

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application Seeking )  
Approval 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 )

DIRECT TESTIMONY OF  
**F. STUART BRESLER, III**

On behalf of PJM Interconnection

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THE PUBLIC UTILITIES COMMISSION OF OHIO  
DIRECT TESTIMONY OF F. Stuart Bresler, III  
ON BEHALF OF  
PJM INTERCONNECTION

**Q. STATE YOUR NAME AND POSITION AT PJM.**

A. My name is F. Stuart Bresler, III, and I am Senior Vice President of Markets at PJM. In that role, I am responsible for all aspects of PJM's market operations, including the RPM capacity market, the Financial Transmission Rights markets, the Day-ahead and Real Time energy markets, and the Ancillary Service markets. I am also responsible for PJM's market evolution area, including renewable resource integration, Demand Response operations and distributed energy resource integration, and the Generation Attribute Tracking System used by many PJM states to ensure compliance with state renewable portfolio standards.

**Q. Please describe your educational background and relevant work experience.**

A. I earned a Bachelor of Science in Electrical Engineering and a Master of Management in Business Administration from The Pennsylvania State University, and am a licensed professional engineer in the state of Pennsylvania.

I have been involved with bulk power system operations and the development and implementation of electricity markets for capacity, energy, transmission rights and ancillary services for over 20 years. In addition, I have been responsible for the development and implementation of programs designed to incorporate demand-side resources into PJM markets and operations, as well as the systems and market design development necessary to support the expansion of the PJM markets, and the coordination of those markets and operations with those of surrounding balancing authorities and regional transmission organizations.

1 **Q. Have you ever testified before any regulatory agencies?**

2 A. Yes. I have submitted testimony to the Federal Energy Regulatory Commission, and have also  
3 testified in front of other state utility commissions, including the Illinois Commerce Commission and  
4 the Pennsylvania Public Utility Commission.

5 **Q. What is PJM Interconnection?**

6 A. PJM is an independent regional transmission organization (“RTO”) that operates the bulk power  
7 system and wholesale power markets in an area that comprises all or portions of Delaware, the  
8 District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina,  
9 Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. The PJM area includes the service  
10 territory of The Ohio Edison Company, Cleveland Electric Illuminating Company, Toledo Edison  
11 Company (“FE”) Ohio.

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. My testimony is limited to addressing necessary clarifications regarding the intent of paragraph  
14 V.(B)(3)(a) of the Stipulation, which states:

15 “The rigorous review process set forth in the Companies’ ESP IV filing in the testimony of Company  
16 Witness Mikkelsen supporting the Application shall be adopted. Specifically, the Companies agree  
17 to participate in annual compliance reviews before the Commission to ensure that actions taken by  
18 the Companies when selling the output from generation units included in Rider RRS into the PJM  
19 market were not unreasonable. The Companies, not their customers, would be responsible for the  
20 adjustments made to Rider RRS based on actions deemed unreasonable by the Commission,  
21 including any costs (after proper consideration of such costs and netting of any bonus payments)  
22 associated with performance requirements in PJM’s markets. Any determination that the costs and  
23 revenues included in Rider RRS are unreasonable shall be made in light of the facts and

1 circumstances know at the time such costs were committed and market revenues were received.

2 In addition, the calculation of Rider RRS will be based on the sale of power into PJM.”

3 **Q. PLEASE EXPLAIN WHAT ASPECTS OF THE PROVISION SHOULD BE CLARIFIED?**

4 A. This particular provision directly references FE’s bidding practices into PJM’s markets without  
5 providing any additional clarity on what would constitute “reasonable” vs. “unreasonable” actions  
6 taken by FE “when selling the output from generation units included in the Rider RRS into the PJM  
7 market.” However, the consequences of an “unreasonable” determination by the Commission are  
8 severe---the Stipulation provides for the ability of the Commission to make unspecified  
9 “adjustments” to Rider RRS “based on actions deemed unreasonable by the Commission”.

