

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

**REBUTTAL TESTIMONY ON REHEARING OF
THOMAS N. LAUSE
ON BEHALF OF THE
OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

July 15, 2016

1 **Q. Please state your name, title, and business address.**

2 A. My name is Thomas N. Lause and I am employed by Cooper Tire & Rubber
3 Company (Cooper Tire). My title is Vice President, Treasurer and my business
4 address is 701 Lima Avenue, Findlay, Ohio, 45840.

5
6 **Q. Have you provided written testimony before in this proceeding?**

7 A. Yes, I provided written direct testimony on rehearing on June 23, 2016. My
8 testimony addressed how the Modified Rider RRS Proposal is a virtual power
9 purchase agreement (Virtual PPA) that continues to support the Companies'
10 unregulated affiliate, FirstEnergy Solutions (FES), and other affiliates.¹ I
11 explained that the Modified Rider RRS Proposal or Virtual PPA is unreasonable,
12 unjust, harmful to manufacturers, and not a financial hedge for electric
13 consumers. The Modified Rider RRS Proposal will also have a significant impact
14 on the business decisions of many manufacturers in Ohio as manufacturers will be
15 subject to increased electric costs and decreased certainty regarding their electric
16 service.² I recommended that the Public Utilities Commission of Ohio
17 (Commission) reject the Modified Rider RRS Proposal as bad public policy that
18 does not benefit the public interest.³

19

20

21

¹ Direct Testimony on Rehearing of Thomas N. Lause at 7-8 (June 23, 2016).

² Id. at 11-12.

³ Id. at 4, 12.

1 **Q. What is the purpose of your rebuttal testimony in this proceeding?**

2 A. The purpose of my rebuttal testimony on rehearing is to respond to the
3 Commission Staff's rehearing testimony, address the new rider proposed by Staff
4 of the Commission to provide credit support for FirstEnergy Corp. to maintain
5 investment grade by the credit rating agencies (Staff's Proposal), and address
6 whether it is an appropriate alternative to the Companies' Proposal that the
7 Commission should consider. I agree with Staff that the Commission should deny
8 the Modified Rider RRS Proposal.⁴ I disagree with Staff's Proposal to provide
9 credit support to FirstEnergy Corp. by charging Ohio customers \$131 million per
10 year for three years with an opportunity to extend for two more years and do not
11 believe that the Commission should consider it as a viable alternative.

12

13 My testimony will show that Staff's Proposal amounts to nothing more than a
14 bailout of FirstEnergy Corp. by Ohio's manufacturers, who will then become less
15 competitive in the global marketplace as they are exposed to additional costs
16 associated with their electric service needs. Staff's Proposal also sends an
17 inappropriate and anticompetitive message to businesses looking to initiate or
18 expand operations in the state of Ohio, as the bailout favors one Ohio company
19 (FirstEnergy Corp.) over all others.

20

21

22

23

⁴ Staff witness Choueiki Rehearing Testimony at 13 (June 29, 2016) (Choueiki Rehearing Testimony).

1 **Q. Are you familiar with Staff's Proposal?**

2 A. I have reviewed the testimony of Staff witnesses Buckley, Turkenton, and
3 Choueiki and believe that I have a general understanding of the intent and
4 objective of Staff's Proposal.

5

6 **Q. Can you describe the difference between the Modified Rider RRS Proposal**
7 **and Staff's Proposal?**

8 A. The Modified Rider RRS Proposal or Virtual PPA is based on projected costs of
9 FES' generating facilities netted against revenues received from projected
10 generation output from the FES' generating facilities and capacity that is
11 projected to clear multiplied by the actual energy and capacity prices in the PJM
12 markets. The difference between the projected costs and the calculated revenue
13 would be passed onto the Companies' customers through a non-bypassable rider.

14

15 Under Staff's Proposal, there is no reliance on the projected costs or projected
16 output of FES' generation facilities, but the impact on customers is the same.
17 Staff's Proposal provides credit support for the parent company and its
18 unregulated subsidiaries, (including FES) at the expense of customers for at least
19 three years. Both proposals are a corporate bailout of FirstEnergy Corp. in the
20 form of a subsidy by Ohio consumers, which adds costs to consumers and all
21 other Ohio businesses, making those businesses less competitive in the global
22 economy.

