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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Proposal of FirstEnergy)
Service Company to Modify its RTO)
Participation)

Case No. 09-778-EL-UNC

NUCOR STEEL MARION, INC.'S
COMMENTS ON FIRSTENERGY'S PROPOSED RTO REALIGNMENT

In accordance with the Public Utilities Commission of Ohio's ("Commission") September 4, 2009 entry inviting comments in this proceeding, Nucor Steel Marion, Inc. ("Nucor") submits the following comments on FirstEnergy's proposed RTO Realignment. As discussed further below, Nucor does not have enough information available to reasonably evaluate the effects of FirstEnergy's proposed move to PJM on Ohio consumers. However, it is evident that FirstEnergy is likely to incur substantial costs as a result of a move to PJM. Moreover, there is no persuasive evidence that such a move would be beneficial or desirable for FirstEnergy's Ohio retail customers.

As a result, Nucor recommends that the Commission:

- require FirstEnergy to provide sufficient information to permit a comprehensive evaluation of the impact of the proposed move on FirstEnergy's Ohio retail customers;
- take all other necessary steps to ensure a full and balanced evaluation of the likely impacts (including the costs and benefits) of the proposed move on

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FirstEnergy's Ohio retail customers, and

- require FirstEnergy to commit to all necessary consumer protections identified as a result of the evaluation, including specifically agreeing to protect and hold Ohio retail customers harmless from possible rate/cost increases and any other negative impacts resulting from the move to PJM.

A. First Energy's Application

On August 17, 2009, FirstEnergy¹ submitted an application at the Federal Energy Regulatory Commission ("FERC") pursuant to Section 205 of the Federal Power Act seeking approval for FirstEnergy to move from Midwest ISO to PJM ("Application"). In particular, FirstEnergy seeks FERC approval to terminate the status of ATSI as a transmission operator, owner, and local balancing authority in Midwest ISO, and approve ATSI's participation, along with FirstEnergy's Ohio operating companies, in PJM. FirstEnergy refers to these transactions collectively as the "RTO Realignment."

In the Application, FirstEnergy states that the RTO Realignment will provide benefits in the form of reduced congestion and increased efficiencies, since ATSI has stronger electrical ties to PJM than it does to Midwest ISO. Application at 2-3. FirstEnergy also states that the RTO Realignment will provide efficiencies by having all of FirstEnergy's operations under a single set of reliability and market rules (i.e., the PJM rules), rather than having to operate under separate rules for PJM and Midwest ISO. *Id.*

¹ The Application states that "FirstEnergy" is FirstEnergy Service Company acting on behalf of its six affiliates: American Transmission Systems, Incorporated ("ATSI"), the Cleveland Electric Illuminating Company, Ohio Edison Company ("Ohio Edison"), the Toledo Edison Company, Pennsylvania Power Company, and FirstEnergy Solutions Corp.

at 14. Finally, FirstEnergy maintains that the PJM market structure is a better fit for FirstEnergy, since Ohio has transitioned to retail choice. *Id.* at 15-17.

On the other hand, FirstEnergy also recognizes that there will be costs associated with the move to PJM, including an exit fee to Midwest ISO and construction and payment obligations under Midwest ISO's Transmission Expansion Plan. *Id.* at 5.

Although FirstEnergy recognizes that there will be both costs and benefits to the RTO Realignment, the Application does not adequately quantify these costs and benefits, and provides no evidence that the benefits, in fact, will exceed the costs. While the Application contains an analysis by PJM purporting to demonstrate production and congestion cost savings as a result of FirstEnergy's move to PJM, the accuracy of this report was called into question at the September 15, 2009 conference² on the RTO Realignment before the Ohio Commission. *Tr.* at 14-18. Of particular concern is that the Application includes no analysis of the impact of the RTO Realignment specifically on the retail customers of FirstEnergy's Ohio utilities.

B. Concerns with First Energy's Proposal

Nucor is a large industrial customer of Ohio Edison. As such, the proposed RTO Realignment could have a very significant impact on Nucor. We are very concerned about this proposal and want to make sure it does not have a negative effect on Nucor's service and rates from Ohio Edison. While Nucor has intervened in the FERC proceeding to review the proposed RTO Realignment, we believe that this Commission plays a

² References to the transcript of the September 15 conference will be in the following form: *Tr.* at ____.

crucial role in protecting Ohio consumers, and must carefully evaluate FirstEnergy's proposal.