10  
11 PJM wishes to provide an explanation of a reasonable interpretation of this provision and in doing  
12 so, provide a degree of guidance on how it should be implemented in the future by FE in bidding  
13 into the PJM markets. Such guidance would be helpful for all market participants and provide  
14 stability to head off potential uncertainty and litigation as to future FE bidding practices relative to  
15 these units. And, in the larger sense, these clarifications, with the Ohio Commission’s support, will  
16 provide guidance to FE and will help the Commission to reconcile implementation of the Stipulation  
17 with Ohio’s other stated goal of using the competitive markets as the principal means to incent and  
18 attract needed new investment so as to meet Ohio’s future economic development needs.

19  
20 Ohio’s policy goal includes utilizing competitive wholesale markets as a means to attract and incent  
21 needed new investment. I note a recent statement from Chairman Porter stating: “I can tell you the  
22 existing structure has, in my view, led to competitive results for residential, commercial and  
23 industrial customers in the state”.

1 I have been advised by counsel that the Commission has, in the past, provided clarifications on the  
2 meaning of terms in stipulations submitted to it. Given the broad nature of this language, and the  
3 potential impact on both attracting new investment in Ohio and on the overall competitiveness of  
4 the PJM marketplace associated with *how* this stipulation is implemented (if, in fact, it is approved),  
5 PJM believes it would be appropriate for the Commission to provide such guidance in its Order in  
6 this case should the Commission be inclined to approve the Stipulation.

7 **Q. CAN YOU FURTHER EXPLAIN THE NATURE OF THIS CLARIFICATION?**

8 A. By its terms, paragraph V.(B)(3)(a) contemplates an after-the-fact prudence-type review by the  
9 Ohio Commission of, among other things, the sale of the output of the generators covered by the  
10 Rider. PJM is *not* suggesting that this clarification should empower the Ohio Commission to  
11 oversee, in real time, FE's day- to-day bidding actions. Rather, the clarification is suggested as a  
12 means for the Ohio Commission to provide guidance to all parties as to the *PUCO's expectations*  
13 in implementing the oversight authority that FE and the other signatory parties have encouraged  
14 the PUCO to undertake through Paragraph V.(B)(3)(a).

15 **Q. DOES PJM SUPPORT OR OPPOSE THE STIPULATION?**

16 A. My testimony is limited to addressing the above referenced provision and addressing needed  
17 clarification as to the intent of the language of this section. PJM limits its testimony to this provision  
18 since this is the only provision which directly ties the Rider RRS to FE actions in the PJM markets  
19 and puts revenues received under the Rider at risk based on the company's actions in bidding the  
20 units into the PJM markets. This provision, more than any other in the stipulation, has the potential  
21 to impact the PJM marketplace as a whole and the marketplace in Ohio for new investment  
22 depending on how the provision is implemented. Moreover, since the PJM marketplace remains  
23 the primary vehicle which the PUCO has stated that it intends to utilize to attract and incent new

1 generation resources, *how* this provision is d implemented is critically important to *whether* those  
2 Ohio-specific goals can effectively be achieved.

3  
4 For these reasons, PJM does not take a position on the Stipulation as a whole but does believe  
5 that appropriate implementation of the above-referenced provision is important in order to prevent  
6 the Rider RRS from impeding the competitive operation of PJM's markets and potentially defeating  
7 Ohio's interest in having PJM's markets continue to attract new investment into Ohio.

8 **Q. WOULD THE COMMISSION'S PROVIDING GUIDANCE AS TO HOW IT INTERPRETS THIS**  
9 **PROVISION LIMIT THE COMMISSION'S FUTURE DISCRETION?**

10 A. Not at all, and in fact my testimony sets out PJM's position about how this PPA, if it is approved,  
11 can be incorporated into the PJM market in a manner which will continue to meet Ohio's objectives  
12 in attracting new investment and thus provides helpful guidance to FE, the PUCO and all market  
13 participants. I have set forth below some clarifying language that we would ask the Commission to  
14 embody in its final Order to better support efforts to maintain robust markets and harmonize the  
15 PPA with the need for healthy competitive markets in Ohio and the greater PJM region. This  
16 clarification need not represent the totality of issues the Commission might address in reviewing  
17 the Company's bidding practices in its annual reviews. But failure to provide *any* guidance to the  
18 parties would create significant market uncertainty and potentially embroil the Commission and FE  
19 in litigation brought by other market participants both at the Commission and FERC. Ohio has a  
20 unique opportunity through a clarification such as I suggest below, to harmonize its interest in  
21 healthy competitive markets with the language of this Stipulation.