23

24

1 **Q. What is Staff’s stated rationale for providing at least \$393 million to the**
2 **Companies from Ohio customers?**

3 A. Staff witness Buckley states that the revenues are needed to provide “support for
4 [FirstEnergy Corp.] to maintain investment grade by the major credit rating
5 agencies.”⁵

6

7 **Q. Do you support Staff’s Proposal?**

8 A. No. Speaking on behalf of OMAEG and its manufacturing members, such as
9 Cooper Tire, we do not agree with the premise or intent of Staff’s Proposal. We
10 are opposed to providing any credit support and subsidies to FirstEnergy Corp.,
11 and its subsidiaries, that are not regulated by the Commission and which result in
12 additional costs to manufacturing customers.

13

14 **Q. Why do you disagree with customers providing credit support to FirstEnergy**
15 **Corp. and its subsidiaries under Staff’s Proposal?**

16 A. Staff’s Proposal is a corporate bailout of an unregulated parent, FirstEnergy
17 Corp., and its subsidiaries that will impact Ohio manufacturers by increasing their
18 electric costs. Cooper Tire, as well as other manufacturers, operates in
19 competitive markets that require manufacturers to produce high quality products
20 at competitive costs so that the products can be sold into the markets at
21 competitive prices. We compete against manufacturers from other states and

⁵ Staff witness Buckley Rehearing Testimony at 2 (June 29, 2016) (citation omitted) (Buckley Rehearing Testimony).

1 from low-cost countries. Therefore, if our costs increase, it makes it difficult to
2 sustain, much less grow, our businesses.

3

4 I think it is important to note that Cooper Tire operates the only full scale light
5 vehicle tire manufacturing plant in the state of Ohio. All of our competitors' light
6 vehicle tire plants have been closed, mainly due to being cost-uncompetitive.
7 Staff's Proposal results in additional costs to Ohio manufacturers, thereby
8 impeding their ability to remain competitive in their own industries.

9

10 This credit support proposed by Staff, which is paid for by customers, sends an
11 inappropriate message to all businesses in the state of Ohio and to those
12 businesses who are considering starting operations in Ohio. By approving this
13 corporate bailout, the Commission would, in essence, be picking winners and
14 losers of businesses and industries operating in Ohio. Approval would also incent
15 FirstEnergy Corp. to take large, unfounded risks in their unregulated businesses
16 because the risks are being insured by captive ratepayers who are forced to pay
17 costs associated with keeping FirstEnergy Corp. at an investment grade credit
18 rating. Competitive market forces deliver a much more efficient and accurate
19 outcome, which is good for economic growth and Ohio's consumers.

20

21

22

23

1 **Q. Will Staff's Proposal provide diversity of supply and suppliers as stated by**
2 **Staff witness Turkenton?**⁶

3 A. No. The state policy referenced by Staff regarding diversity of supply and
4 suppliers is to “[e]nsure diversity of electricity supplies and suppliers, by giving
5 consumers effective choices over the selection of those supplies and suppliers and
6 by encouraging the development of distributed and small generation facilities.”⁷
7 The corporate bailout proposed by Staff will actually diminish diversity of supply
8 and suppliers and limit consumers’ effective choices over the selection of those
9 supplies and suppliers over the longer term. If other generation companies see
10 evidence that the Commission will provide large sums of money to support and
11 sustain FirstEnergy Corp.,⁸ and its subsidiaries, new entrants to the generation
12 supply market will be deterred as FirstEnergy Corp. and its competitive
13 subsidiaries are receiving a significant competitive advantage. The Commission
14 should allow the competitive markets to work and not provide competitive
15 advantages to certain generators. Currently, it is my understanding that there are
16 significant new generation resources scheduled to come online and a healthy
17 capacity reserve margin in the PJM market; therefore, there is no need to raise
18 funds to support one generator’s business over another.

⁶ Staff witness Turkenton Rehearing Testimony at 4 (June 29, 2016); Choueiki Rehearing Testimony at 14.

⁷ Section 4928.02(C), Ohio Revised Code.

⁸ Buckley Rehearing Testimony at 2.

