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 Approval of Ohio Sit Deployment of the Smart Grid Modernization Initiative and Timely Recovery of Associated Costs.	)	Case No. 09-1820-EL-ATA Case No. 09-1821-EL-GRD Case No. 09-1822-EL-EEC Case No. 09-1823-EL-AAM

COMMENTS ON FIRSTENERGY'S APPLICATION RELATED TO A PILOT PROGRAM FOR DEPLOYMENT OF SMART GRID, SMART METERS AND PEAK-TIME REBATE PRICING AND COLLECTION OF COSTS FROM CUSTOMERS BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of residential utility customers, moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to protect Ohio consumers by not approving the Ohio Site Deployment[1] application filed by Ohio Edison Company ("OE"), the Cleveland Electric Illuminating Company ("CEI"), and the Toledo Edison Company ("TE," and collectively with OE and CEI, "FirstEnergy" or "Company" or "Applicant") at least until after the Commission provides due process opportunities to interested parties regarding the application. The Company filed its application on November 18, 2009, and asked that the Commission approve the application by December 9, 2009. The Company requests a time period for review that is too short to provide an opportunity for discovery and a hearing and therefore the Commission should reject the proposed timing.

[1] FirstEnergy's Ohio Site Deployment is its proposal to implement a SmartGrid pilot project in its CEI service territory.

FirstEnergy asked the Commission for summary approval based upon a statement that Department of Energy ("DOE") **"may elect** to withhold **some** or all of the grant funds until regulatory approval is obtained." (Emphasis added). FirstEnergy's did not substantiate its representation that DOE may withhold grant funds until regulatory approval is obtained and the representation does not justify the Commission's immediate approval of the very summary and rudimental application (which includes a request to charge costs to consumers) without further investigation.

FirstEnergy estimated that it would spend up to $72.2 million in capital for a pilot program that includes only 45,000 customers in its Ohio CEI service territory. Only one-half of this cost will be recovered through a possible U.S. Department of Energy Smart Grid Investment Grant. FirstEnergy requests the PUCO to authorize collection of the remaining $36.1 million from its customers.[2] $36.1 million is an enormous amount of money to allow FirstEnergy to spend on the pilot program and to recover from ratepayers without any prudence or accounting review of the program.

Moreover, the Commission should not approve an application for approval of a SmartGrid program unless it is convinced that the program FirstEnergy proposes is cost-effective. The application provides no estimates of the benefits that will accrue to FirstEnergy nor does it make a showing that the program design will maximize those benefits.

An application to establish a new rate or to increase rates under R.C. 4909.18 requires that the Applicant demonstrate that the new rate or the rate increase is just and reasonable. Duke has not done this in this application. In fact, the meter costs included in the application are so much higher than industry average than the Commission should

[2] Application at 9.

assume that the application is unjust and unreasonable. Accordingly, the Commission is should set this matter for hearing. The Ohio General Assembly has allowed interested parties an opportunity to conduct discovery in cases such as these, which means that there must be adequate time for discovery.[3] Here, the PUCO should be mindful of the discovery statute, in order to be informed by the parties of important issues before the PUCO determines whether the program is cost-effective for customers and/or whether it should be revised to improve the program design to increase the expected cost-effectiveness.

The Commission should not approve the application without adequate time for discovery and a hearing based upon the very large amounts of money the Company proposes to spend and then potentially collect from customers. Additionally, the Commission should allow discovery and a hearing based upon inconsistencies and the unusually high cost estimates included in the application (as identified below) because the Commission has an obligation to ensure that rates and services are just and reasonable under R.C. 4909.18, and R.C. 4909.154.

II. COMMENTS

A. FirstEnergy's Information Reflects That Its Proposed Meter Costs Are Very High Compared To The Industry Average.

The industry average of the "all-in" cost[4] of AMI meters is $250 per meter.[5]

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[3] R.C. 4903.082. The PUCO has recognized discovery rights in Ohio Adm. Code 4901-1-16.

[4] Meter, communication, consumer portal, disconnect, installation, engineering, and project management.

[5] Testimony of Steven W. Pullins, Case No. 08-1094-EL-SSO, based upon industry data from several utilities, including Consumers Energy, San Diego Gas & Electric, Southern California Edison, Public Service Gas & Electric, and others. At. 5.

FirstEnergy's estimated cost per meter minus communications backhaul/WAN costs is $936 per meter or three times the industry average.[6] Before the Commission approves FirstEnergy collecting $936 per meter from customers, FirstEnergy should be required to file detailed data explaining the basis for the estimate of $936 per meter, followed by discovery and hearing.

B. The Application Contains Feeder Costs That Appear Very High Compared To Another Utility In Ohio.

An initial comparison of the estimated average cost of feeders (circuits) in FirstEnergy's application[7] to the average cost of feeders in other utilities' applications indicates that FirstEnergy's estimate is too high. FirstEnergy's estimate of the average cost of 21 feeders is $514,286 and for the other 13 meter the average cost is $300,000. In Dayton Power & Light Company's ("DP&L") application for approval of a SmartGrid program DP&L estimated a feeder cost of $287,000.[8] Because the cost that FirstEnergy estimates for feeders is so much higher than DP&L, the Commission cannot determine that rates resulting from FirstEnergy's application are just and reasonable as required under R.C. 4909.18, and the Commission should insist that FirstEnergy explain its high estimated cost for feeders.

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[6] Application, Exhibit B at 37, Figure 1.6.3-3 "Estimated Costs," 44,000 meters at $41.2 million = $936 per meter.

[7] Application, Exhibit B, Figure 1.6.3-3 at 37.

[8] *In the Matter of the Application of the Dayton Power and Light Company for Approval of Its Electric Security Plan et. al.*, Case Nos. 08-1094-EL-SSO et. al., Revised Filing, Work paper WPI-1 and WPO-1.1. Distribution automation capital cost is $114 million, communication cost is $23 million which is split between distribution automation and substation automation, with approximately $11 million for the $436 circuits, which results in $287,000 per circuit or feeder.

C. The Application Does Not Sufficiently Address Operational Benefits That Should Be Netted Against The Costs Of The Smart Grid Implementation.

Although the application does address the character of some benefits that will accrue to customers through the Smart Grid deployment[9] the Company's discussion is limited, particularly with regard to the operational benefits that the Company should net against the costs to be recovered. The application does not explicitly state that these benefits will be netted against the costs the Company seeks to collect from customers. The Commission's Opinion and Order in the Company's distribution rate case, No. 07-551-EL-AIR, agreed with the recommendation of the PUCO Staff that "the recovery of such costs through the AMI/Modem Grid rider be net of any utility benefits associated with AMI/Modem Grid deployment (Id.)." [10] The revised Rider AMI does not reflect this net-of-benefits recovery.

Unfortunately, the application does little to explain how all operational benefits to FirstEnergy will be identified and accounted for, so that customers can be protected from paying for costs that actually are providing benefits to FirstEnergy. FirstEnergy states that the Company will provide the data to the Department of Energy and EPRI that are necessary to calculate the benefits.[11] But FirstEnergy does not explain how it will identify all the benefits that are accruing to it. This is particularly important because the Company has incentives to ignore benefits as the operational benefits become apparent, since unaccounted-for benefits will allow the Company to collect more from customers.

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[9] Application at 5-7.

[10] Opinion and Order in Case No. 07-551-EL-AIR, (January 21, 2009), pages 44-45.

[11] Application Exhibit C at 35-36.

D. The Application Does Not Clarify The Number Of Meters That Are Associated With The $21 Million In Costs Included In The Application.

FirstEnergy states that it is requesting collection of $21 million for advanced metering infrastructure and demand response technology.[12] The application makes references to installing 5,000 meters and 44,000 meters[13] but it is not clear which number of meters the $21 million in costs is associated with and which number is the number of meters for which the Company is requesting approval in the application. Accordingly, the application is not clear and must be clarified through discovery before FirstEnergy can justify collecting meter costs from Ohio ratepayers.