22  
23 For all these reasons, in the event the Commission is inclined to approve the Stipulation, the  
24 Commission's providing the guidance outlined below would serve to ensure that Ohio can continue

1 to attract investment in new generation and otherwise help to address some of the market and  
2 competitive investment uncertainties which the stipulation has triggered.

3 **Q. WHAT OVERALL GUIDANCE AND INTERPRETIVE LANGUAGE DOES PJM SUGGEST BE**  
4 **INCLUDED IN THE COMMISSION'S ORDER IN THIS CASE?**

5 A. Without taking a position on whether the Commission should adopt the Stipulation, should it do so,  
6 PJM believes that, the Commission should clarify that *for purposes of the PUCO reasonableness*  
7 *reviews undertaken pursuant to paragraph V.(B)(3)(a)*, it should be considered a reasonable  
8 bidding practice for the units covered by the Rider RRS to bid into PJM's markets no lower than  
9 their actual costs consistent with how the term "costs" is defined in the PJM Tariff and Manuals  
10 without consideration of the offsetting revenues to be provided by Ohio retail customers through  
11 the Rider RRS.

12  
13 Bidding at actual cost, consistent with the definition of acceptable costs included in the PJM Tariff  
14 and Manuals, ensures that the Rider RRS does not have the effect of artificially suppressing prices  
15 in any of PJM's markets. Accordingly, I recommend that the Commission include the following  
16 clarification in any Order approving the Stipulation should the Commission move in that direction:

17 *"In determining the reasonableness of the Company's actions when selling the output from*  
18 *generation units included in the Rider RRS into the PJM markets pursuant to paragraph*  
19 *V.(B)(3)(a) of the Stipulation, the Commission expects FE to bid the units in accordance*  
20 *with applicable law and, based on the testimony of PJM which oversees those wholesale*  
21 *markets, will consider as reasonable for purposes of retail cost recovery, bidding of the*  
22 *units covered by the Rider RRS at their actual cost, as those terms are defined in the PJM*  
23 *Tariff and Manuals. Bidding at actual cost, as those terms are defined in the PJM Tariff*  
24 *and Manuals, will also help to ensure, as testified to by PJM, that the Company's actions*

1                    *under the Rider RRS do not create a disincentive to investment in new generation and*  
2                    *retention of existing generation for all market participants seeking to invest in generation or*  
3                    *demand side resources in Ohio.”*

4    **Q.    DO YOU RECOMMEND ANY FURTHER CLARIFICATIONS REGARDING PARAGRAPH**  
5    **V.(B)(3)(a) OF THE STIPULATION?**

6    A.    Yes. PJM recently has enhanced its capacity market, with the Commission’s support, by  
7    introducing performance assessment charges that incentivize unit owners to invest in the  
8    maintenance of their capacity resources. Additionally, I would recommend the Commission Order  
9    make clear where the risk of unit non-performance lies during the term of the Rider RRSs, as  
10    between the generation owner or the customers.

11   **Q.    WHY ARE SUCH CLARIFICATIONS IN OHIO’S INTERESTS?**

12   A.    The needs of FE’s customers cannot be served wholly from the output of the units covered by the  
13   Rider RRS. In fact, the units covered by the Rider RRS together total substantially less than the  
14   total FE Ohio peak load of approximately 11,900 MW. Although one could claim that the workings  
15   of the Rider RRS argues for the PUCO allowing these particular units to bid below their costs, to  
16   the extent this has a suppressive effect on prices, new generation resources, (which will be critical  
17   to meeting Ohio's future needs and economic development) will be discouraged from investing in  
18   Ohio. The impacts of that disincentive to new investment for Ohio far outweigh the short term gain  
19   that may be realized by customers from below cost bidding and guaranteed clearing by this  
20   particular narrow subset of the FE generation fleet. As a result, it is appropriate for the PUCO to  
21   recognize in any Order approving the Stipulation: (1) that its interests in a healthy competitive  
22   wholesale market with prices that accurately reflect going forward costs of competing units has not  
23   changed as a result of the Stipulation; and (2) that in reviewing the “reasonableness” of FE’s

1 bidding practices, the PUCO will consider whether FE's actions are complementing that goal or  
2 working counter to it.

