Joint Applicants' Statement No. 1-R

2/29/10
1105

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC ("MAIT"); METROPOLITAN EDISON COMPANY ("MET-ED") AND PENNSYLVANIA ELECTRIC COMPANY ("PENELEC") FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

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Rebuttal Testimony
of
Charles V. Fullem

List of Topics Addressed

Pennsylvania Public Utility Commission Jurisdiction And Oversight, Capital Contribution Agreement, Potential Increased Costs At The Distribution Companies, Ratemaking Treatment Of Ground Lease Revenue, Federal Energy Regulatory Commission Jurisdictional Rate Issues

TABLE OF CONTENTS

REBUTTAL TESTIMONY
OF
CHARLES V. FULLEM

I. INTRODUCTION AND PURPOSE

Q. Please state your name and business address.

A. My name is Charles V. Fullem, and my business address is 2800 Pottsville Pike, Reading, Pennsylvania 19605.

Q. Have you previously presented testimony in this proceeding?

A. Yes, on June 19, 2015, my Direct Testimony, Joint Applicants' Statement No. 1, and accompanying Exhibit CVF-1 were filed along with the Joint Application in this matter. My background and qualifications are fully set forth in that statement. On October 27, 2015, my Supplemental Direct Testimony, Joint Applicants' Statement No. 1S, and accompanying Exhibit CVF-2 were served on the parties and the Administrative Law Judges.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to portions of the direct testimony of Richard D. Hahn, who submitted testimony on behalf of the Office of Consumer Advocate ("OCA") (OCA Statement No. 1), and Lisa A. Gumby, who submitted testimony on behalf of the Bureau of Investigation and Enforcement ("I&E") (I&E Statement No. 1). My rebuttal testimony is divided into five areas, as follows:

In Section II.A., I address Mr. Hahn's testimony concerning the Pennsylvania Public Utility Commission's ("PUC" or the "Commission") jurisdiction and oversight of Mid-Atlantic Interstate Transmission, LLC ("MAIT") following the completion of the transaction for which approval is sought in the Joint Application filed on June 19, 2015 (the "Transaction"). In this section, I also address Mr. Hahn's recommendation that approval of the Transaction should be conditioned on MAIT obtaining PUC approval before withdrawing from the PJM Interconnection, L.L.C. ("PJM").

In Section II.B., I discuss Mr. Hahn's contention that the Joint Applicants did not specifically request approval of the Capital Contribution Agreement as an affiliated interest agreement under Chapter 21 of the Public Utility Code and explain that Mr. Hahn misstates and misconstrues the approvals sought by the Joint Application.

In Section II.C., I respond to concerns expressed by Ms. Gumby and Mr. Hahn that the Transaction could improperly increase the proportion of costs allocated to the distribution function for Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") (collectively, the "Companies"). I explain why that will not occur. In this section, I also address Ms. Gumby's proposed "adjustment factor," which she contends would retain, after the Transaction, the same allocations between transmission and distribution functions that existed before the Transaction. I will explain why that "adjustment factor" should not be approved and, in fact, would produce erroneous results. I also address Ms. Gumby's alternative recommendation, which would deny the Companies the right to retain dividends paid to them by MAIT and payments made to them by MAIT under the Ground Leases for transmission land and land rights. As I will explain, this recommendation is the equivalent of denying the Companies any return on

or return of their investment in property currently used to furnish essential transmission service and, therefore, would be an unlawful confiscation of their property.

In Section II.D., I respond to Mr. Hahn's proposal, which mirrors a portion of Ms. Gumby's alternative recommendation, to treat rental payments by MAIT under the proposed Ground Leases with Met-Ed and Penelec as if they were Pennsylvania jurisdictional distribution revenues rather than what they actually are, namely, transmission revenues that are entirely within the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). I will explain why Mr. Hahn's proposal should be rejected for the same reasons that Ms. Gumby's alternative recommendation should be rejected.

In Section II.E., I respond to the testimony of Mr. Hahn and Ms. Gumby concerning various FERC jurisdictional rate-related issues, including Mr. Hahn's contention that the Transaction could result in higher rates for Network Integration Transmission Service ("NITS") than would be charged by the Companies if the transmission assets were to remain with Met-Ed and Penelec. In this section, I also address various conditions Mr. Hahn recommends that the Commission impose if it approves the Transaction.

Q. Are you sponsoring any exhibits to accompany your Rebuttal Testimony?

A. Yes, I am sponsoring Joint Applicants' Exhibits CVF-3 and CVF-4, which are discussed later in my Rebuttal Testimony.

Q. Are other witnesses submitting rebuttal testimony on behalf of the Joint Applicants?

A. Yes, rebuttal testimony is being submitted by Mr. Mackauer (Joint Applicants' Statement No. 2-R), Mr. Staub (Joint Applicants' Statement No. 3-R) and Mr. Taylor (Joint Applicants' Statement No. 4-R).

II. RESPONSES TO MR. HAHN AND MS. GUMBY

A. PUC Jurisdiction And Oversight

Q. Mr. Hahn states: "The Commission should retain all of the oversight rights it currently has. I see no reason to change these, even if the proposed transaction is approved and the assets are transferred." (OCA Statement No. 1, page 11, lines 3-9). Please respond to Mr. Hahn's statement.

A. As part of the Joint Application, MAIT has requested that the Commission issue it a certificate of public convenience conferring upon it the status of a Pennsylvania public utility. *See* Joint Application, pp. 10-12. If the Joint Application is approved, MAIT, like Met-Ed and Penelec, will be a Pennsylvania public utility. Thus, MAIT, just like Met-Ed and Penelec in their current role as owners of transmission facilities and providers of interstate transmission service, will be subject to the FERC's jurisdiction over transmission service and rates and will be subject to the PUC's jurisdiction and oversight consistent with its status as a certificated Pennsylvania public utility. As I explained in my Supplemental Direct Testimony (Joint Applicants' Statement No. 1S, pp. 4-5), MAIT is not requesting any exemption from the jurisdiction the Commission may lawfully exercise over the safety, adequacy, and reliability of electric service under the Public Utility Code and the Commission's regulations. Additionally, in Paragraph 24 of

the Joint Application, the Joint Applicants acknowledged that MAIT, as a holder of a certificate of public convenience, will be required to comply with the Public Utility Code and the Commission's regulations (excluding only those provisions that do not apply to MAIT because it will not provide intrastate public utility service or that are preempted by the FERC's jurisdiction over transmission service and rates). In short, MAIT's ownership of transmission assets and provision of transmission service will be subject to the same jurisdiction and oversight by the PUC following the Transaction as the transmission functions of Met-Ed and Penelec are at the present time.

Q. Mr. Hahn also states: "If the Commission's rights to oversee transmission activities for assets currently owned by Met-Ed and Penelec are in dispute, then the dispute should be resolved before the proposed transaction is considered" (OCA St. 1, p. 11, lines 9-13). Does any such dispute exist?

A. The Joint Applicants are not aware of any dispute over the Commission's rights to oversee transmission activities for assets currently owned by Met-Ed and Penelec. In that regard, there is no proceeding at the FERC, the Commission, or in any court to which any Joint Applicant is a party that involves a dispute about the Commission's jurisdiction over the transmission assets of Met-Ed or Penelec such as Mr. Hahn alludes to. Therefore, there are no "disputes" that need to be resolved prior to the Commission approving the Transaction.

