.

---

[2] *See* Case No. 12-1230-EL-SSO, Opinion and Order at pp. 55-57 (July 18, 2012); Case No. 11-346-EL-SSO, Opinion and Order at pp. 73-77 (August 8, 2012); and Case No. 12-426-EL-SSO, Opinion and Order at pp. 48-52 (September 4, 2013).
[3] *See* Case No. 12-1230-EL-SSO, Opinion and Order at pp. 55-56 (July 18, 2012); Case No. 11-346-EL-SSO, Opinion and Order at p. 31 (December 14, 2011).

As discussed by Company witness Ruberto, proposed Rider RRS is estimated to result in a nominal net quantifiable benefit to customers of $2,104 million over the term of the rider, or $805 million on a net present value basis. In the Companies' ESP II case, the Commission considered as a quantitative benefit the entire amount of RTEP costs that the Companies agreed to forego, notwithstanding that those costs would be incurred by the Companies beyond the term of that ESP. Consistent with the treatment of that ESP provision, all of the net benefits arising from Rider RRS are quantitative benefits of this proposed ESP.

Overall, the proposed ESP IV is estimated to be more favorable than the expected results of an MRO by $2,107 million on a nominal basis and by $808 million on a net present value basis, as summarized in the table below.

Quantitative Benefit of ESP IV

($ in Millions)	Total	NPV
Economic Development Funding	$3.0	$2.6
Retail Rate Stability Rider	$2,104.0	$805.0
Total Quantitative Benefit	$2,107.0	$807.6

Q. WHAT ARE THE QUALITATIVE BENEFITS OF THE PROPOSED ESP IV COMPARED TO THE RESULTS THAT WOULD OTHERWISE OCCUR UNDER AN MRO?

A. The proposed ESP IV provides qualitative benefits related to generation, transmission and distribution service, as well as support for low income customers and retail market enhancements that would not be available under an MRO. First, as discussed by Company witnesses Strah and Murley, approval of the proposed Economic Stability Program will provide a broad range of benefits including to help assure that customers have adequate

1 reliable electric generation, which is both fuel and resource diverse, and reliable
2 transmission service at reasonable, more stable prices over the near and longer term, while
3 also supporting economic development and job retention. In addition, as described by
4 Company witness Cunningham, the proposed Economic Stability Program provides a
5 qualitative benefit to customers attributable to the avoided cost of transmission investment
6 that might otherwise occur.
7 Second, the Companies' commitment to continue the base distribution rate freeze benefits
8 all customers by providing rates that are relatively certain, stable and predictable. Further,
9 through Rider DCR and the Government Directives Recovery Rider ("Rider GDR"), the
10 Companies will be able to invest in their infrastructure and provide safe and reliable service
11 more efficiently than would be achieved through a base distribution rate case under an
12 MRO. Customers will receive additional qualitative benefits from the protections offered
13 by the annual audit of Rider DCR.
14 Third, as part of ESP IV, the Companies are providing support for at-risk populations by
15 continuing funding for low income customers as part of the Community Connections
16 program.
17 Fourth, the Companies' commitment to implement a supplier web portal and other
18 proposed changes to the Companies' Electric Service Regulations and Supplier Tariffs
19 discussed in the testimony of the Company witness Smialek eliminate perceived barriers
20 to competition and further enhance the retail market in the Companies' service territories.
21 In general, as recognized by the Commission in its Order in the Companies' ESP III, an
22 ESP provides flexibility compared to an MRO that offers significant advantages for the

1 Companies, ratepayers, and the public.[4] For these reasons, the proposed ESP IV is more
2 favorable than an MRO on a qualitative basis.

3 **Q. IS THE COMPANIES' PROPOSED ESP IV MORE FAVORABLE IN THE**
4 **AGGREGATE THAN THE EXPECTED RESULTS OF AN MRO?**

5 A. Yes. Combining the quantitative and qualitative benefits discussed above, the proposed
6 ESP IV is more favorable in the aggregate than the expected results that would otherwise
7 apply under an MRO. This conclusion is consistent with the Companies' prior ESPs.
8 Many of the provisions of the proposed ESP IV are the same as those included in the
9 Companies' prior ESP II and current ESP III, both of which were determined to be more
10 favorable in the aggregate than the expected results of an MRO.