3 **Q. THERE IS NO MINIMUM OFFER PRICING RULE ("MOPR") FOR EXISTING UNITS. WHY THEN**  
4 **SHOULD THE PUCO FIND THAT "REASONABLE ACTIONS" BY FE FOR THESE UNITS**  
5 **INCLUDES COST-BASED BIDDING?**

6 A. It is true that presently there is no MOPR applicable to existing units or for that matter any coal or  
7 nuclear units. However, that does not mean that clarification of the term "unreasonable actions"  
8 associated with bidding as that term is used in this Stipulation is inappropriate. There are several  
9 reasons why such a clarification is appropriate notwithstanding the present PJM market rules:

10 1. Although there is no MOPR for existing resources, the issues raised by the Stipulation are  
11 issues which have not previously arisen in this form. The present PJM MOPR provisions  
12 were developed out of a concern (supported by the PUCO) that out of market subsidies  
13 could have a suppressive impact on prices. Although based on the circumstances before  
14 PJM at the time, it appeared that the incentives to bid below cost was limited to new units.,  
15 I could well envision market participants arguing that similar incentives for below cost  
16 pricing exist for the units at question in this case. Although PJM is not speculating on what  
17 specific challenges might be brought by market participants before FERC to extend the  
18 MOPR in light of the Stipulation, the mere fact that today's MOPR does not extend to  
19 existing units should not be dispositive of the need for clarification of paragraph V.(B)(3)(a)  
20 of the Stipulation especially given its extended eight year term and the fact that this  
21 provision relates to the *Ohio Commission's review* of FE's actions in bidding the units into  
22 the PJM market.

23 2. More importantly, what is before this Commission is a provision of an *Ohio* stipulation  
24 which directs an oversight role by the Ohio Commission over FE's bidding practices for

1           these units for purposes of retail cost recovery. The Ohio Commission Staff, with FE's  
2           consent, has reserved to itself a role to ensure "reasonable" bidding practices of the FE  
3           generation owners and included a heavy hammer should the Commission deem future  
4           bidding actions unreasonable. If the drafters of the Stipulation were intending to say,  
5           through this provision, that the FE generation owners should simply "follow PJM rules",  
6           there would have been no need to include the broad language of Section V.(B)(3)(a) and  
7           its powerful remedy.<sup>1</sup> Clearly the drafters of the Stipulation meant something more by  
8           adding the "reasonableness" standard of review and the heavy sanctions set forth in  
9           paragraph V.(B)(3)(a).

10          Given this section of the Stipulation, the relevant question in this proceeding is not what today's  
11          PJM rules might allow but rather, from a PUCO perspective, how can this new specific reservation  
12          of PUCO authority be exercised in a manner which harmonizes the provisions of this Stipulation  
13          with Ohio's other stated goal of wishing to use the wholesale competitive market to attract new  
14          generation investment into the state. PJM believes that the PUCO has a unique opportunity to  
15          reconcile these goals in its Order in this case and urges the Commission to do so, should it decide  
16          to approve the Stipulation, along the lines outlined above, to avoid ambiguity, controversy and  
17          litigation that could distract from Ohio meeting those goals.

18      **Q.    IN SUMMARY, WHY SHOULD THE PUCO MAKE THE REQUESTED CLARIFICATIONS IN ITS**  
19      **ORDER NOW SHOULD IT DECIDE TO ADOPT THE STIPULATION?**

20          The point of my testimony is that Ohio has within its hands, through a simple clarification and  
21          explanation in its Order, an opportunity to potentially mitigate adverse impacts that the stipulation  
22          might have on attracting merchant generation in the state and on the competitiveness of the  
23          wholesale market. By making the clarification requested by PJM (should the Commission choose

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<sup>1</sup> Following PJM's existing rules is already required of all generation owners.

1 to adopt the stipulation), much uncertainty and litigation could potentially be headed off and the  
2 provisions of the Stipulation given effect in a way which is supportive of Ohio's stated goal of using  
3 the competitive market to attract efficient competitive investment in the state.

4 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

5 A. Yes.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Direct Testimony of F. Stuart Bresler, III* was served this 28th day of December 2015 via electronic mail upon the following:

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/s/ Evelyn R. Robinson  
Counsel for PJM Interconnection