Q. Mr. Hahn contends that, if the Commission were to approve the Transaction, it should make such approval subject to various conditions, including a condition that "MAIT will place its assets under PJM control and will not remove its transmission

assets from PJM's control without Commission approval" (OCA St. 1, p. 34, lines 29-30). Please respond to Mr. Hahn's contention.

A. First, the Joint Applicants have already made it clear that MAIT will place its post-Transaction transmission assets under the functional control of PJM, as I explained in my Supplemental Direct Testimony (Joint Applicants' St. 1S, pp. 3-4):

> PJM has been authorized by the FERC as the Regional Transmission Organization ("RTO") responsible for managing a regional transmission grid encompassing all or parts of thirteen states and the District of Columbia, including the control areas of Met-Ed and Penelec. PJM has operational control over the Companies' transmission facilities and provides electric transmission service to Load Serving Entities ("LSEs") at rates and under terms and conditions of service set forth in its OATT, which is filed with, and approved by, the FERC.
>
> Upon the completion of the proposed transaction, Met-Ed and Penelec will no longer own any facilities serving a transmission function. All transmission services over the transmission facilities transferred to MAIT will be provided on a non-discriminatory basis pursuant to the terms of PJM's OATT, in the same manner those services are currently furnished by Met-Ed and Penelec. The transmission facilities will remain subject to the terms of PJM's OATT before, during and after the proposed transaction. Rates for transmission service will remain subject to the jurisdiction of the FERC and be administered by PJM through the OATT.

Second, Mr. Hahn's proposal that MAIT "not remove its transmission assets from PJM's control without Commission approval," is not necessary in light of the condition that the Commission imposed (and FirstEnergy Corp. ("FirstEnergy"), Met-Ed and Penelec accepted) in the Commission's final order (page 82, Paragraph 16b) approving the merger of FirstEnergy and GPU Inc. at Docket Nos. A-110200F0095 and A-110400F0040, which states as follows:

> That the merged company shall not withdraw the transmission facilities of Metropolitan Edison Company or Pennsylvania Electric Company from the operational control of PJM Interconnection, L.L.C. unless the merged company, or such subsidiary or affiliate thereof, has first applied for and obtained authorization by order of this Commission, and such application shall be granted only upon an affirmative showing that withdrawal would not adversely affect the continued provision of adequate, safe and reliable electric service to the citizens and businesses of the Commonwealth nor adversely affect system reliability or the competitive market in the Commonwealth; and provided further that this condition is binding on the successors and assigns of the merged company and upon any buyer of any of the transmission facilities of Metropolitan Edison Company or Pennsylvania Electric Company.

That condition was imposed on the subsidiaries and affiliates of FirstEnergy and, therefore, it will apply to the transmission facilities of MAIT – both those facilities to be transferred and those subsequently constructed by MAIT – following the Transaction. Consequently, Mr. Hahn's proposal is duplicative of a condition that already exists, and there is no reason to impose it a second time.

B. Capital Contribution Agreement

Q. Mr. Hahn states (OCA St. 1, p. 26, lines 10-12): "I have reviewed the affiliate agreements and my concern is that the Joint Applicants did not expressly submit the Capital Contribution Agreement for approval under Section 2102." Mr. Hahn then opines that, in his view, the Capital Contribution Agreement is an "affiliate agreement," and he seeks an "explanation for why the Capital Contribution Agreement itself was not submitted under Section 2102 . . ." (OCA St. 1, p. 27, lines 1-4). Please respond to Mr. Hahn's alleged concerns.

A. Elsewhere in his direct testimony, Mr. Hahn acknowledged that the "capital contribution agreement" (OCA St. 1, p. 11, n. 11) represents the "separate agreement" by which the "transmission facilities themselves . . . are transferred to MAIT" (OCA St. 1, p. 11, lines 22-24). Thus, the Capital Contribution Agreement is the legal document that will cause the transmission assets of Met-Ed and Penelec to be transferred to MAIT and, as such, it embodies the transaction for which the Joint Applicants seek approval under Section 1102(a)(3) of the Public Code. In other words, the Joint Applicants, in requesting a certificate of public convenience pursuant to Section 1102(a)(3), are seeking approval of the Capital Contribution Agreement itself under that same section of the Public Utility Code. Accordingly, the Capital Contribution Agreement was filed with the Commission as part of the Joint Application, and the Commission's approval was expressly requested. While I am not a lawyer, it is my understanding that approval under Section 1102(a)(3) requires the Commission to apply, and the Joint Applicants to satisfy, a general public interest standard that would encompass – among an array of other issues – the pertinent issues that the Commission would consider if it were approving the Capital Contribution Agreement solely as an "affiliate agreement" as Mr. Hahn envisions. Consequently, I do not perceive any gaps or deficiencies in the requests for approval set forth in the Joint Application.

Moreover, Mr. Hahn disregards the comprehensive request for approval set forth in subsection (5) of Paragraph 46 of the Joint Application. Paragraph 46 states, in its entirety, as follows:

> For all of the reasons set forth in, and supported by, this Joint Application, the Transaction satisfies the legal requirements for the approvals necessary to consummate the Transaction as described

> previously, and the Joint Applicants, therefore, request that the Commission: (1) issue certificates of public convenience evidencing approval under 66 Pa.C.S. §1102(a)(3) for the of the Joint Applicants' transmission assets to MAIT in the manner previously described in this Joint Application; (2) find and determine, pursuant to 66 Pa.C.S. §2810(e), that the Transaction will not result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which would prevent retail electricity customers in the Commonwealth from obtaining the benefits of a properly functioning and workable competitive retail electricity market; (3) issue a certificate of public convenience under 66 Pa.C.S. §1101 conferring on MAIT the status of a public utility as defined in 66 Pa.C.S. §102; (4) find and determine that the affiliated agreements submitted with this Joint Application satisfy the legal standard for approval under Chapter 21 of the Public Utility Code; and *(5) grant such additional approvals as may be necessary to consummate the Transaction.* (Emphasis added.)

The comprehensive request for approvals set forth in the Joint Application, including subsection (5) of Paragraph 46, makes all of Mr. Hahn's comments about the Capital Contribution Agreement moot because the Capital Contribution Agreement was filed with the Commission along with the Joint Applicants' request for all "necessary" approvals.

C. Potential Increased Costs At The Distribution Companies

Q. Ms. Gumby, on behalf of I&E, recommends approving the Transaction (I&E St. 1, p. 9, lines 5-8), but expresses "concerns" that "the Company's proposal will increase costs for the distribution ratepayers while simultaneously increasing the operating companies' revenues that are not considered above the line for future base rate cases' distribution revenue requirement, which also affects ratepayers" (I&E St. 1, p. 6, lines 10-15). Initially, please address Ms. Gumby's contention that the Transaction will increase "the operating companies' revenues that are not

considered above the line for future base rate cases' distribution revenue requirement."

A. That statement is not correct. The two revenue items that Ms. Gumby is referring to are the Ground Lease payments that Met-Ed and Penelec will receive from MAIT and the dividends MAIT will pay to the Companies from transmission revenues earned by MAIT. These revenues – although in different form – are received by the Companies today, and the Commission and intervenors have historically recognized the appropriate exclusion of such revenues from the Companies' distribution base rate revenues for ratemaking purposes. The Transaction will only change the form in which those revenues are received by the Companies. However, the change in form does not change the proper ratemaking treatment. The revenues are non-jurisdictional (i.e., not distribution revenue) now, and they will continue to be non-jurisdictional after the Transaction is completed, as I explain below starting with the Ground Lease payments.

Currently, the book value of the land and land rights on which Met-Ed's and Penelec's transmission facilities are located is recorded in transmission plant accounts and is included in the Companies' rate bases used to determine their FERC-jurisdictional NITS rates. Consequently, the revenue produced from the Companies' investment in transmission land and land rights is transmission revenue and, as such, is excluded from the Companies' distribution revenue for Pennsylvania jurisdictional ratemaking purposes. After the Transaction is completed, the Companies will continue to hold title to the land and land rights but will lease the land and land rights to MAIT under the Ground Leases in exchange for rental payments calculated to correspond to the revenue MAIT would receive if the land and land rights were included in its FERC-jurisdictional revenue

requirement.[1] In summary, the Ground Lease payments are no different from the transmission revenue that the Companies are currently entitled to receive for including the land and land rights in their FERC-jurisdictional transmission revenue requirement, and that revenue is properly excluded from their distribution revenues for Pennsylvania ratemaking purposes. The fact that those revenues will be in the form of Ground Lease payments does not change their essential character and does not convert FERC-jurisdictional transmission revenue into Pennsylvania-jurisdictional distribution revenue.

What is true for the Ground Lease payments is also true for the dividends the Companies will receive from MAIT. Those dividends correspond to the FERC-jurisdictional revenue that the Companies are currently entitled to receive as transmission service providers. Today, no one could reasonably contend that the Companies' revenues from providing FERC-jurisdictional transmission service should be converted to Pennsylvania distribution revenues. In fact, FERC-jurisdictional revenues (as well as all FERC-jurisdictional costs and investments) have historically – and properly – been excluded in determining the Companies' distribution rates. After the Transaction, the Companies' interest in the transmission assets will be converted to an ownership interest in the earnings of MAIT, and the Companies will receive dividends that correspond to their respective ownership interests in MAIT. The character of those revenues, however, does not change. They do not become Pennsylvania-jurisdictional distribution revenues simply because they are received in the form of dividends from MAIT.

[1] MAIT will include the rental payments in its FERC revenue requirement.

In summary, Ms. Gumby's contentions that the Transaction will increase "the operating companies' revenues that are not considered above the line for future base rate cases' distribution revenue requirement" is simply not correct.

Q. Please turn to Ms. Gumby's second concern, namely, that the Transaction "will increase costs for the distribution ratepayers." What does Ms. Gumby contend is the basis for her concern?

A. Ms. Gumby focuses on the fact that MAIT will not have its own workforce, which she believes can result in increased costs being retained by, or allocated to, the distribution function. Before describing Ms. Gumby's concerns in more detail, it is helpful to review what the Joint Applicants have proposed because, when their proposal is properly understood, it is clear that there is no basis for Ms. Gumby's concerns.

As explained in the Joint Application and accompanying Direct Testimony, there are economy-of-scale benefits from maintaining within the Companies their experienced, qualified workforces, which will continue to have the flexibility to perform work for both the transmission and distribution functions. After the Transaction is completed, the Companies' employees will continue to be used to operate and maintain the transmission facilities of MAIT. In short, nothing about the way the current workforce is used will change and, as I will explain later, there is no plan for MAIT to use contractors to displace the Companies' workforces.

Currently, direct labor costs are directly assigned to the transmission function for work that the Companies' employees perform for the transmission function. Other costs, such as administrative and general expenses, are allocated between distribution and

transmission functions in base rate cases, generally in proportion to the directly assigned labor costs, as part of the functionalization analysis in the Companies' cost of service studies. In that way, costs for work done in the transmission function are separated from distribution costs and only distribution costs are included in the Companies' distribution revenue requirement. After the Transaction, pursuant to the terms of the Mutual Assistance Agreement, when the Companies' employees work for MAIT, MAIT will compensate the Companies for the associated costs at the fully-loaded labor rates for those employees, which include salaries and wages, benefits, employment taxes and all applicable overheads. Other costs incurred by the Companies, which cannot be directly assigned (e.g., the costs of administrative and general expenses) will be allocated between distribution and transmission, and those allocations will continue to be made generally in proportion to the directly assigned labor costs. The compensation the Companies receive from MAIT will be used to offset the Companies' costs, and only the net costs (after the offset that eliminates transmission related costs) would be included in their Pennsylvania distribution revenue requirement. The end result is no different from what occurs now when the Companies' employees are used for the transmission function. The pre-Transaction and post-Transaction methodologies will achieve the same result.

Q. If the pre-Transaction and post-Transaction methodologies are designed to achieve the same result, why is Ms. Gumby concerned that the Transaction could produce increased costs for the distribution function?

A. Ms. Gumby contends that, after the Transaction, a portion of the Companies' total employee costs will become "stranded" because MAIT will cease to use the Companies' workforces for transmission work in the same way the Companies currently use their

employees for that work. Ms. Gumby is concerned that, after the transmission assets are transferred to MAIT, the deployment of the Companies' workforces will be materially changed such that a smaller portion of the total workforce will be used in the transmission function. She also claims that a further implication of this effect will be to decrease the "floor space" allocated to the transmission function and increase the proportion allocated to the distribution function. If her assumption were accepted – and it should not be, for reasons I will explain – Ms. Gumby claims that, all other things being equal, a larger portion of the Companies' total workforce costs and associated overheads would be treated as distribution costs.

Based on her underlying assumption, Ms. Gumby sees three ways in which distribution costs could potentially increase. First, as explained above, she contends that total employee-related costs (salaries, wages, benefits, taxes) that are directly assigned to the distribution function would increase if MAIT were to reduce its reliance on the Companies' employees to perform transmission work. Second, as a consequence of her first concern, she targets various costs that are shared between the Companies' transmission and distribution functions (such as administrative and general expenses) and, therefore, are allocated between transmission and distribution within the Companies' cost of service studies. Ms. Gumby contends that such allocated costs would increase disproportionately for the distribution function because the applicable allocation factors are based primarily on employee count, and MAIT will have no employees. Third, Ms. Gumby focuses on certain costs of the FirstEnergy Service Company ("FESC") that are not directly assigned to distribution and, therefore, must be allocated between functions. She contends that the distribution function's share of such costs could increase if MAIT

reduces its use of the Companies' employees because the applicable allocations are based on factors tied to number of employees or occupied floor space. As I will explain, the fundamental assumption underlying Ms. Gumby's contentions is not correct and, therefore, all of her alleged concerns that flow from that assumption are also not correct.

Q. Will the completion of the Transaction result in an unjustified increase in distribution costs because MAIT will reduce its use of the Companies' employees who are currently performing transmission work?

A. No, it will not. As Ms. Gumby points out, MAIT is not required to have the work on its transmission system performed exclusively by the Companies and can use contractors as appropriate and cost-effective for capital projects. However, that is no different from what the Companies do currently. While the Companies use their own experienced and well-qualified workforce for transmission maintenance work and, to a somewhat lesser extent, to support some transmission capital projects, the Companies are not prohibited from using contractors and, in fact, do so for transmission capital projects. MAIT is simply being provided the same flexibility that the Companies already have to use contractors for transmission capital projects. However, the use of contractors will supplement and will not displace MAIT's use of the Companies' employees. Consequently, there is no basis for Ms. Gumby to draw any adverse inference from the fact that MAIT – just like the Companies currently – is not prohibited from using contractors for transmission capital projects.

To reiterate, there is no expectation, and there is certainly no plan, to use the Companies' workforces any differently or any less than they are currently used for transmission work.

In fact, in contemplation of the completion of the Transaction, the Companies have made commitments to the International Brotherhood of Electrical Workers Locals 459 and 777 and Utility Workers Union of America Local 180 to continue using the Companies' union labor to do the work they are currently doing on the transmission system. See Joint Applicants' Exhibit CVF-3, which consists of copies of letters to each of the unions that set forth FirstEnergy's commitments.

Moreover, maintaining the Companies' workforces also preserves the flexibility the Companies currently have to use their entire complement of employees to meet changing needs in both the transmission and distribution functions, with appropriate methodologies in place to assure that all costs are properly assigned and allocated by function (and, after the Transaction, by company, with the transmission function lodged in MAIT and the distribution function lodged in Met-Ed and Penelec).

In summary, the Companies use their employees to perform maintenance work on the transmission system and, at times, those employees also support transmission capital projects. It makes sound business sense to continue to use these cost-effective, highly-skilled employees to perform the same work going forward, and the Companies have made commitments to their bargaining unit employees to assure that happens. The Companies use contractors for some transmission capital projects today, and MAIT will have the ability to use contractors in the same way after the Transaction; this represents a continuation of the status quo and not a change. The number of contractors utilized for capital projects would need to increase whether or not the Transaction is completed, if the level of transmission capital work necessary is in fact completed for all the reasons explained in the Direct Testimony of Mr. Mackauer (Joint Applicants' Statement No. 2).

However, the use of contractors both before and after the Transaction is to supplement, not to replace, the existing highly skilled union employees of the Companies. Consequently, the Transaction will not improperly increase the workforce-related costs that are attributed to the distribution function.

Q. Would a reduced use of the Companies' workforce for post-Transaction transmission work necessarily result in unjustified increases in distribution costs?

A. No, not at all. Initially, let me repeat that, for all the reasons set forth above, there is no plan and no expectation for reduced use of the Companies' employees for transmission work – and commitments have been made to the Companies' bargaining unit employees to assure that does not occur. However, Ms. Gumby's concern that reduced use of the Companies' work force by MAIT would produce "stranded" costs within the distribution function is also misplaced because it ignores how existing real-world conditions will impact the Companies going forward. In fact, even if MAIT were to reduce its use of the Companies' work forces for transmission work – which is not expected to occur – no costs would be "stranded" because the Companies are actually evaluating the need to increase the number of employees engaged in distribution work, consistent with the Implementation Plan they adopted in response to recommendations of the focused management and operations audit that was made public by the Commission's Order at Docket Nos. D-2013-2365991, D-2013-2365992, D-2013-2365993, and D-2013-2365994 adopted on February 26, 2015. When that Order was issued, the Commission adopted a motion by then-Commissioner Cawley directing Met-Ed and Penelec to supplement their Implementation Plan with specific descriptions of how they would increase employee levels to perform work on their respective distribution systems. In response to that

directive, Met-Ed and Penelec explained that they had re-established the Power Systems Institute ("PSI") – a unique, two-year program that combines classroom learning with the hands-on training and enables graduates to qualify for opportunities in the electric industry. The Implementation Plan filed with, and approved by, the Commission shows planned enrollment for the period 2015-2019 at Met-Ed's PSI program to be 64 and Penelec's to be 120. The Companies plan to use this pool of qualified talent to supplement their distribution work force going forward, consistent with their Implementation Plan.

Therefore, even if, as Ms. Gumby erroneously assumes, MAIT were to reduce its use of the Companies' highly-skilled employees, any employees not engaged in transmission work could be used to meet the increased staffing requirements reflected in the recommendations of the focused management and operations audit, Commissioner Cawley's motion and the Company's Implementation Plan. If that were to occur, the Companies could reduce the number of positions to fill to meet their staffing targets. In any event, there would be no "stranded" distribution costs.

Q. Please turn to Ms. Gumby's second concern. She contends that the possibility of reduced use of the Companies' employees by MAIT would also change labor-based allocators used in the Companies' cost of service studies to separate shared costs between distribution and transmission and, in that way, could produce an unjustified increase in distribution costs. Please respond.

A. The increases in distribution costs alleged by Ms. Gumby will not occur. I have reviewed the allocations of shared costs (that is, costs that are not directly assigned to the

transmission function) that were used in the Companies' last (2014) distribution base rate cases. The two primary allocation factors used to allocate shared costs between transmission and distribution are direct labor and net plant. Neither of those allocators employs either employee count or occupied floor space. Rather, the labor allocator is based on a ratio of direct labor expense booked to transmission expense (dollars, not people) to total direct labor booked to operating and maintenance expense. For the reasons I previously explained, the direct labor allocator will not be affected by the Transaction because the way the Companies' work forces are used for transmission and distribution work will not be altered after the Transaction. Thus, there will be no impact on the labor allocator for shared costs that is adverse to the interests of distribution customers. In short, the Transaction will not impact the allocation of the Companies' internal shared costs between the transmission and distribution functions.

Q. Ms. Gumby's third concern is that the Transaction will alter the allocation of costs to the Companies from FESC to the detriment of distribution customers because a portion of FESC costs that are not directly assigned are allocated to Pennsylvania jurisdictional distribution customers based on employee count or occupied floor space. Please respond.

A. This concern by Ms. Gumby is also unwarranted. The Service Company Agreement provides a detailed methodology for properly allocating costs among the companies to which FESC provides services. The majority of such costs are directly assigned to either the transmission or distribution function consistent with First Energy's policy dictating that every effort must be made to directly charge costs before any remaining costs are allocated. A relatively smaller amount is charged to accounts that require the costs to be

allocated between transmission and distribution, and appropriate allocators are used for that allocation. Additionally, to the extent that Ms. Gumby contends that the allocations from FESC will be somehow skewed improperly because of reduced use of the Companies' work force by MAIT post-Transaction or reduced "floor space" used by employees doing transmission-related work at the Companies, she is incorrect for all the reasons I previously explained.

Q. What is the nature of the "adjustment factor" that Ms. Gumby proposes?

A. Ms. Gumby's proposal consists of two parts. First, she proposes, in effect, that all of the "allocation factors" used in the Companies' last base rate case "for each operating company's transmission/distribution allocated costs" (i.e., costs that were not directly assigned)[2] should continue to be used in distribution base rate cases filed within five years of the completion of the Transaction (OCA St. 1, p. 10, lines 6-10). Second, she proposes that amounts paid by MAIT under the Mutual Assistance Agreement should be used to increase the amount of distribution costs allocated to the distribution function using the prior case allocators. She attempted to illustrate her proposal as follows:

> For example, if salaries totaled $100,000 in the new base rate case historic test year (HTY) and 10% was allocated to transmission operations in the 2014 base rate case, only $90,000 (($100,000 – (.10 x $100,000)) would be allowed for the revenue requirement for distribution rate payers. However, if MAIT paid $5,000 in MAA [Mutual Assistance Agreement] fees to the operating company in the HTY, then $95,000 in salaries would be allowed in establishing the revenue requirement as the $5,000 would be offset by the MAA fees from MAIT.