At this time, Nucor takes no position on whether FirstEnergy's move to PJM is justified, because Nucor simply does not have enough information to fully evaluate the effects of the proposed move on Ohio retail customers. It may be the case that the efficiencies FirstEnergy cites in its Application would produce cost savings and make the RTO Realignment worthwhile from a retail customer's perspective. On the other hand, there is cause for concern that the costs associated with the move might swamp the benefits for retail customers. Representatives of various Ohio retail customers discussed some of these concerns at the September 15 conference. For example, generally speaking, the PJM market appears to be a more expensive market than the Midwest ISO market. Tr. at 32-33. Earlier this year, FirstEnergy held an auction process to acquire generation service for standard service offer ("SSO") customers that stakeholders view as achieving a highly successful result, given the number of bidders and the SSO generation rate produced by the winning bids. It is unclear what effect the move to PJM would have in the next auction process, assuming FirstEnergy proposes such a process in its next SSO proposal. Tr. at 27. Timing is a particular concern, since FirstEnergy's next SSO filing probably is not too far off, and uncertainty as to FirstEnergy's RTO participation cannot have a positive impact on potential supply and prices.

Also, PJM's capacity market – the Reliability Pricing Model or "RPM" – has no equivalent in Midwest ISO, meaning that the RPM could result in increases in costs that

would be borne by Ohio retail customers. Tr. at 33-34. Similarly, the magnitude of fees for FirstEnergy to exit Midwest ISO is unknown at this point, but at the September 15 conference, FirstEnergy confirmed that it planned to seek recovery of these costs through transmission rates. Tr. at 48. Finally, there is the question of whether FirstEnergy will be responsible for transmission expansion costs in both Midwest ISO and PJM.³ If FirstEnergy's proposal for addressing this issue is not approved by FERC, Ohio retail customers could wind up bearing the cost of large-scale regional transmission projects planned and approved in two RTOs during the same time period. Tr. at 29; Application at 35.

C. Preliminary Recommendations

Given the uncertainties surrounding the proposed RTO Realignment, Nucor urges the Commission to carefully evaluate FirstEnergy's proposed move to PJM and to impose reasonable protections and conditions necessary to protect FirstEnergy's Ohio retail customers. The first step is to develop a reasonable analysis and estimate of the costs and benefits of the proposed move to Ohio retail customers. To this end, Nucor supports a Commission investigation of the issues related to the proposal, including the recommendation made by the Ohio Energy Group at the September 15 conference that the Commission consider retaining a consultant to perform an analysis of the impact of

³ FirstEnergy addresses this issue at pages 35-46 of its Application. As FirstEnergy explains, the Midwest ISO allocates regional project costs on a postage-stamp basis only once, rather than resetting the allocation every year, and requires that those costs follow a departing member out of the RTO. Application at 41-42. PJM allocates cost responsibility annually among PJM Transmission Owner zones on a load-ratio share basis. *Id.* at 42. FirstEnergy's requested relief to keep from having to pay for regional facilities in both PJM and Midwest ISO planned and approved during the same time period is to have FirstEnergy's Ohio utilities continue to pay for qualifying Midwest ISO regional facilities planned and approved before June 1, 2011 as required by the Midwest ISO tariff, but not pay for PJM "legacy" regional transmission expansion projects approved by PJM prior to FirstEnergy's entry into PJM. *Id.* at 35.

the RTO Realignment on Ohio retail consumers. Tr. at 32. The results of this investigation and analysis would help the Commission determine what steps it should take to safeguard Ohio retail consumers if FirstEnergy goes forward with its RTO Realignment.

At a minimum, the Commission should take whatever steps are available to ensure that Ohio retail consumers are held harmless and protected from any price or cost increases or other adverse impacts to their rates and service as a result of the RTO Realignment. Nucor hopes that if FirstEnergy moves to PJM, the move will produce tangible benefits to Ohio retail customers in the form of lower rates and more reliable service. Even if FirstEnergy cannot guarantee such benefits, however, FirstEnergy should at least ensure that Ohio retail consumers will be no worse off as a result of FirstEnergy's decision to move to PJM than they would have been if FirstEnergy remained in Midwest ISO. A hold harmless commitment from FirstEnergy is at least one step that would provide Ohio consumers with some minimum level of protection from the potential costs associated with FirstEnergy's proposed RTO Realignment.

Respectfully submitted,


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CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing pleading was served upon the following by U.S. mail, postage prepaid, on this 25th day of September, 2009:

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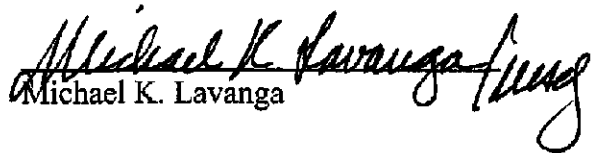
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