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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities Pursuant to Sections 4928.14, 4928.17, and 4905.31, Revised Code, as Amended by Amended Substitute Senate Bill No. 221.	)	Case No. 08-777-EL-ORD

REPLY COMMENTS OF NUCOR STEEL MARION, INC.

In accordance with the Entry issued on July 2, 2008 by the Public Utilities Commission of Ohio (the "Commission") in the above-captioned proceeding, Nucor Steel Marion, Inc. ("Nucor") submits these reply comments in response to comments filed by various parties on the Commission Staff's proposed rules to implement Amended Senate Bill No. 221 ("SB 221").

On July 22, 2008, numerous parties representing all the major stakeholder groups in Ohio filed comments in response to Staff's proposed rules. In these reply comments, Nucor responds to some of the observations and suggestions made by other parties in their comments. While Nucor believes that some of the changes proposed by other parties would improve the rules and provide greater clarity, some of the other proposed changes are inconsistent with the intent of SB 221. It should be recognized that the intent of SB 221 was to endow the Commission with more – not less – control over the process of moving to competitive markets than was provided for under the regulatory framework of Senate Bill No. 3. Some parties miss this point by advancing an overly restrictive interpretation of the statute. The overriding theme of Nucor's reply comments, therefore, is that the Commission's authority under SB 221 should be interpreted *broadly*.

In section I of these reply comments, Nucor will briefly discuss three over-arching issues that were touched on by several parties through their proposed changes to various sections of the rules. These issues are: (i) the scope of the Commission's authority and discretion under SB 221; (ii) the proper burden of proof to be applied by the Commission in considering whether to approve utility standard service offer ("SSO") proposals; and (iii) the importance of economic development in SB 221's overall statutory scheme. In section II, Nucor provides comments on changes proposed by various parties to specific rules.

I. GENERAL COMMENTS

A. The Commission Has Broad Discretion to Develop Rules to Implement the Requirements of SB 221.

In critiquing Staff's proposed rules, several parties advance an unworkably restrictive view of the Commission's authority under SB 221. For example, in its comments on the proposed market-rate offer ("MRO") rules contained in Appendix A, Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively "FirstEnergy") maintains that the Commission's rules "create additional provisions or give the Commission any greater latitude than the express words in R.C. 4928.142(B)" and explains that its proposed changes "focus on the need to repeat the statutory language and thereby match the intent of the Ohio legislature." FirstEnergy Comments at 16.

SB 221 gives the Commission broad discretion to implement the provisions of the statute in a manner the Commission believes best accomplishes the policy objectives of the statute. The statute outlines the broad parameters of the state's policies, and establishes certain threshold requirements, but it leaves the tasks of filling in the details and developing additional rules and criteria as necessary to the Commission. For example, section 4928.142(B)(2) establishes three requirements that must be met for approval of a utility's proposed competitive bidding process ("CBP") – that the utility or its transmission service affiliate belong to a regional transmission organization ("RTO") approved by the Federal Energy Regulatory Commission, that the RTO have a market monitor that has the ability to identify and mitigate market power, and that there be a publicly-available source of pricing information for energy products.

All of the major utilities in Ohio are able to meet these basic requirements. The General Assembly must have contemplated that the Commission would develop further rules and criteria in addition to those specified in the statute. In fact, section 4928.142(A)(2) provides that the Commission "shall modify rules, or adopt new rules as necessary, concerning the conduct of the competitive bidding process and the qualifications of bidders, which rules shall foster supplier participation in the bidding process." The Commission's ability to broadly review each utility's proposals and require just and reasonable corrections and improvements is critical to ensure that customers are protected as the legislature intended and that there is transparency and sunshine on each proposal and its impact on Ohio.

In summary, the Commission should reject arguments that the rules should simply parrot the language of the statute, or that the Commission cannot use a term in a rule unless that exact same term is used in the statute. The Commission has broad discretion to implement the requirements of SB 221, and the Commission will not be successful in implementing the statute by simply restating it word for word.

B. It is Appropriate for the Commission to Apply the Just and Reasonable Standard in Considering the Rates Proposed Under a Utility's SSO and for the Utility to Have to Demonstrate that its SSO Achieves the State's Energy Policy Objectives.

Reading the comments of some parties in this rulemaking proceeding, one could easily conclude that SB 221 sounded the death knell for the use of the just and reasonable standard in evaluating a utility's SSO rates. For example, Columbus Southern Power Company and Ohio Power Company (collectively, "AEP Ohio") objects to proposed rule 4901:1-35-06(A), which provides that at the hearing addressing a utility's SSO proposal, "the burden of proof to show that the proposals in the application are just and reasonable and achieve the policy of the state as delineated in divisions (A) to (N) of section 4928.02 of the Revised Code shall be upon the utility." AEP Ohio insists that SB 221 does not impose a just and reasonable standard for either an MRO or an electric security plan ("ESP"), and therefore the standard should not be used by the Commission in evaluating rates under SSO proposals. AEP Ohio Comments at 6. AEP Ohio also maintains that it is impossible for a utility to show that an SSO will achieve all of the state's policy goals delineated in section 4928.02 of the Revised Code. *Id.* at 5-6.

According to AEP Ohio, the only standard the Commission should apply in evaluating an ESP proposal is that the proposal be "more favorable in the aggregate" than an MRO. *Id.* at 6. For an MRO, AEP Ohio states that the only standard that should apply is the "well-defined market tests and competitive bidding criteria" specified in sections 4928.142(A)(1) and (C)(1) of the statute. *Id.* at 6-7. FirstEnergy echoes AEP Ohio on these points. *See* FirstEnergy Comments at 11-12.

What AEP Ohio and FirstEnergy seek, in effect, is an approval process for SSO proposals bereft of any meaningful form of Commission review – according to them, an ESP *must* be approved simply if it is better in the aggregate than an MRO, and an MRO *must* be approved if it meets the handful of criteria specified in the statute. It clearly could not have been the intent of the General Assembly to totally relegate the Commission to the sidelines in this manner, since a key goal of SB 221 was to give the Commission more control over the movement of utilities into full competition.

As discussed above, SB 221 provides broad parameters and threshold criteria that must be met by an SSO proposal, but it does not provide an exhaustive list of requirements. Rather, the details are left to be filled in by the Commission. Accordingly, it is unreasonable to maintain that the statutory provisions cited by AEP Ohio and FirstEnergy constitute the complete standard of review for evaluating SSO proposals. The cited statutory sections provide threshold criteria that must be met, but they do not establish the complete standard of review. Duke Energy Ohio ("DE-Ohio"), in fact, advocates the use of the just and reasonable standard in evaluating SSO proposals. DE-Ohio Comments at 10. Although Nucor disagrees with DE-Ohio that the just and reasonable standard should be used in place of "strict adherence" to the policy objectives contained in section 4928.02(A) of the Revised Code, it is noteworthy that DE-Ohio does not share the view of AEP Ohio and FirstEnergy that the Commission has no authority to apply the just and reasonable standard.

It is perfectly reasonable and well within the discretion of the Commission under the statute, therefore, for the Commission to establish a just and reasonable standard of review for evaluating SSO proposals. In fact, the requirement that rates resulting from an

SSO must be just and reasonable is reflected in section 4928.02(A) of the Revised Code, which provides that it is the policy of the state to "[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service." That this requirement is listed first among the fourteen policy objectives delineated in section 4928.02 demonstrates the great importance to the General Assembly of ensuring "reasonably priced" electric service to consumers. If the Commission were not permitted to evaluate the utility's proposals and require them to be just and reasonable, how would the Commission satisfy this first-listed state policy objective? Indeed, without a requirement for a "just and reasonable" review, the utility is effectively arguing that the new legislation has created the unreasonable situation where the utility can pretty much file what it wants and the interested stakeholders and Commission would have virtually no opportunity to fully review and understand the utility's proposal and its likely effects, much less provide input to improve it. That could not have been the legislative intent.

Finally, the Commission should reject the suggestion of AEP Ohio, FirstEnergy, and DE-Ohio that utilities should have no responsibility to demonstrate that their SSOs achieve the policy objectives contained in section 4928.02 of the Revised Code. These parties suggest that this requirement be removed from section 4901:1-35-06(A), Appendix A, section (B)(14), and Appendix A, section (H). In Nucor's view, the just and reasonable standard goes hand in hand with the policy objectives contained in section 4928.02, so the just and reasonable standard should not *replace* the requirement that utilities demonstrate adherence to the policy objectives, as DE-Ohio suggests. While some of the policy objectives reflect immediate requirements while others reflect long-term goals, the objectives are not in direct conflict with one another.

The Commission did not take a radical position, or a position inconsistent with SB 221, by requiring in the proposed rules that a utility demonstrate that its SSO proposal is just and reasonable and will achieve the state's energy policy objectives. On the contrary, these are established, proven and time-tested concepts that should continue to be applied under SB 221's regulatory regime.

C. The Rules Should Reflect the Importance of Economic Development.

Upon the passage of SB 221 by the Ohio House, Governor Strickland issued a press release praising the bill, stating that it "protects our ability to keep and create jobs in Ohio by maintaining stable, predictable and affordable electric rates." Governor Strickland's statement recognized that economic development considerations were a driving force behind SB 221. Indeed, the effort to develop the legislation that ultimately became SB 221 was initially spurred by an energy plan by Governor Strickland issued last year entitled "Energy, Jobs and Progress for Ohio."

The Commission's rules should reflect the importance of economic development in the larger scheme established under SB 221. Nucor believes that, in general, proposed chapter 4901:1-38 on "special arrangements" advances the economic development goals of SB 221 without exceeding the scope of the Commission's authority under the statute. Several parties, however, have suggested that the Commission's authority to approve special arrangements should be significantly restricted. For example, DE-Ohio and the Ohio Consumer and Environmental Advocates ("OCEA") maintain that special arrangements should only be available to customers of utilities with ESPs. DE-Ohio

Comments at 6; OCEA comments at 15. OCEA also argues that rule 4901:1-38-05 on "unique arrangements" should be eliminated in its entirety, because it is a "catch-all that opens the door for wheeling and dealing and anticompetitive rates." OCEA comments at 94.

The Commission should reject these arguments because they unnecessarily restrict the Commission's efforts to advance the economic development goals of SB 221. There is no requirement in SB 221 that a utility must have an ESP in order to enter into a special arrangement with a customer, and most parties that commented on this issue agreed that there should be flexibility to establish a special arrangement regardless of whether the utility has an ESP or an MRO. *See, e.g.*, FirstEnergy Comments at 5; Dayton Power and Light Company ("DPL") Comments at 18; AEP Ohio Comments at 23; Ohio Energy Group Comments at 14. Further, customers whose only choice of generation supply is the utility's MRO or an alternative supplier may be most in need of a special arrangement.

OCEA's proposal to eliminate rule 4901:1-38-05 in its entirety would also hinder the Commission's economic development efforts. This rule is intended to give the Commission flexibility to consider special arrangements that, for whatever reason, do not meet all the requirements of either an economic development contract or an energy efficiency contract. Take for example a project that provides both economic development and energy efficiency benefits, but does not meet all the criteria for either type of special arrangement. It makes no sense to arbitrarily refuse to properly consider and evaluate a special arrangement for this type of project solely because the project does not neatly fit into a particular category.

In arguing the elimination of rule 4901:1-38-05, OCEA maintains that if there are circumstances besides economic development and energy efficiency that justify a special arrangement, the Commission should outline these circumstances in the rules. OCEA Comments at 98. The point of the "unique arrangements" rule, however, is that the Commission does not know, nor can it anticipate, all circumstances which might justify a special arrangement. The rule gives the Commission the appropriate flexibility to consider these types of special arrangements on a case by case basis.

In summary, economic development is a key goal of SB 221, and the Commission has recognized this in its proposed rules, especially Chapter 4901:1-38 on special arrangements. The Commission should retain as much flexibility as allowed under the statute in considering such arrangements.

II. ADDITIONAL COMMENTS ON SPECIFIC PROPOSED RULES

4901:1-35-03(C) – Several of the utilities express concern because this rule states that if the Commission determines that an SSO application is not in substantive compliance with this rule, the application "shall be refiled at the direction of the Commission." These utilities also complain that the rule says the Commission "shall endeavor" to make a determination on an application that substantively conforms to the requirements of the rule within 150 days of the filing of such complete application. The utilities propose a number of modifications to this rule. They propose that a utility be given the opportunity to supplement its application if it is found to not be in compliance with the rules rather than having to refile the entire application. They point out that the Commission must rule on an SSO proposal within 90 days for an MRO and 150 days for an ESP. And they maintain that the 150 days should run from the time the initial application is filed, rather than from the date when the application is in substantive conformance with the rules. FirstEnergy Comments at 7-9; AEP Comments at 3-4; DE-Ohio Comments at 7-9.

Nucor is concerned that the result of these changes, if adopted by the Commission, could be to force the Commission into making rushed decisions on initial SSO applications. Regarding the refiling requirement, the Commission absolutely should have the authority to direct a utility to refile its entire SSO application. It is noteworthy that the language of which the utilities complain provides that an application shall be refiled *at the direction of the Commission.* This language clearly gives the Commission the discretion to require that an application be refiled, or to require the applicant take other appropriate steps (such as filing an update or an amendment to a certain part of the application) to come into compliance with the rules. While the Commission should retain this discretion, it is important that the Commission also retain the ability to require the refiling of the entire application, if the Commission believes that refiling is appropriate. This is especially true where, as here, the rules have not been finalized prior to the filing of the utilities' SSO proposals.

The utilities over-emphasize the need for the Commission to render a ruling on an SSO proposal within 150 days of filing. There is no doubt that the Commission, the utilities, and all stakeholders will be under pressure to ensure that SSO proceedings are conducted and completed expeditiously. However, notwithstanding the 150 day requirement in the statute, the statute is clear that an SSO proposal does not need to be *approved* within 150 days. In fact, section 4928.141(A) of the statute provides that "the rate plan of an electric distribution utility shall continue for the purpose of the utility's compliance with this division until a standard service offer is first authorized under section 4928.142 or 4928.143 of the Revised Code." Therefore if, after 150 days, the Commission determines that the SSO proposal is incomplete, will not produce just and reasonable rates, or is not in conformance with the rules in any other way, the Commission may reject the SSO proposal and the existing rate plan will bridge the gap until a new SSO proposal is approved and in place.

Further, section 4928.144 of the Revised Code provides that the Commission "may authorize any just and reasonable phase-in of any electric distribution utility rate" under an ESP or an MRO (regardless of whether the MRO applicant does or does not own generation). If the Commission has the authority to phase in the ESP or MRO, the

Commission surely retains the authority to delay the implementation of an SSO proposal if it determines such a delay is necessary.

In conclusion, the Commission should reject the utilities' proposed changes to this section. The requirements contained in the proposed rule are consistent with the statute and will help ensure that a careful, deliberative process is conducted with respect to each SSO proposal filed.

<u>4901:1-35-08(B)(1)</u> – FirstEnergy argues that the requirement that the third party identify items that "could have" adversely affected the outcome of the bid process should be replaced with a requirement that it identify items that "did in fact" adversely affect the outcome. FirstEnergy Comments at 13-14. The Commission should reject this proposal. It is possible that the independent third party might suspect that something adversely affected the outcome without knowing for sure that it "did in fact" adversely affect the outcome. The Commission should have the benefit of the observations and opinions of the independent third party, who presumably will have expertise on bidding processes and energy markets, even if the independent third party cannot dispositively prove with 100% certainty that an item adversely affected the outcome of the bid process.

<u>Appendix A, Section (A)(2)</u> – FirstEnergy complains that this rule describes the role of the RTO market monitor in broader terms than are provided in the statute, and specifically objects to the requirement that the market monitor "identify any potential" for market power, and specific mention of energy, capacity, ancillary service and bilateral markets. FirstEnergy Comments at 16-17. It is perfectly reasonable to require that the market monitor identify potential for market power, and energy, capacity, ancillary service and bilateral markets. In fact, a quick review of the annual market monitor

reports filed by the market monitors for PJM and Midwest ISO shows that these market monitors already perform these functions. Further, the effectiveness of a market monitor would be significantly reduced if the market monitor were permitted to monitor only actual occurrences of market power and not "potential" market power. Accordingly, the Commission should reject FirstEnergy's proposed changes to this section.

Appendix A, Section (B)(2) – FirstEnergy objects to the requirement that a utility provide pro forma financial projections of the effect of the CBP plan not only on the utility but on its affiliates as well. FirstEnergy Comments at 18-19. FirstEnergy argues that this goes beyond the statutory requirement, and is directly contrary to the language in SB 221 prohibiting the Commission from considering the earnings of an affiliate or parent in applying the excessive earnings test for ESPs. *Id.* FirstEnergy asserts that the legislature did not intend for the Commission to consider affiliate financials in competitive solicitations under MROs, but not consider such affiliate financials in the context of ESPs. *Id.* at 19.

