

<i>Retired Coal Fired Units Since 1-1-2010</i>				
Generating Unit	Owner	Summer Rating (MW)	Retire Date	Age at Retire Date
Edwardsport Unit 7 (1949)	Duke	45	01-01-10	61
Edwardsport Unit 8 (1951)	Duke	75	01-01-10	59
Mitchell Unit 4 (1956)	NIPSCO	125	09-01-10	54
Mitchell Unit 5 (1959)	NIPSCO	125	09-01-10	51
Mitchell Unit 6 (1959)	NIPSCO	125	09-01-10	51
Mitchell Unit 11 (1970)	NIPSCO	110	09-01-10	40
State Line Unit 1 (1929)	Merchant	197	01-31-12	83
State Line Unit 2 (1929)	Merchant	318	01-31-12	83
Gallagher Unit 1 (1959)	Duke	140	01-31-12	53
Gallagher Unit 3 (1960)	Duke	140	01-31-12	52
Harding Street Unit 3 (1941)	IPL	35	07-01-13	72
Harding Street Unit 4 (1947)	IPL	35	07-01-13	66
Ratts Unit 2 (1970)	Hoosier	121	12-31-14	44
Ratts Unit 1 (1970)	Hoosier	42	03-10-15	45
Tanners Creek Unit 1 (1951)	I&M	145	06-01-15	64
Tanners Creek Unit 2 (1952)	I&M	142	06-01-15	63
Tanners Creek Unit 3 (1953)	I&M	195	06-01-15	62
Tanners Creek Unit 4 (1956)	I&M	500	06-01-15	59
Eagle Valley 3 (1951)	IPL	40	04-15-16	65
Eagle Valley 4 (1953)	IPL	55	04-15-16	63
Eagle Valley 5 (1955)	IPL	61	04-15-16	61
Eagle Valley 6 (1956)	IPL	100	04-15-16	60
Wabash River Unit 2 (1953)	Duke	85	04-15-16	63
Wabash River Unit 3 (1954)	Duke	85	04-15-16	62
Wabash River Unit 4 (1955)	Duke	85	04-15-16	61
Wabash River Unit 5 (1956)	Duke	95	04-15-16	60
Wabash River Unit 6 (1958)	Duke	318	04-15-16	48
Bailly Unit 7 (1962)	NIPSCO	160	05-31-18	56
Bailly Unit 8 (1968)	NIPSCO	320	05-31-18	50
Petersburg Unit 1 (1967)	IPL	220	01-01-21	54
Gallagher Unit 2 (1958)	Duke	140	06-01-21	62
Gallagher Unit 4 (1961)	Duke	140	06-01-21	59

CONCLUSION

Q. IN YOUR OPINION, IS CEI SOUTH'S PROPOSAL "JUST AND REASONABLE"?

A. No. It is foundational to the Commission's regulations that "[t]he charges made by any public utility for any service rendered or to be rendered either directly or in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful.³⁸ The concept of "prudence" is directly related to the concept of what is just and reasonable. For ratemaking purposes, the Commission

³⁸ Ind. Code § 8-1-2-4.

1 has the authority to disallow any costs it finds imprudent or excessive. At the same time,
2 CEI South has an obligation to prudently evaluate the retirement of its assets. In places like
3 Indiana, where there is no formal IRP approval process, it is critical that the possibility that
4 CEI South did not adequately manage its retirement decisions not be permanently borne
5 by its retail customers through the securitization process.

6 **Q. WHAT DO YOU RECOMMEND?**

7 A. The securitization mechanism is intended to protect consumers, which is evident by the
8 legislature's inclusion of a "just and reasonable" determination before the Commission can
9 approve such a proposal. However, if the approach being taken by CEI South is allowed,
10 securitization can be utilized as a mechanism to bypass a more formal prudence review of
11 asset retirements. In circumstances where asset retirements are elected to by a utility
12 company solely by its own discretion, whether or not an environmental regulatory pretext
13 is cited, it is especially important that the Commission scrutinize these decisions closely,
14 as the resulting impact of approving such measures can impact grid reliability and result in
15 even more cost to consumers during an especially challenging economic time. As explained
16 in my testimony, we are currently seeing too many retirements in too small of a window of
17 time, which means that assets will be retired, limiting supply to the grid before the supply
18 can be replaced by new generation sources. Given the potential to erode grid reliability in
19 this way, it is critical that the Commission conduct a prudence review before approving a
20 utility's retirement of assets.