[2] Ms. Gumby's proposed "adjustment factor" would apply principally to costs recorded in Accounts 920 to 935, which consist of administrative and general expenses and certain payroll and property taxes. These costs are generally allocated in proportion to direct labor costs.

Putting the two steps together, the net result is that costs would be allocated using the same "allocation factors" employed in the Companies' 2014 distribution base rate case (the Mutual Assistance Agreement revenues and the increase to distribution costs equal to the amount of those revenues would be a "wash").

Q. Is there any valid reason to continue to use the "allocation factors" from the last case?

A. No, not at all. Doing so would ignore the effects of all of the changes that can and do occur over time and that drive changes in those allocation factors that are totally unrelated to any change in MAIT's use of the Companies' employees.[3] To cite one important example, as I previously explained, the Companies' workforces expand as more employees are needed to perform distribution work. The addition of more employees doing distribution work will necessarily change the allocators because more direct labor costs will be incurred and assigned to the distribution function. Under Ms. Gumby's approach, those increases in costs would be excluded from the Companies' distribution revenue requirement notwithstanding that those costs were incurred to furnish distribution service.

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[3] For example, the plant and labor allocation factors used by Penelec and Met-Ed to allocate costs that were subject to allocation (i.e., were not directly assigned) to the transmission function changed between their 2006 and 2014 distribution base rate cases as follows:

	Plant Allocator		Labor Allocator	
	2006	2014	2006	2014
Penelec	16.59%	23.60%	4.11%	4.84%
Met-Ed	16.87%	22.30%	9.47%	10.43%

In addition, Ms. Gumby's proposed "adjustment factor" ignores the fact that transmission and distribution functions are currently housed within the Companies and, therefore, a portion of the costs they incur through charges from FESC are recorded as administrative and general expenses and must be allocated by the Companies between transmission and distribution. After the Transaction is completed, such costs will be directly assigned by FESC to MAIT and will not be billed to the Companies at all and, therefore, administrative and general costs incurred by the Companies will decrease because a portion of those costs will be directly assigned to MAIT after the Transaction. Ms. Gumby's proposed "adjustment factor" does not account for that change. Therefore, Ms. Gumby's approach will, in effect, deduct those costs from the Company's distribution costs a second time because her proposed "adjustment factor" would be based on historical allocation factors that do not reflect the fact that a portion of the Companies' administrative and general costs, consisting of charges from FESC, will be directly assigned to MAIT under the post-Transaction structure.

Following the Transaction, direct assignment of transmission costs to MAIT together with appropriate, transparent and readily reproducible allocations of shared costs and FESC allocated costs will more accurately depict the costs that distribution customers should – and should not – bear than an attempt to replicate historic allocations, as Ms. Gumby proposes. Moreover, in distribution base rate cases that the Companies submit following the Transaction, all allocations of costs between transmission and distribution can be thoroughly reviewed and vetted in the ratemaking process. It does not make sense to dictate today, as a condition of approving the Transaction, the outcome of a future base rate case before that future case is filed, reviewed, and decided. In short, to the extent

Ms. Gumby believes that there might be issues pertaining to the separation of transmission and distribution costs that would affect future ratemaking determinations, the appropriate venue for deciding those issues is in future base rate cases. In future base rate cases all the facts will be available and any issues that may exist can be fully explored by all parties in light of those facts. I&E's proposal would improperly short-circuit that process.

Q. Ms. Gumby also contends that, if her proposed "adjustment factor" is not adopted, then, in the alternative, all of the dividend payments made by MAIT to the Companies and all of the Ground Lease payments should be considered "above the line" as part of distribution revenue in setting distribution base rates. Please respond to this recommendation.

A. I disagree. As I previously explained, there is no basis for adopting Ms. Gumby's "adjustment factor" and, therefore, rejecting that proposal certainly does not justify adopting Ms. Gumby's alternative recommendation. Additionally, as I also explained previously, Ms. Gumby's recommendation to move the dividend payments "above-the-line" would, in effect, reduce the Companies' distribution revenue requirement by FERC jurisdictional revenues received for transmission service provided by MAIT that is attributable to the transferred transmission assets (since that revenue stream is the source of the dividends to be paid to the Companies). If her recommendation were adopted, it would effectively deny Met-Ed and Penelec a return on and a return of their investment in MAIT that corresponds to their total existing investment in transmission assets, net of the resulting income tax effects. This would be the regulatory equivalent of using today's NITS revenue as an offset to distribution revenue requirement in a Pennsylvania

distribution base rate case. Such a recommendation is directly contrary to the principles applied in both the Companies' 2006 and 2014 base distribution rate cases – and many cases for other electric distribution companies – in which NITS revenue was determined to be non-jurisdictional and excluded from distribution revenue in setting distribution rates. This aspect of Ms. Gumby's alternative recommendation would confiscate the Companies' investment in assets that provide essential transmission service under FERC-determined rates. Obviously, such an outcome is clearly unreasonable and improper.

Ms. Gumby's recommendation to move Ground Lease payments "above-the-line" is also incorrect and unreasonable. As I previously explained, these payments are the same as FERC-jurisdictional revenue and are properly excluded from distribution revenue for Pennsylvania ratemaking purposes. The land and land rights that are the subject of the Ground Leases, which are recorded in FERC Accounts 350.11 to 350.22,[4] were excluded from the Companies' Pennsylvania distribution rate bases as non-jurisdictional in both their 2006 and 2014 distribution base rate cases. That treatment not only is consistent with established Commission ratemaking principles and practices, but also was not questioned by any intervenors. Therefore, the Ground Lease payments – the equivalent of the FERC transmission-related revenue requirement for the underlying land and land rights – also are not Pennsylvania jurisdictional revenues. Along those same lines, the transmission land and land rights to be covered by the Ground Leases are currently reflected in the FERC-jurisdictional revenue requirement recovered in the Companies'

[4] FERC's Uniform System of Accounts Prescribed for Public Utilities and Licensees ("Uniform System of Accounts"), which the Commission also requires electric distribution companies to adhere to (52 Pa. Code § 57.42(a)), provides that Account 350 "shall include the cost of land and land rights used in connection with transmission operations." 18 CFR Pt. 101, Account 350.

NITS revenues. All NITS rate revenue likewise was excluded from Pennsylvania distribution revenues in the Companies' prior distribution base rate cases, and that exclusion was not disputed by any party.

In short, moving the Ground Lease payments "above-the-line" as Ms. Gumby proposes would be the same as denying Met-Ed and Penelec a return on, and a return of, their investments in the land and land rights underlying the Ground Leases – land and land rights that are used to furnish essential transmission service. That result is confiscatory and should not be approved.

Q. Mr. Hahn also expressed a generalized, non-specific concern that transmission and distribution costs may not be allocated properly and claimed that it is "unclear if there is a mechanism to ensure" that such costs will be allocated correctly (OCA St. 1, p. 32, lines 15-22). Is there a mechanism to fully examine and evaluate costs to be reflected in the Companies' distribution rates?