Contrary to FirstEnergy's argument, the fact that the Commission is specifically and expressly barred from considering affiliate financials in the case of an ESP, but is not so barred under the statute in the case of an MRO, demonstrates that the legislature clearly intended to permit the Commission to consider affiliate financials in the context of an MRO. In fact, there are good reasons to consider affiliate financials in the case of an MRO (where the utility's affiliates presumably will be bidding to provide generation service, and will almost certainly be serving the majority of the load) and the ESP (in which case the utility still owns generation that will be subject to Commission regulation). Consistent with the design of the statute, therefore, the Commission should reject FirstEnergy's proposed change to this section.

Appendix A, Section (B)(2) and (3) – FirstEnergy insists that utilities with an MRO and that do not own generation should not be required to submit pro forma financial projections of the effect of the CBP on generation, transmission, and distribution of the electric utility or its affiliates during the duration of the CBP plan because the prices resulting from the winning bids will be passed through customers on a dollar for dollar basis, so that generation revenues will always equal expenses. FirstEnergy Comments at 19. The Commission should reject this proposal because this information is useful to the Commission in determining whether a utility's CBP plan will result in just and reasonable rates.

4901:1-36-03(C) – FirstEnergy states that the Commission should not be allowed to conduct a prudence review of costs passed through the transmission cost recovery rider because the vast majority of costs to be recovered are the result of providing service in an RTO and are outside the control of the utility. FirstEnergy Comments at 26. While this may be the case, the Commission should not unduly limit itself by prohibiting a prudence review if circumstances warrant.

4901:1-38-01(F) – FirstEnergy states that "energy efficiency production facilities" are not addressed in SB 221 and should be deleted from the rules. FirstEnergy Comments at 28. These types of facilities should be treated under the criteria for unique arrangements, according to FirstEnergy. *Id.* Even though the term "energy efficiency production facility" is not specifically included in the statute, having a separate section of the chapter on special arrangements to address energy efficiency production facilities is appropriate and consistent with section 4928.66 of the Revised Code, which addresses the energy efficiency and demand response requirements of utilities. Although the revisions Nucor has proposed would make this proposed rule more effective (*see* Nucor Comments at 13), Nucor recommends that the Commission retain a specific section for energy efficiency production facilities in chapter 4901:1-38.

4901:1-38-03 through 4901:1-38-05 – The Alliance for Real Energy Options (the "Alliance") asserts that competitive retail electric service ("CRES") providers and governmental aggregation programs should have the opportunity to supply the generation service for an economic development, energy efficiency, or "unique arrangement" contract whether the utility has an ESP or an MRO. Alliance Comments at 30-31. If the generation is being supplied by a utility under either an ESP or an MRO, the applicant should have to explain what steps were taken to find a lower cost of generation. *Id.* at 31. At minimum, according to the Alliance, CRES providers should have the opportunity to offer lower cost power than available under the ESP or the MRO once the contract application has been filed with the Commission. *Id.*

Nucor generally supports the Alliance's proposal. Although in Nucor's experience, prices available from a competitive supplier are rarely better than prices available from the utility, Nucor supports the idea of CRES providers being able to compete against the utility to provide generation supply under special arrangements. SB 221 does not abandon the idea of competitive retail electric markets and, although there is serious doubt about whether such markets exist today in Ohio, the Alliance's proposal could, at minimum, increase the number of players competing to provide generation service under special arrangements. This, in turn, could help spur the development of more robust generation markets.

In short, in Nucor's view, promotion of these goals of the state – economic development, energy efficiency, and demand response – are important regardless of whether the energy supply is from an ESP, an MRO, or a CRES provider. As a result, consumers should have access to both special arrangements and to energy efficiency and demand response programs (including interruptible credits) through their utility distribution service provider, regardless of where their energy supply is sourced. The Commission should expressly require the utility to offer such options without discriminating against customers of a CRES and through both their ESP and MRO proposals.

The Alliance also argues that there should be a three year time limit on unique arrangements, or at least a period of re-examination of three years or less. Alliance Comments at 32. The Commission should reject this recommendation. Businesses (especially energy-intensive industries) need assurances of long-term electricity price stability. While this does not mean that a unique arrangement must be in place for ten or fifteen years, it does mean that a unique arrangement with a mandatory hard-wired three-year maximum term might not be sufficient, or reasonable, for a particular customer. It would be much better for the Commission to carefully consider the specific terms of these unique contracts on a case-by-case basis. The Alliance's proposal for an across the board requirement that the contract be re-examined every three years or less is preferable to a maximum three year term requirement, but it could still unnecessarily tie the

Commission's hands and be inappropriate in a particular context. Therefore, Nucor recommends that the Commission reject this proposal as well.

4901:1-38-03 – FirstEnergy maintains that the filing of an economic development schedule should be optional, not mandatory. FirstEnergy Comments at 29. For the reasons discussed above in Section I.C. of these reply comments, Nucor believes that an economic development schedule should be mandatory.

OCEA urges the Commission to adopt a requirement that a utility may only recover 50% of delta revenues from customers, with the other 50% being borne by the utility's shareholders. OCEA Comments at 83. While Nucor agrees that, in some cases, it may be appropriate for shareholders to bear some of the delta revenue costs, the Commission should not adopt OCEA's recommendation because it is overly simplistic and prescriptive. The Commission should have the discretion to determine the appropriate levels of delta revenue costs that should be borne respectively by customers and by shareholders.

4901:1-38-05(B) – DPL expresses concern that the "unique arrangement" section could be extremely burdensome to the Commission because there is no criteria to apply in considering applications under the section. DPL Comments at 14. DPL suggests that, at a minimum, the Commission adopt a standardized application form and articulate some minimum standards for consideration. *Id.* While Nucor does not oppose the idea of certain minimum standards for unique arrangements, Nucor notes that the very reason this section was included in the proposed rule was so the Commission would have the flexibility and discretion to consider unique arrangements on a case-by-case basis. As noted above in Section I.C. of these comments, the Commission does not know now, nor can it anticipate, all the circumstances under which a unique arrangement might be appropriate. In a given context, such arrangements may be extremely complex and sophisticated. If the Commission accepts DPL's recommendation on this rule, therefore, Nucor recommends that the standards be minimums, and that the Commission reserve the flexibility to waive such standards when the Commission believes it is appropriate.

FirstEnergy does not oppose the idea of a customer applying to the Commission for approval of a special arrangement, but it insists that the utility must also consent and agree with the terms of the agreement prior to Commission approval and implementation. FirstEnergy Comments at 31. If FirstEnergy's proposed change to this section is accepted, the section would be practically meaningless. The whole point of the section is to give customers another option (*i.e.*, direct appeal to the Commission) in the event that the customer and the utility cannot come to an agreement on their own. The rule makes clear that there can be a hearing on the customer's proposal, so the utility will have the opportunity to oppose the customer's proposed arrangement if the customer utilizes this process. Accordingly, rule 4901:1-38-05(B) should be retained as proposed by the Staff.

<u>4901:1-38-08</u> – OCEA again urges the Commission to adopt a requirement that a utility may only recover 50% of delta revenues from customers, with the other 50% being borne by the utility's shareholders. OCEA Comments at 102. For the reasons discussed in the comment on rule 4901:1-38-03 above, the Commission should reject this proposal.

<u>4901:1-38-09(B)</u> – This section provides that the Commission may direct the utility to charge the customer for all or part of the incentives provided by the utility if the customer does not comply with the arrangement. FirstEnergy argues that Commission approval for such a charge is unnecessary. FirstEnergy Comments at 34. While Nucor

agrees that in circumstances where the customer does not comply with the arrangement it might be appropriate for the customer to pay back the incentives, Nucor opposes FirstEnergy's proposed change. A utility and a customer might disagree as to whether the customer did or did not comply with the arrangement, and the appropriate penalty for non-compliance. In such a case, it is appropriate for the issue to be decided by the Commission. FirstEnergy's proposed change, therefore, should be rejected.

III. CONCLUSION

Nucor Steel Marion, Inc. respectfully requests that the Commission consider these reply comments and incorporate the recommendations discussed herein into the proposed rules.

Respectfully submitted,

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