21 Securitization is not a bad thing. In fact, there are certain circumstances,
22 particularly extreme situations, where it can result in a benefit for both the utility and the
23 consumer. However, it should only be utilized when it is absolutely necessary. 'As part of

1 the Commission's evaluation of whether the proposal is just and reasonable, it is especially
2 important to thoroughly assess the consequences of the proposal, given that there is no
3 prudence review process otherwise required in any other resource planning context.
4 Ultimately, CEI South's securitization proposal does not produce clear benefits to
5 customers through lower rates; it creates consequences that diminish the reliability and
6 resilience of the electric grid; it is riddled with uncertainty given the current and anticipated
7 unfavorable conditions in the financial and energy markets; and, if approved, it is
8 irreversible and nonbypassable.

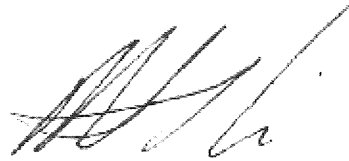
9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 **A.** Yes.

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VERIFICATION

I, Michael J. Nasi, affirm under penalties for perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'MJ Nasi', written over a horizontal line.

Date: August 3, 2022

Michael J. Nasi

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Partner, Austin

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Biography

Mike Nasi is a partner with Jackson Walker, where he practices environmental and energy law. Mike has been practicing before state and federal environmental and energy agencies and appellate courts for 28 years.

Mike's compliance counseling, permitting, and enforcement defense work spans the following federal (and related state) programs: Clean Air Act, Clean Water Act, Solid Waste Disposal Act, Endangered Species Act, National Environmental Policy Act, and Federal Power Act. Mike is often asked to play a strategic planning role on behalf of his clients in the midst of large, complex project developments and energy market reform efforts.

Mike is counsel for parties in ongoing EPA regulatory proceedings relating to carbon dioxide, interstate air quality, regional haze, and coal combustion residuals, including appeals pending before the United States Courts of Appeals for the Fifth, Eighth, Tenth, and D.C. Circuits, as well as the Supreme Court of the United States. Mike helps coordinate multi-state outreach efforts regarding these and other regulations impacting the electric power and mining sectors.

Mike is an expert witness and invited speaker & lecturer at hearings, energy policy events, classrooms across the country, including at proceedings held by state and federal governments and the United Nations. Mr. Nasi is published in several trade, law, and business journals on environmental and energy law. He serves in an advisory capacity for the Wyoming Energy Agency, the University of North Dakota's Energy & Environmental Research Center (EERC) Foundation Board, the Southern States Energy Board, the Energy Council, the University of Houston Center for Carbon Management in Energy (CCME), and the National Rural Electric Cooperative Association's Environmental Policy Council due to the significant work he does in the rural electric power sector.

Mike is a past Chairman of the State Bar of Texas Environmental and Natural Resources Law Section and served on the faculty for Rice University's "Leadership & Decision Making in the Energy Industry" course and as a guest lecturer in the "Energy Law & Policy" course at the University of Texas Law School.

Practice Experience

Mike secures air, water, and waste environmental permits for and is active in state and federal policy development on behalf of the electric power



Practice Areas

- Government Relations & Public Policy
- Energy
- Trial & Appellate Litigation
- Environment & Natural Resources

Experience

- Administrative and Regulatory
- Air Quality
- Climate Change & Carbon Management
- Conservation & Endangered Species
- Electric Power
- Energy Regulation & Governmental Affairs
- Environmental Energy
- Environmental Compliance & Enforcement
- Government Affairs
- Mining & Reclamation

Education

B.A., University of Texas at Austin

J.D., University of Houston Law Center

Bar Admissions

Texas, 1994

generation, mining, steel manufacturing, recycling, and other energy and infrastructure clients. Among his many areas of environmental regulatory experience are the following:

- Federal Power Act & State Public Utility Acts
- State and Regional Electric Power Market Rules & Protocols
- Carbon Trading and Carbon Capture, Utilization, and Storage (CCUS)
- State and Federal Clean Air Act issues, including Preconstruction and Operating Permits
- Clean Water Act (CWA) permitting, including NPDES discharge permits and water quality standards development
- Underground Injection Control (UIC) Well Permitting.
- Endangered Species Act Issues, including incidental take permitting
- State & Federal Solid Waste Disposal Act Permitting & Remediation, including Coal Combustion Residuals (CCRs)
- State and Federal Environmental Enforcement
- Environmental Audits
- Brownfields Redevelopment, including risk-based remediation

Mike is counsel for rural electric cooperatives, mining companies, and other electric generation interests in ongoing EPA proceedings and appeals pending before several Federal Circuit Courts of Appeals, including the D.C. Circuit Court of Appeals and the Supreme Court of the United States. This has included several recent successes relating to the Mercury & Air Toxics Standards (MATS), Regional Haze, the Cross State Air Pollution Rule (CSAPR), and EPA's "Clean Power Plan."

Mike is consistently recognized on several "Who's Who" and "Best Lawyer" lists and, as a result of his involvement in the creation of several hundreds of millions of financial incentives for carbon capture and utilization (CCUS), Mike was named to the National Law Journal's inaugural list of 50 Energy & Environmental Trailblazers.

Recognition & Accolades

- *Chambers USA: America's Leading Lawyers for Business*
 - Ranked for Environment - Texas, 2003-2006, 2011-2022
- *The Best Lawyers in America* (Woodward/White Inc.), 2006-2022
 - Lawyer of the Year - Austin, Environmental Law, 2021
 - Energy Law, 2006-2022
 - Energy Regulatory Law, 2006-2022
 - Environmental Law, 2006-2022
 - Mining Law, 2021-2022
- *Lawdragon* 500 Leading Environmental & Energy Lawyers – Environment & Energy, 2021
- *Who's Who Legal: Texas*, Environment, 2016, 2019
- Energy & Environmental Trailblazer, *National Law Journal*, 2015
- Featured in the *National Law Journal*, 2015
- Who's Who in Energy, *Austin Business Journal*, 2013
- Top 10 Environmental Attorneys in America Under 40, Environmental Law 360, 2010
- Who's Who Texas - Environmental Law
- "Super Lawyer," *Super Lawyers* (Thomson Reuters), 2012-2020
- "Rising Star," *Super Lawyers* (Thomson Reuters), 2005, 2010