A. Yes. No costs are recovered in distribution rates without those costs first being examined and approved in a distribution base rate case. Every element of the Companies' revenue requirements is subject to extensive review in base rate proceedings, as evidenced, for example, by the fact that, in their last base rate cases, the Companies responded to approximately 10,000 separate questions (i.e., including various subparts of interrogatories) served by multiple parties to the proceeding. In addition, the Companies previously filed the Service Company Agreement and the Mutual Assistance Agreement, including the specific allocation methodologies to be employed in each, which the Commission reviewed and approved. In fact, those agreements, as revised to reflect the

addition of MAIT, have also been filed for review and approval in this proceeding and all parties have had a full opportunity to review those agreements and their associated allocation methodologies.

Like Ms. Gumby, Mr. Hahn appears to believe that this proceeding should be used to short-circuit the careful review of revenue requirement in future base rate cases. The concerns he raises are exactly the kinds of issues that are – and should be – addressed in base rate cases where all the actual, relevant facts – not hypothetical future scenarios – are available to test and assess the Companies' claims.

D. Mr. Hahn's Proposal Regarding Rate Treatment Of Ground Lease Revenue

Q. What is Mr. Hahn's position regarding the treatment of Ground Lease revenue for Pennsylvania ratemaking purposes?

A. Mr. Hahn's position is found in the question and answer appearing at page 13, lines 5-9, of OCA Statement No. 1:

> **Q. How should Ground Lease payments from MAIT to the Operating Companies be reflected in future distribution rates?**
>
> A. As credits to the revenue requirement of the Operating Companies *in order to help show some customer benefits associated with the Transaction.* (Emphasis added.)

Mr. Hahn appears to recognize and acknowledge that the land and land rights underlying the Ground Leases are transmission property (OCA St. 1, p. 11, lines 18-24). He appears to also recognize that the transmission land and land rights should be included in the FERC-jurisdictional revenue requirement for provision of NITS. Based on the one sentence in his testimony, quoted above, that addresses how the Ground Lease revenue

should be treated for Pennsylvania distribution ratemaking purposes, it appears that Mr. Hahn wants to take the Ground Lease revenue away from the Companies and give it to distribution customers to create a "benefit" that, presumably, he believes could satisfy, in whole or in part, the "affirmative benefit" test for issuing a certificate of public convenience under the *City of York* standard.

Q. Is there any valid basis for Mr. Hahn's proposal?

A. No, there is not, for several reasons. First, for all the reasons set forth in the Joint Application and Direct and Supplemental Direct testimony submitted by the Joint Applicants, the Transaction will produce significant affirmative benefits that satisfy the standard for issuing a certificate of public convenience. There is no need or justification for requiring any additional "benefit" such as Mr. Hahn proposes in order to pass the *City of York* test.

Second, there is no basis to move the Ground Lease revenue "above-the-line" for Pennsylvania distribution ratemaking purposes for all the reasons I discussed previously. Doing so would be the equivalent of denying the Companies the right to obtain a return on and a return of their current investment in property used to furnish essential transmission service and, therefore, would be an unlawful confiscation of their property.

Third, the Commission should not impose indirectly, as a condition on the issuance of a certificate of public convenience, a requirement that it could not lawfully impose directly. Appropriating for the benefit of distribution customers FERC-jurisdictional revenues, as Mr. Hahn proposes, would produce that improper result. In effect, Mr. Hahn would hold the approval of the Joint Application hostage until the Joint Applicants agree to allow the

Companies' FERC-jurisdictional property rights to be confiscated. The Commission should not condone such a proposal. The amounts at issue are significant, representing an annual return on and a return of approximately $40 million in investment for the Companies on a combined basis.

Q. If the Commission were to include the Ground Lease revenue in the determination of the Companies' distribution revenue requirement, would any other adjustments have to be made to try to avoid the confiscation of the Companies' property?

A. The only possible way to avoid such confiscation would be to include all of the property recorded in FERC Account 350 – Transmission Land and Land Rights in the distribution rate bases of Met-Ed and Penelec to determine their distribution revenue requirements. In addition, the Commission would need to include depreciation expense associated with depreciable property in Account 350 as an allowed expense for distribution ratemaking purposes and include any operation and maintenance expenses associated with transmission land and land rights as allowable expenses in their distribution revenue requirement. I am not recommending that ratemaking treatment because it would essentially transfer the risk of recovering transmission-related costs and expenses to the Companies' distribution customers. Also, it is not the proper ratemaking treatment. Consistent with well-established Commission ratemaking principles and practices, transmission land and land rights should be excluded from the distribution rate base, costs associated with transmission land and land rights should be excluded in determining distribution revenue requirements, and all transmission-related revenues should be recorded "below-the-line" for Pennsylvania ratemaking purposes.

Q. You previously explained that Ground Lease payments are to be calculated in a manner that replicates the FERC-jurisdictional revenue requirement the underlying transmission land and land rights would produce if they were included directly in the calculation of MAIT's NITS rate. Mr. Hahn reviewed the formula for calculating the Ground Lease payments and contends that it is deficient because it appears to allow the recovery of "Book Depreciation Expense" on "land values" and, according to Mr. Hahn, "the Commission does not allow a return of [investment] in land" (OCA St. 1, p. 15, lines 28 to 31). Please respond to Mr. Hahn's contentions.

A. At the outset, Mr. Hahn does not indicate which "Commission" he is referring to (i.e., the PUC or FERC). Because the Ground Lease payments are designed to replicate FERC-jurisdictional revenue requirement, the "Commission" that is applicable to this discussion is the FERC. However, in this instance the PUC and the FERC apply the same principles, and they do not correspond to Mr. Hahn's flawed understanding of this matter.

It is correct that "land" is not a depreciable asset and, therefore, the Companies do not record depreciation expense on transmission "land" on their books of account or claim depreciation expense related to "land" for ratemaking purposes. However, the property subject to the Ground Leases consists of both "land" and "land rights." The "land rights" are interests in land that are less than a fee interest, are limited in duration, and are recorded in FERC Accounts 350.12 – Transmission Substation Easements and 350.22 – Transmission Line Easements.

The FERC's Uniform System of Accounts, which this Commission requires electric distribution companies to follow, states: "Provisions shall be made for amortizing amounts carried in the accounts for limited-term interests in land so as to apportion equitably the cost of each interest over the life thereof."[5] Consistent with the Uniform System of Accounts, this Commission has consistently approved the depreciation (or amortization) of land rights for accounting and ratemaking purposes, and the FERC has done so as well. Therefore it is entirely appropriate that the calculation of the Ground Lease payments include a provision for the amortization of the Companies' investment in easements and similar land rights.

E. FERC Jurisdictional Rate Issues

Q. Mr. Hahn contends that "it is almost certain that rates for transmission service will increase as a result of the transaction, even if no new investment is made" (OCA St. 1, p. 24, lines 6-9). Do you agree?

A. No, I do not agree. Mr. Hahn's flawed conclusion derives from his construction of two hypothetical scenarios that are based on erroneous assumptions. Neither scenario is correct, and neither supports his conclusion.

First, Mr. Hahn assumes that, if MAIT filed for a stated or formula rate, the FERC would grant MAIT a higher return on equity than it would grant the Companies if they filed for a new stated rate or formula rate, notwithstanding the fact that both MAIT and the

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[5] Uniform System of Accounts, Electric Plant Instruction, Section 7.H. – Land and Land Rights. Additionally, the description of Account 404 – Amortization Of Limited Term Electric Plant provides: "This account shall include amortization charges applicable to include in the electric plant accounts for . . . limited-term interests in land . . ."

Companies would be furnishing the same service using the same assets. He has not offered any support for that assumption, which is unreasonable on its face. There is no basis – and certainly no evidence – that the FERC would grant MAIT a return on equity different from the return on equity it would grant to the Companies to furnish the same service using the same assets. Rather, the far more reasonable view is that, for either MAIT or the Companies, the FERC would grant similar rates of return on equity consistent with the discounted cash flow methodology it approved for use in setting electric transmission rates in Opinion No. 531.[6] This methodology utilizes a largely formulaic calculation to establish a zone from which a return on equity is then selected. The process first requires the establishment of a proxy group of electric utilities that are in a comparable risk band. Then a discounted cash flow calculation is performed for each company in the proxy group, and the results are utilized to establish a return on equity range – or what is referred to as the zone of reasonableness. A just and reasonable return on equity is then selected from the zone of reasonableness. Exhibit CVF-4 shows the returns on equity that the FERC granted in Orders issued since Opinion No. 531 was adopted.

In Mr. Hahn's second hypothetical scenario, he purports to show that the cost of capital is higher if the equity ratio of MAIT is assumed to be 67% rather than 50%. While his math is correct, the example is based on an unsupported and contrived assumption about MAIT's future equity ratio and, therefore, Mr. Hahn's arithmetic exercise does not support his conclusion that MAIT would have higher FERC rates than the Companies for furnishing the same service using the same assets.

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[6] *Coakley v. Bangor Hydro-Elec. Co.*, Docket No. EL11-66-001, 147 FERC ¶ 61,234 (2014)

As explained in the Joint Application and accompanying testimony, MAIT has committed to use a capital structure of 50% debt and 50% equity for ratemaking at the FERC for the first two years after the Transaction. The Joint Applicants also explained that MAIT will fund new capital additions by issuing debt until its capital structure is within the range of FERC-approved capital structures:

> MAIT will issue debt that aligns to its capital spending and will continue to issue debt until its capital structure is within the range of FERC-approved capital structures. Once its capital structure is within such a range, MAIT will issue debt and FET will contribute equity as necessary to maintain MAIT's capital structure within that range.[7]

Mr. Hahn derived his hypothetical equity ratio of 67% figure by assuming – contrary to the testimony of Mr. Staub quoted above – that MAIT would fund all new additions with a combination of debt and equity. Mr. Hahn's assumption is wrong and, therefore, the conclusion he tried to derive from that erroneous assumption is also wrong. Consequently, Mr. Hahn's second hypothetical scenario also does not support his assertion that rates for transmission service will increase solely as a result of the Transaction.

Q. Mr. Hahn notes that MAIT intends to file for a formula rate (OCA St. 1, p. 32, lines 23-25) and opines that implementing a formula rate "will increase the cost of transmission service to Pennsylvania ratepayers" and "cause more frequent transmission rate increases" (OCA St. 1, p. 32, lines 23-25). Do you agree?

[7] Joint Applicants' St. 3S (Supplemental Direct Testimony of Steven R. Staub), p. 3, lines 15-18.

A. No. Mr. Hahn claims that the implementation of a formula rate will increase the cost of transmission service and cause more frequent transmission increases. However, as to each of those assertions he does not answer – or even consider – a very important question: "Compared to what?" In short, Mr. Hahn tries to set up a comparison with the status quo. Modernization of the transmission grid that would result from a $2.5 billion to $3.0 billion investment would increase transmission rates whether the Companies or MAIT were to elect a formula rate approach or a stated rate approach. Moreover, for the reasons I previously discussed, there is no valid basis to assume that the return on equity for MAIT will be higher than the Companies would be allowed, and there is no valid basis to contend that MAIT's equity ratio would exceed the range of reasonable equity ratios employed by FERC for ratemaking purposes. In summary, the comparison that Mr. Hahn implicitly tries to draw between the status quo and approval of the Transaction is incorrect. It is clear that MAIT's implementation of a formula rate will not drive either higher or more frequent transmission rates than would occur if the Transaction is not approved. In fact, by reducing the cost of the significant amount of debt that will be issued to fund future transmission plant additions, the Transaction will provide a substantial benefit to all customers, as explained in detail in the Joint Application and the Joint Applicants' Direct Testimony.

Q. Mr. Hahn has proposed various conditions that he asserts the Commission should impose if it were to approve the Transaction (OCA St. 1, p. 33, line 18 – p. 34, line 31.) One of Mr. Hahn's proposed conditions provides: "The formula rate to be developed by MAIT shall include the benefits of any ADIT, ITCs, or deferred taxes associated with the transferred assets" (OCA St. 1, p. 34, lines 19-20). Do you agree

with Mr. Hahn that such as a condition should be attached to the Commission's approval of the Transaction?

A. No. Mr. Hahn's proposed condition, in my opinion, is not necessary because the Joint Applicants have carefully designed the Transaction to preserve accumulated deferred income taxes ("ADIT") and assure that they will be transferred to MAIT for use in determining its future FERC-jurisdictional transmission revenue requirement, as explained in more detail by Mr. Taylor in Joint Applicants' Statement No. 4 (p. 12, line 16 – p. 13, line 18). Additionally, Mr. Hahn's proposed condition is vague and ambiguous and, as such, is fraught with the potential to be misconstrued.

Q. Mr. Hahn also proposes a condition that provides: "The OCA shall have the right to review in detail any transmission rate filing made by MAIT, and MAIT shall cooperate and assist the OCA in its review, as a condition of approval" (OCA St. 1, p. 34, lines 25-26). Do you agree?

A. No. The OCA clearly already has the right under Section 205 of the Federal Power Act to review and provide comment on any transmission rate filing made by MAIT at the FERC and, therefore, imposing the first half of the proposed condition simply acknowledges what OCA can do even without the proposed condition.

The second half of the proposed condition is more problematic. Initially, I want to emphasize that MAIT, like all FirstEnergy-affiliated regulated entities, will cooperate with the parties to a regulatory proceeding consistent with the conduct expected of an applicant or petitioner to any regulatory body. However, the language calling for MAIT to "cooperate *and assist*" creates an open-ended obligation with undefined duties and

responsibilities – some of which may be entirely inconsistent with MAIT's role as a party to litigation before the FERC, and also could be construed as a preference that is available to the OCA but not to the general public. Surely, MAIT should not be expected to provide expert analysis of its own filing for the benefit of the OCA – which would potentially be contrary to MAIT's own stated positions in its regulatory filings. Yet, the language of the condition is so broad that such an interpretation might not be ruled out. Therefore, I disagree that it would be appropriate for the Commission's approval of the Transaction be subject to a condition that MAIT "cooperate and assist" the OCA in future transmission rate filings initiated at the FERC – or in any other forum. In any event, the OCA should leave all formula rate issues for resolution in a future FERC proceeding, where these issues will be addressed in the context of an actual formula rate proposal.

Q. Mr. Hahn also proposes a condition that provides: "The formula rate to be developed by MAIT and the ROE to be requested shall be provided to the statutory advocates at least 60 days before filing at the FERC" (OCA St. 1, p. 34, lines 27 & 28). Is such a condition reasonable – or even feasible?