1 **Q. Does Staff's Proposal and stated conditions⁹ promote economic development**
2 **in the state of Ohio?**

3 A. No. Granting a bailout to one company, FirstEnergy Corp., has a much greater
4 negative impact on the state of Ohio. An additional charge to customers only
5 increases companies' manufacturing costs and prohibits companies from taking
6 advantage of competitive market rates. Further, an additional charge to electricity
7 prices will create increased costs for manufacturing companies, which will either
8 be borne by customers or cause the companies to move production out of Ohio or
9 go out of business as they cannot recover their costs. This could deter new
10 business development in the state of Ohio as new companies looking to invest
11 may choose to go elsewhere in light of increased or high electricity prices that are
12 above market.

13

14 **Q. Do you believe Staff's Proposal will support investment in distribution grid**
15 **modernization initiatives?**

16 A. No. Although Staff witness Choueiki states that the credit support provided to the
17 Companies through Staff's Proposal will assist the Companies in receiving more
18 favorable terms when accessing the capital markets, which will in turn allow the
19 Companies to access funds to invest in distribution grid modernization,¹⁰ there is
20 no requirement that the Companies use the revenues from customers in this way.
21 Forcing customers to provide over \$393 million to the Companies in the hopes
22 that they will then invest in grid modernization initiatives provides no guarantee
23 that the actual investment will occur.

⁹ Id. at 7.

¹⁰ Choueiki Rehearing Testimony at 15.

1 **Q. In lieu of Staff’s Proposal, are there other actions that FirstEnergy Corp.**
2 **could take to maintain its credit rating at investment grade?**

3 A. Yes. FirstEnergy Corp. has failed to take the necessary actions required to
4 manage its business. Management of a public company has the fiduciary
5 responsibility to manage the business in the best interests of its shareholders. This
6 means that if an investment grade credit rating is important to FirstEnergy Corp.
7 (i.e., so it may prevent a possible drop in its stock price), the FirstEnergy Corp.
8 management should be addressing its costs and cash flow issues proactively,
9 similar to what all other public companies must do. Under the Modified Rider
10 RRS Proposal, and now Staff’s Proposal, FirstEnergy Corp. has no incentive to
11 exercise fiscally responsible actions, but rather can rely on a strategy of receiving
12 a corporate bailout by charging its customers higher rates (in turn making its
13 customers uncompetitive). This is not only fiscally irresponsible, but also lacks in
14 self accountability.

15
16 Rather than receive a bailout from customers under the Staff’s Proposal,
17 FirstEnergy Corp., similar to all other public companies, should be required to
18 consider and make financial business decisions that would allow it to sustain an
19 investment grade credit rating. I would expect a public company that received a
20 negative rating action by two credit agencies (as explained by Staff witness
21 Buckley¹¹) to have already developed a plan for improving cash flows.

22

¹¹ Buckley Rehearing Testimony at 4.

1 For example, some key areas that could be addressed are Selling General and
2 Administrative (SG&A) costs, including advertising, headcounts, and executive
3 compensation. Other significant cash flow opportunities are curtailing or
4 rationalizing capital spending and possibly reviewing the level of dividend
5 payments being made to shareholders. While painful, some companies need to
6 sell off some assets or curtail a portion of their operations in order to improve
7 future cash flows. These are the types of fiscally responsible actions that public
8 companies should be prepared to take and I would expect these cost saving
9 measures to occur prior to a company seeking a corporate bailout in the form of a
10 subsidy from captive customers.

11

12 **Q. Do you have additional concerns with Staff's Proposal?**

13 Yes. Similar to concerns regarding the Modified Rider RRS Proposal (Virtual
14 PPA), I have concerns with Staff's Proposal regarding how the proposed funds
15 given to the Companies will be used. Given that all FirstEnergy Corp. entities are
16 in the same tax jurisdiction (i.e., USA Corporate Tax), there is no impediment
17 from a corporate tax perspective to move funds among subsidiaries of a company
18 (as opposed to when companies move funds between foreign entities, which
19 normally triggers cash tax payments). Staff's testimony fails to address how
20 Staff's Proposal will guarantee that the revenue collected from the rider will not
21 be used to support or bolster FES or other unregulated generator affiliates.