11 **SIGNIFICANTLY EXCESSIVE EARNINGS TEST ("SEET")**

12 **Q. WHAT IS THE COMPANIES' CURRENT METHODOLOGY FOR**
13 **DEVELOPING THEIR SEET?**

14 A. Under the Companies' current SEET methodology, each Company's return on equity
15 ("ROE") is calculated by dividing adjusted net income by a 13-month average of adjusted
16 common equity. The Companies' ROEs are then compared to a threshold that is
17 significantly higher than the average return earned by comparable companies, including
18 appropriate adjustments for differences in capital structure, to determine if significantly
19 excessive earnings have occurred. The Companies' SEET calculation takes into account
20 specific adjustments recognized in the Companies' current ESP III. Namely, for each year
21 during the period of ESP III, adjustments are made to exclude the impact: (i) of a reduction
22 in equity resulting from any write-off of goodwill, (ii) of deferred carrying charges, and

[4] *See* Case No. 12-1230-EL-SSO, Opinion and Order at p. 56 (July 18, 2012).

(iii) associated with any additional liability or write-off of regulatory assets due to implementing the Companies' ESP III or ESP II cases.

Q. HAS THE COMMISSION EVER DETERMINED THAT THE COMPANIES HAVE HAD SIGNIFICANTLY EXCESSIVE EARNINGS?

A. No. In the Companies' SEET filings for years 2009 through 2012, the Commission determined that the Companies did not have significantly excessive earnings.

Q. WHAT IS THE COMPANIES' PROPOSAL REGARDING THEIR METHODOLOGY FOR SEET?

A. The Companies are seeking as part of ESP IV to continue the three specific SEET adjustments authorized by the Commission under their current ESP III, with two modifications. The Companies are proposing to broaden the first adjustment specified above to include any impacts from Commission Orders that result in a reduction in equity. The existing language should be modified as follows: "(i) of a reduction in equity resulting from any write-off of goodwill <u>or arising from a Commission Order.</u>" In addition, the Companies are proposing to update the third specific adjustment listed above to reflect ESP IV, as follows: "(iii) associated with any additional liability or write-off of regulatory assets due to implementing the Companies' ~~ESP III or ESP II cases~~ ESP IV."

<u>CONCLUSION</u>

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes. I reserve the right to supplement my testimony.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/4/2014 4:04:47 PM

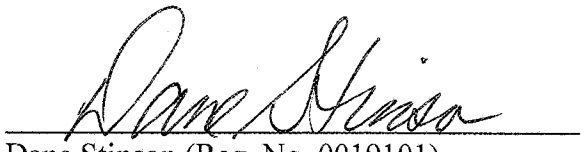
in

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

Summary: Testimony (Direct) of Santino L. Fanelli electronically filed by Ms. Tamera J Singleton on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Expedite* was served upon the parties of record this 28th day of August 2014, *via* electronic transmission and regular mail.



Dane Stinson (Reg. No. 0019101)

Robert Kelter (admitted pro hac vice)
(Counsel of Record)
Justin Vickers (admitted pro hac vice)
ENVIRONMENTAL LAW AND POLICY CENTER
1207 Grandview Avenue, Suite 201
Columbus, OH 43212
rkelter@elpc.org
jvickers@elpc.org
COUNSEL FOR APPELLANT ENVIRONMENTAL LAW AND POLICY CENTER

Richard Michael DeWine
(Reg. No. 0009181)
Attorney General of Ohio
William L. Wright (Reg. No. 0018010)
Section Chief, Public Utilities Section
Thomas McNamee (Reg. No. 0017352)
(Counsel of Record)
Assistant Attorneys General
PUBLIC UTILITIES COMMISSION OF OHIO
180 East Broad Street, 6th Floor
Columbus, OH 43215
William.wright@puc.state.oh.us
Thomas.mcnamee@puc.state.oh.us
COUNSEL FOR APPELLEE, PUBLIC UTILITIES COMMISSION OF OHIO

David A. Kutik (Reg. No. 0006418)
(Counsel of Record)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
dakutik@jonesday.com

James W. Burk (Reg. No. 0043808)
Carrie M. Dunn (Reg. No. 0076952)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
burkj@firstenergycorp.com
cdunn@firstenergycorp.com
COUNSEL FOR INTERVENING APPELLEES OHIO EDISON COMPANY, THE CLEVELAND ELETRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY