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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish A Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan.	)	Case No. 08-935-EL-SSO

DIRECT TESTIMONY OF KEVIN M. MURRAY
ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

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September 29, 2008

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DIRECT TESTIMONY OF KEVIN M. MURRAY

I. INTRODUCTION

Q1. Please state your name and business address.

A1. My name is Kevin M. Murray. My business address is 21 East State Street, 17th Floor, Columbus, Ohio 43215-4228.

Q2. By whom are you employed and in what position?

A2. I am a Technical Specialist for McNees Wallace & Nurick LLC ("McNees"), providing testimony on behalf of Industrial Energy Users-Ohio ("IEU-Ohio").

Q3. Please describe your educational background.

A3. I graduated from the University of Cincinnati in 1982 with a Bachelor of Science degree in Metallurgical Engineering.

Q4. Please describe your professional experience.

A4. I have been employed by McNees for eleven years where I focus on helping IEU-Ohio members address issues that affect the price and availability of utility services. I have also been active on behalf of industrial customers in the formation of regional transmission operators and the organization of regional electricity markets. Prior to joining McNees, I was employed by Kegler, Brown, Hill & Ritter in a similar capacity. I previously spent twelve years with The Timken Company, a specialty steel and roller bearing manufacturer. While at The Timken Company, I worked within a group that arranged for electricity and natural gas requirements for facilities in the United States. I also spent several years in supervisory positions within the company's steelmaking operations.

Q5. Have you previously testified before this Commission?

A5. I have previously submitted testimony in the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively "FirstEnergy" or "Companies") electric distribution companies' rate increase cases which are pending before the Commission (Case No. 07-551-EL-AIR, *et al.*). However, on February 11, 2008, a Stipulation and Recommendation supported by many of the parties in those proceedings was submitted in the cases. The Stipulation and Recommendation, if adopted, would resolve many of the contested issues in those proceedings. A provision in the Stipulation and Recommendation provides that my testimony in those proceedings will not be offered.

I have also submitted direct testimony in the Companies' companion application for approval of a competitive bidding process in Case No. 08-936-EL-SSO.

Q6. What is the purpose of your testimony?

A6. The purpose of my testimony is to address changes that are necessary to FirstEnergy's proposed electric security plan ("ESP") in order to make the overall plan reasonable and more favorable in the aggregate than a market rate option ("MRO"). First, the application has a placeholder regarding how customer-sited capabilities to meet demand response, energy efficiency and peak demand reduction obligations will be incorporated into the ESP, but does not address these issues in sufficient detail to allow customers or the Commission to understand how the Companies will utilize customer-sited capabilities to meet the alternative energy requirements. Second, the proposed minimum default service charge and standby charge are duplicative. Third, the ESP includes a provision that allows FirstEnergy to pass through any costs related to or arising from its participation in a regional transmission organization ("RTO"). However, the application does not commit the electric distribution utilities ("EDUs") or their affiliates to seek to reduce the costs arising from participation in an RTO and its associated markets. Fourth, the ESP proposes that all generation charges be per kilowatt hour ("kWh") charges rather than a combination of demand and energy charges. Fifth, the ESP includes the option for customers currently served under interruptible tariff schedules to continue to receive service under two new interruptible riders. However, the riders unnecessarily restrict customers from also participating in any demand response options that may be available through the Midwest ISO ("MISO"). Finally, as part of this proceeding, modification should be made to the Companies' standby and partial service tariffs as well as the avoided cost purchase price.

II. CUSTOMER-SITED CAPABILITIES

Q7. What are customer-sited demand response, energy efficiency and peak demand capabilities?

A7. It is my understanding that customer-sited capabilities are the means an EDU may use to comply with the portfolio requirements of Amended Substitute Senate Bill 221 ("SB 221") beginning in 2009.

Q8. How is compliance with these requirements measured?

A8. It is my understanding that compliance is addressed in SB 221 both directly and by giving the Commission the ability to issue rules. The Commission recently issued draft rules on the portfolio requirements.

Q9. How should EDUs treat customer-sited capabilities for the purposes of providing the standard service offer ("SSO") in conjunction with the ESP?

A9. It is my understanding that the portfolio requirements apply to an EDU regardless of whether the SSO is provided under the MRO or ESP approach and that SB 221 encourages the use of customer-sited capabilities to meet these requirements in both an MRO and ESP context.

Q10. Does FirstEnergy's ESP application address how customer-sited capabilities will be used to meet its portfolio obligations?

A10. The application provides some information but does not comprehensively address this issue. The application itself identifies that the Companies **will?** commit to providing $5 million each year from 2009 through 2013 for investment in customer energy efficiency/demand side improvements made after January 1, 2009. The direct testimony of Gregory F. Hussing on pages 10-11 also briefly mentions the proposed demand-side management and energy efficiency rider. Mr. Hussing indicates that the rider has been structured in such a way that customers may avoid a charge by implementing customer-sited programs that help the Companies comply with portfolio obligations. Language that appears on the Companies' proposed demand-side management and energy efficiency riders also addresses this issue.

Q11. Is this information contained in the application adequate?

A11. No, it is not. The information provided by FirstEnergy amounts to a placeholder and the details regarding how customer-sited capabilities will be relied upon have not been provided.

Q12. Do you have any observations on the proposed demand-side management and energy efficiency rider?

A12. Yes. Mr. Hussing suggests that avoidability of the DSE2 charges is intended to provide customers with an incentive to implement customer-sited capabilities. However, for non-residential customers, the initial DSE2 charge is zero. Further, it appears that the earliest the DSE2 charge for non-residential customers could increase is January 1, 2010. Thus, at least initially, the rider does not provide any economic incentives.

III. DEFAULT AND STANDBY SERVICE CHARGES

Q13. Does the application provide for default and standby charges?

A13. Yes, it does. FirstEnergy has proposed that all customers, both shopping and non-shopping, be subject to a $0.01 per kWh charge. For non-shopping customers, this charge would be part of the base generation price in Rider GEN. For shopping customers, this charge would be levied through the minimum default service rider.

Kevin T. Warvell testifies that this non-bypassable charge is intended to compensate FirstEnergy for generation-related administrative costs and hedging costs associated with FirstEnergy's obligation to serve the entire load of its retail customers.

FirstEnergy has also proposed a separate power supply reservation rider that would apply only to customers that switch to an alternative supplier. The rider would be set at $0.015 per kWh in 2009, $0.020 per kWh in 2010 and $0.025 per kWh in 2011. This charge would apply unless the customer or its governmental aggregator elects to waive the right to return to SSO service at the ESP price during the three-year term of the ESP. Mr. Warvell testifies that this charge is intended to compensate FirstEnergy for the costs and risks of returning customers. In return for payment of the charge, FirstEnergy stands willing to provide customers that switch to an alternative supplier and subsequently return, generation at the stabilized SSO base generation price. Customers that waive the charge and subsequently return to FirstEnergy for generation service are subject to a form of market-based rates.

Q14. Do you have any comments on these charges?

A14. FirstEnergy has not provided support for the specific level of the charges. Additionally, the charges appear to be duplicative. If the $0.01 per kWh charge is intended to compensate FirstEnergy for the hedging costs associated with serving FirstEnergy's <u>entire</u> retail load, it is not clear what additional costs would result from shopping customers returning. Thus, in totality, the two riders do not appear to be reasonable.

IV. RTO COSTS

Q15. Does the application address transmission costs as well as costs associated with FirstEnergy's participation in an RTO?

A15. Yes, it does. FirstEnergy has proposed that all transmission and transmission-related costs, which it defines as including ancillary services costs, congestion costs as well as any new charges that may be imposed upon or charged to FirstEnergy by the Federal Energy Regulatory Commission ("FERC") or an RTO, be collected though a rider. The proposed cost recovery mechanism is similar to FirstEnergy's existing transmission and ancillary services riders.

Q16. Do you think FirstEnergy's transmission and RTO cost recovery proposal is reasonable?

A16. I think the Commission should be wary of automatic cost recovery mechanisms that do not contain auditing and control provisions. The Commission Staff has previously been instructed to review RTO-incurred costs to determine if electric distribution companies are managing controllable costs so that they are reasonable. It would be wise to continue this practice.

Additionally, to the extent the Commission allows automatic cost recovery mechanisms for transmission and RTO-related costs, I believe it would be appropriate for the Commission to require FirstEnergy to proactively work to minimize these costs. FirstEnergy has suggested that transmission and ancillary services costs are items over which the company has "little to no control" and that, therefore, automatic cost recovery is appropriate. This is simply not correct. First, as a both a stakeholder and a transmission-owning member of MISO, FirstEnergy has the opportunity to advocate for market rules that will work to reduce electricity costs for consumers. It is simply not appropriate for EDUs to seek automatic cost recovery while at the same time they or their affiliates are advocating RTO market rules and structures designed to increase electricity costs. Second, claims that RTO costs are entirely uncontrollable are incorrect. While the incurrence of certain costs may be unavoidable, EDU practices may certainly impact the level of these costs. For example, once MISO implements markets for ancillary services, load serving entities may have the option to self schedule resources to provide operating reserves. Self scheduling operating reserves, rather than obtaining operating reserves through MISO's ancillary services markets, may be a lower cost option. Therefore, the Commission should limit cost recovery to prudently incurred costs, and require EDUs to proactively take actions to minimize costs.

V. GENERATION RATE DESIGN

Q17. Under the proposed ESP, how are generation charges levied upon customers?

A17. For all customer classes, the generation charges to be collected through the generation service rider are assessed entirely on a per kWh basis. The per kWh charges are seasonally differentiated, with proposed summer and winter rates.

Q18. Is this rate design appropriate?

A18. No, this rate design is not appropriate for larger customers, such as customers served at transmission, sub-transmission and primary voltages. This rate design provides no price signal that the customer's load factor contributes to the cost of providing electricity. Load factor, often stated as a percentage, is the ratio of the customer's average demand to its peak demand.

Q19. Why is load factor important?