E. The Application Does Not Justify Allowing Only Customers In One Service Territory To Benefit From The Smart Grid Deployment But Charging Customers In All Service Territories For The Deployment.

All of the smart grid deployment will be in the CEI service territory[14] and will therefore most directly affect CEI customers. Yet, the Company proposes to collect the costs of the limited program across all three Ohio service territories.[15] This is an issue that the Commission should consider in greater detail in order to identify all public policy ramifications. The functions of all the costs categories included in this application should be considered carefully before determining that all cost categories should be collected from all of the Company's service territories. Some of the cost categories may have

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[12] Application at 9.

[13] Application at 6.

[14] Application at 4.

[15] Id. At 9.

sufficient Company-wide benefits to justify Company-wide recovery. Other cost categories may not.

F. The Application Does Not Show Detailed Dollar Costs Or Benefits By Beneficiary And Thus Provides Insufficient Evidence For Collecting Costs From Customers.

The application includes a section that discusses costs and benefits.[16] Although the discussion includes some identification of projected costs, it provides no detail of the costs and provides no projection of operational benefits. FirstEnergy's application involves either an establishment of a new service or an increase in rates under R.C. 4909.18. FirstEnergy has not demonstrated that the rates requested are unjust or unreasonable. Under R.C. 4909.18, the Commission must set the matter for hearing and give notice of such hearing if it appears that the proposals in the application "may be unjust or unreasonable." The application does not provide the type of evidence needed to show that the resulting rates are just and reasonable and are required for cost recovery approval under R.C. 4909.18. Nor does the application provide the type of evidence needed to show that the resulting rates are the result of adequate, efficient or proper management policies and practices as required for cost recovery approval under R.C. 4909.154.

G. The Application Does Not Provide A Clear And Consistent Breakout Of Ohio Costs Beyond Broad Categories.

The application provided little itemization of costs. At most the application broke out the total $66.9 million estimate in costs by only four categories: "34 DA feeders"; "21 Volt/VAR control feeders"; "44,000 AMI/DR meters"; and "Backhaul/WAN

[16] Id. Exhibit B, Smart Grid Modernization Initiative at 31-37.

Communications".[17] The sum of the cost of those categories did not equal the total cost of $72.2 million the Company estimated in its previous filings at the Commission.[18] Moreover, if the estimated costs for these cost categories are added to one-third of the "PM, Cyber, Reporting" cost that is shared by two other state service territories, the total of $66.9 million is not consistent with the total cost of $72.2 million.

Accordingly, the Commission should not allow FirstEnergy to collect any costs from Ohio ratepayers until the Commission is sure that Ohio ratepayers will not be paying costs associated with cost items benefiting ratepayers in other states.

III. CONCLUSION

The Commission should protect consumers by not approving FirstEnergy's application in this docket for approval of a new service or an increase in rates under R.C. 4909.18 until interested parties have an adequate opportunity for discovery and a hearing under R.C. 4909.18. The costs FirstEnergy asks to collect from customers for meters and feeders are unusually high, indicate that the rates requested are unjust and unreasonable and should be investigated. The application is not sufficiently detailed, is inconsistent in places and is not sufficiently justified to ensure that the charges resulting from the application are just and reasonable under R.C. 4909.18. Nor are the policy decisions underlying the application sufficiently analyzed to ensure that they represent good management practices under R.C. 4909.154.

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[17] Application, Exhibit B, Figure 1.6.3-3 at 37.

[18] Supplemental Report of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison company -- AMI and Smart/Modern Grid Technologies --, *In the Matter of the Commission-Ordered Workshop Regarding Smart Metering Deployment,* Case No. 07-646-EL-UNC (August 14, 2009) at 3.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was served on the persons stated below, via First Class U.S. Mail, postage prepaid, this 10th day of December 2009.

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