A. No, it is neither. First, speaking as someone who has prepared or participated in preparing many state and federal regulatory filings over the last 33 years, I can say with certainty that such filings are seldom – indeed, virtually never – completed 60 days or more in advance of being made. Filings generally are being substantively revised, supplemented and updated until the final 48 hours before they are submitted to regulatory authorities. For example, data used to determine the appropriate debt costs, return on equity and various test year expenses are, in many cases, not even known until within 60 days or 90 days prior to a filing being made. Therefore, it is unreasonable to assume that

MAIT would have a future filing completed and sitting on the shelf waiting to be docketed 60 days prior to the filing being made.

Most major regulatory proceedings are structured to provide all parties adequate time to review the filing, develop their positions, prepare their testimony (or other responsive submissions) and litigate the case. Those time frames can be set either by statute or administrative rulemaking based on an assessment of the time reasonably necessary for all parties to participate meaningfully in the subsequent proceeding. It has been my experience that the regulatory time frame generally established for the review of a FERC Section 205 filing – that is, the kind of filing Mr. Hahn appears to contemplate – provides all parties adequate time to review the filing and participate in the regulatory process. Therefore, while I understand that OCA would like to have additional time to review a future MAIT filing, I believe it is unnecessary because it is my experience that parties are able to vigorously represent their interests within the time provided. That said, I would also point out that it is the practice of FirstEnergy's Pennsylvania utilities and its utility subsidiaries in other jurisdictions to meet with the statutory advocates and major intervenors shortly before or just after a major filing and provide advocates and intervenors an overview of how the filing was put together and what it contains. Such a practice enables interested parties to further learn about the case and provides them an opportunity to ask questions and gain a further understanding at a time that is roughly contemporaneous with the regulatory filing being made. We plan to do the same for the OCA, as well as other Pennsylvania statutory advocates if they so desire, with respect to a future MAIT transmission rate filing.

III. CONCLUSION

Q. Does this conclude your Rebuttal Testimony?

A. Yes, it does, at this time.

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January 7, 2016

Mike Welsh
International Brotherhood of Electrical Workers
500 Cherrington Pkwy.
Suite 325
Coraopolis, PA 15108

RE: MAIT Filing – IBEW Local 459

Dear Mike,

Recently, you inquired about the recent filing with the Pennsylvania Public Utility Commission regarding the transfer of certain transmission lines and substations from Penelec to Mid-Atlantic Interstate Transmission ("MAIT) and the potential impact of this transaction on members of the IBEW Local 459 bargaining unit. Specifically, you asked if the work currently performed by these local bargaining unit members would remain with Local 459, should MAIT cease to be affiliated with FirstEnergy.

Currently, Local 459 bargaining unit members perform some work on the transmission lines and substations that would be transferred to MAIT should the Transaction be approved. In addition to Local 459 bargaining unit members, contractors have also historically performed work on these transmission assets. We do not intend the Transaction to have any detrimental impact on Local 459 bargaining unit members. If the Transaction is approved, these employees will continue to be employed by Penelec pursuant to the terms of the current collective bargaining agreement, and will continue to perform the same work on the transmission assets that they perform today.

To the extent that the Transmission Assets might later be sold or transferred to a non-FirstEnergy entity, or Penelec might later arrange for a third party to perform the work (neither of which is currently contemplated), Penelec will timely inform the acquiring/successor entity that they must abide by the obligations imposed on successors by the CBA or applicable law and/or the NLRB.

Let me know if there are any additional questions or if you need additional information.

Sincerely,

Charles P. Cookson
Executive Director, Labor Relations

FirstEnergy

76 S. Main Street
Akron, Ohio 44308

Charles P. Cookson
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January 7, 2016

Mike Welsh
International Brotherhood of Electrical Workers
500 Cherrington Pkwy.
Suite 325
Coraopolis, PA 15108

RE: MAIT Filing – IBEW Local 777

Dear Mike,

Recently, you inquired about the recent filing with the Pennsylvania Public Utility Commission regarding the transfer of certain transmission lines and substations from Met-Ed to Mid-Atlantic Interstate Transmission ("MAIT) and the potential impact of this transaction on members of the IBEW Local 777 bargaining unit. Specifically, you asked if the work currently performed by these local bargaining unit members would remain with Local 777, should MAIT cease to be affiliated with FirstEnergy.

Currently, Local 777 bargaining unit members perform some work on the transmission lines and substations that would be transferred to MAIT should the Transaction be approved. In addition to Local 777 bargaining unit members, contractors have also historically performed work on these transmission assets. We do not intend the Transaction to have any detrimental impact on Local 777 bargaining unit members. If the Transaction is approved, these employees will continue to be employed by Met-Ed pursuant to the terms of the current collective bargaining agreement, and will continue to perform the same work on the transmission assets that they perform today.

To the extent that the Transmission Assets might later be sold or transferred to a non-FirstEnergy entity, or Met-Ed might later arrange for a third party to perform the work (neither of which is currently contemplated), Met-Ed will timely inform the acquiring/successor entity that they must abide by the obligations imposed on successors by the CBA or applicable law and/or the NLRB.

Let me know if there are any additional questions or if you need additional information.

Sincerely,

Charles P. Cookson
Executive Director, Labor Relations

FirstEnergy

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July 31, 2015

Mr. Robert T. Whalen
President UWUA Local 102
1500 Broad St, Ste. 3
Greensburg, PA 15601

Re: MAIT Filing – UWUA Local 180

Dear Bob,

Recently, you inquired about the recent filing with the Pennsylvania Public Utility Commission regarding the transfer of certain transmission lines and substations from Penelec to Mid-Atlantic Interstate Transmission ("MAIT) and the potential impact of this transaction on members of the UWUA Local 180 bargaining unit. Specifically, you asked if the work currently performed by Local 180 bargaining unit members would remain with Local 180, should MAIT cease to be affiliated with FirstEnergy.

Currently, Local 180 bargaining unit members perform some work on the transmission lines and substations that would be transferred to MAIT should the Transaction be approved. In addition to Local 180 bargaining unit members, contractors have also historically performed work on these transmission assets. We do not intend the Transaction to have any detrimental impact on Local 180 bargaining unit members. If the Transaction is approved, these employees will continue to be employed by Penelec pursuant to the terms of the current collective bargaining agreement, and will continue to perform the same work on the transmission assets that they perform today.

To the extent that the Transmission Assets might later be sold or transferred to a non-FirstEnergy entity, or Penelec might later arrange for a third party to perform the work (neither of which is currently contemplated), Penelec will timely inform the acquiring/successor entity that they must abide by the obligations imposed on successors by the CBA or applicable law and/or the NLRB.

Let me know if there are any additional questions or if you need additional information.

Sincerely,

Charles P. Cookson
Executive Director
Labor Relations & Safety

Exhibit CVF-4

Utility	Approved ROE	Citation
Duke Energy Florida	10.0%	153 FERC ¶ 61,182 (2015)
Golden Spread Electric Coop.	10.0%	153 FERC ¶ 61,103 (2015)
ATSI	10.38%	153 FERC ¶ 61,106 (2015)
Niagara Mohawk	10.3%	151 FERC ¶ 61,121 (2015)
Duke Energy	10.88%	151 FERC ¶ 61,029 (2015)