22

23

1 **Q. Have your prior recommendations and conclusions with respect to the**
2 **Modified Rider RRS Proposal by the Companies changed in any way as a**
3 **result of Staff's Proposal?**

4 A. No. Regardless of Staff's Proposal, I continue to recommend that the
5 Commission reject the Modified Rider RRS Proposal as unjust and unreasonable,
6 bad public policy, and not in the public interest. Additionally, I recommend that
7 the Commission reject Staff's Proposal for the same reasons.

8

9 **Q. What impact will Staff's Proposal have on manufacturers in the state of**
10 **Ohio?**

11 A. OMAEG and its manufacturing companies firmly believe that if the Commission
12 grants any form of a bailout to FirstEnergy Corp., it will have a domino effect as
13 it will cause electric intensive manufacturers to become less competitive in the
14 global marketplace. It will also establish bad public policy by sending a negative
15 message to businesses looking to initiate or expand operations in the state of
16 Ohio. From a statewide economic impact perspective, granting any form of a
17 bailout to FirstEnergy Corp., and its subsidiaries, has a much greater negative
18 impact on the state compared to forcing FirstEnergy Corp. to take the fiscally
19 responsible actions that all other Ohio companies are forced to do.

20

21 **Q. Does this conclude your rebuttal testimony?**

22 A. Yes, but I reserve the right to supplement my testimony as new information
23 becomes available.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served on July 15, 2016 by electronic mail upon the persons listed below.

/s/ Danielle Ghiloni Walter
Danielle Ghiloni Walter

Jeremy.grayem@icemiller.com
Gregory.dunn@icemiller.com
Christopher.miller@icemiller.com
athompson@taftlaw.com
barthroyer@aol.com
mwhite@igsenergy.com
joliker@igsenergy.com
cmooney@ohiopartners.org
mpritchard@mwncmh.com
fdarr@mwncmh.com
sam@mwncmh.com
Thomas.mcnamee@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
joseph.clark@directenergy.com
ghull@eckertseamans.com
myurick@taftlaw.com
zkravitz@taftlaw.com
Schmidt@sppgrp.com
ricks@ohanet.org
tobrien@bricker.com
mkl@bbrslaw.com
gas@bbrslaw.com
ojk@bbrslaw.com
wttmlc@aol.com
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
Kevin.moore@occ.ohio.gov
sauer@occ.state.oh.us
leslie.kovacik@toledo.oh.gov
jscheaf@mcdonaldhopkins.com

Ajay.kumar@occ.ohio.gov
callwein@keglerbrown.com
rparsons@kravitzllc.com
mdortch@kravitzllc.com
msoules@earthjustice.org
asonderman@keglerbrown.com
david.fein@constellation.com
amy.spiller@duke-energy.com
Jeffrey.mayes@monitoringanalytics.com
laurac@chappelleconsulting.net
mjsettineri@vorys.com
Cynthia.brady@constellation.com
Lael.campbell@exeloncorp.com
Tony.mendoza@sierraclub.org
Sechler@carpenterlipps.com
burkj@firstenergycorp.com
cdunn@firstenergycorp.com
talexander@calfee.com
jlang@calfee.com
dakutik@jonesday.com
gpoulos@enernoc.com
glpetrucci@vorys.com
stheodore@epsa.org
gthomas@gtpowergroup.com
toddm@wamenergyllaw.com
Jeanne.kingery@dukeenergy.com
ccunningham@akronohio.gov
mitch.dutton@fpl.com
drinebolt@ohiopartners.org
dstinson@bricker.com
todonnell@dickinsonwright.com
trhayslaw@gmail.com
meissnerjoseph@yahoo.com
jfinnigan@edf.org
tdougherty@theOEC.org
kryan@city.cleveland.oh.us

Marilyn@wflawfirm.com
matt@matthewcoxlaw.com
gkrassen@bricker.com
dborchers@bricker.com
mfleisher@elpc.org

hmadorsky@city.cleveland.oh.us
blanghenry@city.cleveland.oh.us
selisar@mwncmh.com
Attorney Examiners:
Gregory.price@puc.state.oh.us
Mandy.chiles@puc.state.oh.us
Megan.addison@puc.state.oh.us