A19. A higher load factor means that fixed costs are spread over a greater quantity of usage, lowering the overall average costs per kWh. However, load factor can also affect variable costs. For example, a fossil-fuel fired generating plant may be most energy efficient when it is operated at a steady state near capacity. Repeatedly cycling this type of generating plant unit up and down may lower its energy efficiency, resulting in higher fuel costs per unit of output.

Designing generation charges to be entirely kWh based implicitly suggests that generation costs are entirely variable. As electric generation tends to be a capital-intensive endeavor, I do not subscribe to the theory that generation costs are entirely variable. However, if you presume generation costs are entirely variable, that would argue that there is no need for shopping customers to pay any charges to FirstEnergy default or standby service, so long as they were willing to accept a market price for energy. In other words, there would be no justification to provide any reservation fees to FirstEnergy in its role as the provider of last resort ("POLR").

Q20. What is your recommendation regarding the generation rate design?

A20. I recommend that once the generation revenue requirement has been established for the transmission, sub-transmission and primary rate schedules, that the generation rider rates be structured as a two-part rate consisting of both demand and energy components. Since we do not have a cost of service study to guide us on rate design, I recommend a demand charge of $14 per kW, with the remainder of the revenue requirement to be collected through seasonally differentiated kWh charges. The $14 per kW demand charge is comparable to the first block demand charge under Ohio Edison's current Schedule 23.

VI. INTERRUPTIBLE SERVICE

Q21. Does the proposed ESP provide customers with interruptible service options?

A21. Yes, it does. Each of the operating companies has proposed an economic load response program rider as well as an optional load response program rider. The first rider subjects the customer to interruptions as a result of economic considerations. Under the latter rider, interruptions are only triggered by an emergency curtailment event.

Q22. Do these riders have restrictions on eligibility for service?

Q22. Yes, they do. For each company, the availability of service under the economic load response program rider is limited to customers served under interruptible service arrangements as of July 31, 2008. Additionally, under both riders, customers are foreclosed from participating in any other load curtailment program, including demand options that may be available through MISO.

Q23. Do you believe these restrictions are appropriate?

A23. No, I do not. FirstEnergy has not offered any support for restricting service under the economic load response program rider to customers served under interruptible service arrangements as of July 31, 2008. Based upon the need to achieve peak demand reductions to meet portfolio obligations, there is no reason to support restricting the availability of interruptible service options. Further, an interruptible service is, by definition, always available.

Given that the two interruptible riders are complementary, i.e. the latter is associated with capacity requirements while the former is based upon energy prices, customers should be able to elect service under both riders. Additionally, any customer that meets other eligibility requirements should be permitted to take service under the economic load response program rider rather than limiting eligibility to customers served under interruptible arrangements as of July 31, 2008.

Q24. Why is the restriction on participation in MISO's demand response options unnecessary?

A24. The optional load response program rider appears to be designed to assist FirstEnergy in meeting planning reserve requirements under Module E of MISO's transmission and energy markets tariff. Module E contains a provision that restricts load modifying resources (i.e., interruptible loads) from being registered under Module E by more than one market participant. Thus, from a capacity planning purpose, the restriction is redundant and is addressed by MISO's tariff.

With respect to energy usage, there is no reason why FirstEnergy needs to have exclusive use of an interruptible resource. All FirstEnergy needs to have is first call on the resource. Thus, for example, if a customer elects service under the proposed optional load response program rider, in which FirstEnergy may only curtail usage under an emergency curtailment event, the customer should be allowed to take advantage of economic interruption opportunities that may arise through MISO.

VII. PARTIAL SERVICE AND COGENERATION

Q25. Does FirstEnergy's application include partial service and cogeneration rate schedules similar to those currently in place?

A25. No, it does not. The application lists these schedules as outside of the scope of the application.

Q26. Do you believe that the partial service and cogeneration schedules should be included as part of the ESP?

A26. Absolutely. Given that cogeneration is among the customer-sited options that can fulfill the alternative energy resource portfolio obligations, it is crucial that partial service and cogeneration schedules not create barriers toward utilization of these options.

Q27. What changes should be made to the currently existing partial service and cogeneration schedules in the context of the ESP?

A27. My recommended changes are twofold. First, reservation demand charges should be dramatically reduced under the schedules to reflect a recognition that backup energy can normally be obtained from RTO power markets. Second, the avoided cost power purchased rates should be updated to reflect present day realities.

My recommendation is for EDUs to provide both partial service and avoided cost purchases based upon a pass-through of energy costs reflected in hourly RTO energy markets. Under this approach, there would be no demand charge for standby, supplemental or maintenance power so long as usage was not coincident with system peak. Standby, supplemental or maintenance power would reflect a pass-through of the applicable hourly RTO locational marginal prices for energy. Avoided cost purchases would also be made at the applicable hourly RTO locational marginal prices for energy for symmetry.

VIII. CONCLUSION

Q28. Does this conclude your testimony?

A28. Yes, it does. However, I reserve the right to submit supplemental testimony.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Direct Testimony of Kevin M. Murray* was served upon the following parties of record this 29th day of September 2008, *via* electronic transmission, hand-delivery or first class mail, postage prepaid.

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