Before the Ohio Senate Finance Committee

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Prepared Statement by Eileen Mikkelsen

Chairman Dolan, Vice Chairman Burke, Ranking Member Sykes, and Members of the Senate Finance Committee thank you for the opportunity to provide testimony today. My name is Eileen Mikkelsen. I am Vice President of Rates and Regulatory Affairs for FirstEnergy. For 37 years I have worked for FirstEnergy or one of its predecessor companies. Much of my career has been spent in regulatory roles. I have testified before the Public Utilities Commission of Ohio (PUCO) and the Pennsylvania Public Utility Commission on a wide variety of topics related to electric utility regulation. In addition to working at FirstEnergy, I had the privilege of teaching engineering economics, a course in utility economics, at the undergraduate and graduate level at Case Western Reserve University.

I appreciate the opportunity to share with you today my perspective on the pending amendment regarding the Significantly Excessive Earnings Test or SEET as it is more commonly called. Some negative and misleading statements have been said and printed about the SEET amendment. Let me be clear and accurate as to what the SEET amendment does and does not do. The SEET amendment:

- will not increase our customers rates;
- preserves an important customer protection and ensures it's applied uniformly in Ohio;
- maintains the ability of the PUCO and other interested stakeholders to assess our annual earnings; and
- puts FirstEnergy on par with the other electric utilities in the state.

Beginning in January 2009, Senate Bill 221 required all Ohio electric utilities to provide a standard service offer for generation service for their customers. SB 221 allowed utilities to file Electric Security Plans, more commonly called ESPs. At a minimum, ESPs establish how Ohio's electric utilities will supply electric generation for customers who do not, on their own, shop for generation service with competitive third-party suppliers. To-date, all approved ESPs have also included additional provisions unrelated to generation service. For example, FirstEnergy has an ESP on behalf of our three Ohio electric distribution utilities. Our plan includes economic development and job retention dollars for our communities, funding to help our low-income customers pay their electric bills, energy efficiency programs, and provisions that provide certainty or stability regarding retail electric service along with other items of interest to our customers and the communities we proudly serve.

The PUCO, as part of its approval process with input from interested parties, scrutinizes each ESP application to ensure the plan is a better deal for customers than the expected results of a plan, referred to as a Market Rate Offer, that only offers customers supply and pricing for generation service. This is a statutory requirement referred to as the ESP vs. MRO test.

In addition to the careful approval process, the ESP statute includes another important provision called the significantly excessive earnings test, or SEET. This requires the PUCO to consider each year if the ESP, evaluated in its entirety resulted in adjustments producing significantly excessive earnings for a utility, as compared to other publicly traded companies facing comparable business and financial risk.

Before we get into the details of the amendment, I want to take a moment to set the record straight on the SEET history for the FirstEnergy utilities. Every year since its inception in 2009, our three utilities have successfully passed the SEET with earnings below the SEET thresholds established by the PUCO. The highest level of earnings for any of our utilities over the past nine years does not come close to significantly excessive. Furthermore, in aggregate FirstEnergy has never earned more than 7.9% which is well below our allowed return on equity.

As I mentioned, FirstEnergy has one ESP for our three Ohio utilities. We support the customer protection provided by the SEET test as applied to our single ESP. If this amendment is adopted, FirstEnergy will still be subject to the PUCO's SEET test and process for determining whether significantly excessive earnings have occurred. Further, nothing in this amendment changes the ability of the PUCO or other interested stakeholders to examine the earnings of the utilities through the PUCO process.

The change would simply put the FirstEnergy electric utilities on par with other electric companies in this state that also have a single earnings test for their PUCO-approved ESPs.

Changing the SEET in this manner would not make it unique. Our PUCO-approved ESP includes many other provisions and customer protections that are administered in the aggregate across all three of our utilities.

One important example of an aggregate customer protection under FirstEnergy's PUCO-approved ESP is a total revenue cap that applies to all three utilities. This limits the dollars that can be collected annually from our customers to recover costs associated with new distribution investments.

Other provisions of our ESP that are not utility specific include:

- A single auction to procure generation for Ohio Edison, The Cleveland Electric Illuminating Company, and Toledo Edison non-shopping customers, as one product with the same price, rather than individual auctions for each distribution utility.
- A single potential opportunity for investment in wind and solar facilities;
- A single goal to reduce CO2 emissions by 90% below 2005 levels by 2045, representing a potential reduction of over 80 million tons of CO2;
- A single funding commitment for economic development;
- A single funding commitment to assist low-income customers pay their electric bills;
- A single funding commitment to support a call center to assist customers with questions about generation supplier offers;
- A single commitment to advocate at the federal level for wholesale market reforms to benefit all our customers;
- A single commitment to empower customers through investments in grid modernization; and
- A single commitment to strive to achieve a certain level of energy savings annually.

Indeed, as part of the ESP vs. MRO test, the PUCO has always evaluated the benefits and costs of FirstEnergy's ESPs across all three utilities together. Yet our ability to implement the provisions in a way that best serves our customers may be limited because of the way the SEET test is currently applied.

Our ESP is designed as one plan, and it follows that a single SEET should be applied during the ongoing evaluation of the ESP.

In closing, I want to reiterate that this change to the legislation will not increase the rates our customers pay; it preserves an important customer protection provision; and it maintains the ability of the PUCO to assess our annual earnings and underlying financial data. At the same time, it will put FirstEnergy on par with the other utilities in the state by properly aligning one earnings test for each PUCO-approved ESP.

Thank you.