Recent Speeches

Speeches

- “Carbon Capture Utilization & Storage – Technology essential for an equitable energy path forward,” Presented at the United Nations (August 2022)
- “The EPA Transport Rule,” Joint Annual Briefing to Southern Legislative Leaders and Committee on Carbon Management Meeting (July 2022)
- “Potential Grid Reliability Impacts of the EPA Ozone Transport Rule Federal Implementation Plan,” The Energy Council’s 2022 State and Provincial Trends in Energy and the Environment Conference (June 2022)
- “Advancing Innovation with CCUS Hubs: A Case Study of Houston, Texas,” U.S. Department of Energy-NARUC Coal Modernization and Carbon Management Partnership (April 2022)
- “CCUS Policy and Policymaking,” RECS 2021 (December 2021)
- Keynote Speaker, “The Texas Blackout and Building Reliable Energy Systems,” NEI International Uranium Fuel Seminar (November 2021)
- “Legislative Response to Winter Storm Uri,” University of Texas School of Law Gas and Power Institute (October 2021)
- “Update on State Government Responses to ESG,” Jackson Walker’s Covering All Aspects of ESG webinar (October 2021)
- “Texas Electricity Market Reforms Update,” National Coal Transportation Association Conference (September 2021)
- “Legislative Scorecard: What Was Enacted and What Work Remains,” The Texas Energy System at the Crossroads: Lessons in the Wake of Major Storms (July 2021)
- “ESG and the Near Term Impact to the Energy Industry,” Jackson Walker and Echo Production Webinar (June 2021)
- Keynote Speaker, “How CCUS Will Be an Essential Component of Maintaining Power Market Reliability as Decarbonization Efforts Pursue Accelerated Integration of Intermittent Wind and Solar Plants,” Midland CO2 Conference (December 2020)
- “Environmental Challenges and Impacts on Energy Infrastructure,” UT Law CLE’s Hot Topics in Gas and Power webcast (December 2020)
- “Financial Incentives and Investment Efforts,” WIEB + NARUC Carbon Capture, Utilization & Storage Workshop Series (September 2020)
- “Recent Developments in the Oil, Gas, and Power Sectors,” The Energy Council’s Executive Committee and CLEER Board of Directors Meeting (September 2020)
- “Clean Air Act Overview,” EUCI’s Environmental Law & Litigation 101 for Electric Utilities Course (September 2020)
- Speaker, 2020 Rocky Mountain Coal Mining Institute (RMCMI) Annual Conference Rocky Mountain Coal Mining Institute (August 2020)
- “States’ Response to ACE,” The Energy Council’s 2020 Federal Energy and Environmental Matters Conference (March 2020)
- “Coal Ash Storage and Disposal: Liability Issues for Utilities, Recent State Legislation,” Strafford CLE Webinar (August 2019)
- “The Affordable Clean Energy (ACE) Rule,” The Federalist Society Teleforum (August 2019)

- "Energy Market & Regulatory Overview," Wyoming Infrastructure Authority Spring Energy Conference (March 2019)
- "Federal Coal Policy and Regulation," The Energy Council's Federal Energy & Environmental Matters Conference (March 2018)
- "New Sheriff in Town - Regulatory Forecast," TexasBarCLE 35th Annual Advanced Oil, Gas and Energy Resources Course (September 2017)
- "Energy Under Trump: Impacts of the 2017 Election," State Bar of Texas Public Utility Law Section Annual Meeting and Seminar (August 2017)
- "A Whole New World: CCR Regulation in the Wake of New Legislation from Congress and a New President," EUCI Coal Combustion Residuals Conference (March 2017)

In the News

- "Oil and gas cleanups are on Biden's agenda. Will Texas embrace it?" *Texas Tribune* (February 2021)
- "Texas' move to control coal ash pollution could shield industry from tougher rules under Biden-led EPA," *The Texas Tribune* (December 2020)
- "Daily on Energy, Presented by Citizens for Responsible Energy Solutions: Fossil-Heavy States Try to Get Ahead of Biden and SCOTUS With Power Plant Carbon Plans," *Washington Examiner* (October 2020)
- "Trump plan to prop up coal industry could have little impact in Texas," *Austin American-Statesman* (August 2018)
- "US fossil fuels target global energy poverty, climate change in new PR push," *S&P Global Platts* (August 2018)
- "The Uncertain Fate of the Clean Power Plan and the Future of Electricity in Texas," *Texas Monthly* (March 2017)

Community Involvement

Professional

- State Bar of Texas - Environmental and Natural Resources Law Section, Past Chairman
- TCEQ Pollution Control Property Tax Exemption Advisory Committee, Appointed Member
- H2O for Texas, Secretary
- Travis County Bar Association
- Austin Bar Association
- American Bar Association Section of Environment, Energy and Resources

Civic

- The Salvation Army - Central Texas Advisory Board, Chairman
- West Austin Youth Association, Board Member
- Sustainable Biodiesel Alliance, Board Member
- Lone Star Clean Fuels Alliance, Board Member