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Via E-File

November 20, 2012

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 12-2190-EL-POR, 12-2191-EL-POR and 12-2192-EL-POR

Dear Sir/Madam:

Please find attached the POST HEARING BRIEF OF THE OHIO ENERGY GROUP for filing in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



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COUNSEL FOR THE OHIO ENERGY GROUP

MLKkew
Encl.
Cc: Certificate of Service

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|---|----|---------------------------------|
| In the Matter of the Review of Application of Ohio Edison | : | |
| Company, The Cleveland Electric Illuminating Company, | : | Case Nos. 12-2190-EL-POR |
| and The Toledo Edison Company for Approval of Their | : | 12-2191-EL-POR |
| Energy Efficiency and Peak Demand Reduction Program | : | 12-2192-EL-POR |
| Portfolio Plans for 2013 through 2015. | :: | |

**POST-HEARING BRIEF
OF THE OHIO ENERGY GROUP**

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TABLE OF CONTENTS

| | |
|---|----|
| ARGUMENT | 2 |
| I. The Commission Should Reduce The Volatility Of FirstEnergy’s DSE2 Charge By Initially Allocating Costs Among Large Enterprise Customers Based Upon Projected Program Expenditures Not KWH Usage, And A DSE2 Individual Customer Price Cap Of No More Than \$500,000 Per Year Should Be Implemented. | 2 |
| a. To Remedy the Extreme Volatility of the DSE2 Charge for Large Customers, the Commission Should Direct FirstEnergy to Initially Allocate EE/PDR Costs to Large Enterprise Customers Based Upon Projected Program Expenditures by Rate Schedule. | 2 |
| b. To Remedy the Potential for Disproportionately High DSE2 Charges to Individual Large GT Customers, the Commission Should Establish an Individual Customer Cost Cap At No More Than \$500,000 Per Year, Which Is Equal To The Maximum Amount Of Rebate Those Customers Can Receive Under The Mercantile Self Direct Program. | 5 |
| II. The Commission Should Reject FirstEnergy’s Proposed Incentive Mechanism..... | 8 |
| III. The Commission Should Require FirstEnergy to Bid Its ELR Load Into the PJM Capacity Auctions. | 11 |
| IV. The Commission Should Require FirstEnergy to Use the Definition of Curtailable Load in Rider ELR in Estimating the PDR Value of its ELR Program. | 13 |
| CONCLUSION..... | 14 |

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**POST-HEARING BRIEF
OF THE OHIO ENERGY GROUP**

The Ohio Energy Group (“OEG”) hereby submits this Post-Hearing Brief in support of its recommendations in this proceeding. OEG’s members who are participating in this proceeding are: Air Products and Chemicals, Inc., AK Steel Corporation, Aleris International, Inc., Alcoa Inc., ArcelorMittal USA, BP-Husky Refining, LLC, Cargill, Incorporated, Materion Brush Inc., Charter Steel, Chrysler LLC, E.I. DuPont deNemours & Company, Ford Motor Company, General Motors LLC, Johns Manville, Linde, LLC, North Star BlueScope Steel, LLC, O-I aka Owens Brockway Glass Container, Inc., Praxair Inc., Warren Steel Holdings, LLC and Worthington Industries. These companies are large industrial consumers that purchase retail electric distribution service from Ohio Edison Company, Cleveland Electric Illuminating Company, or Toledo Edison Company (collectively, “FirstEnergy”). OEG’s recommendations are set forth below.

ARGUMENT

I. The Commission Should Reduce The Volatility Of FirstEnergy's DSE2 Charge By Initially Allocating Costs Among Large Enterprise Customers Based Upon Projected Program Expenditures Not KWH Usage, And A DSE2 Individual Customer Price Cap Of No More Than \$500,000 Per Year Should Be Implemented.

FirstEnergy's Demand Side Management and Energy Efficiency Rider ("Rider DSE") recovers the costs associated with FirstEnergy's energy efficiency and peak demand reduction ("EE/PDR") programs through a kWh charge applicable to each customer's total monthly energy consumption. Rider DSE has two components – a DSE1 charge that recovers PDR credits paid to interruptible customers served under the Economic Load Response ("ELR") and Optional Load Response ("OLR") Riders, and a DSE2 charge that recovers the rest of the Companies EE/PDR program costs. Each FirstEnergy operating company allocates the EE/PDR program costs recovered through the DSE2 charge to the rate schedules eligible to use its programs. For example, Residential EE/PDR program costs are allocated to Rate RS; Small Enterprise program costs are allocated to rate schedule GS; and Large Enterprise/Mercantile Self-Direct program costs are allocated to Rates GP, GSU, and GT.

OEG's concerns relate to the current allocation and rate design of the DSE2 charge for rate schedules GP, GSU, and GT ("Large Enterprise customers"). FirstEnergy's current cost allocation and rate design approach for the Large Enterprise programs is "seriously flawed."¹ Although FirstEnergy has proposed no changes to the design of the DSE2 charge in this case, the Commission should take affirmative steps to remedy the problems with the current approach by adopting the modifications to the DSE2 charge for Large Enterprise customers as discussed below.

a. To Remedy the Extreme Volatility of the DSE2 Charge for Large Customers, the Commission Should Direct FirstEnergy to Initially Allocate EE/PDR Costs to Large Enterprise Customers Based Upon Projected Program Expenditures by Rate Schedule.

The first problem with the DSE2 charge for Large Enterprise customers, particularly GT customers, is the extreme volatility of the charge since it was first implemented in May 2011. OEG/Nucor Steel Marion ("Nucor")

¹ Direct Testimony of Dr. Dennis Goins on Behalf of the Ohio Energy Group and Nucor Steel Marion (Oct. 5, 2012)("Goins Testimony") at 7:23-24.

witness Dr. Dennis W. Goins compiled the following chart,² which demonstrates the tremendous volatility of the DSE2 charge for GT customers:

| Table 1. FirstEnergy DSE2 Charges - Rate GT (cents per kwh) | | | | | | |
|---|-------------|---------------------|---------|---------------------|---------------|---------------------|
| | Ohio Edison | | CEI | | Toledo Edison | |
| Effective Date | Charge | Increase (Decrease) | Charge | Increase (Decrease) | Charge | Increase (Decrease) |
| 5/18/11 | 0.0460 | – | 0.0671 | – | 0.0350 | – |
| 7/1/11 | 0.2544 | 453% | 0.0805 | 20% | 0.1165 | 233% |
| 1/1/12 | 0.0410 | (84%) | 0.1205 | 50% | 0.0874 | (25%) |
| 7/1/12 | 0.2972¢ | 625% | 0.4244¢ | 252% | 0.3323¢ | 280% |

As this chart reflects, the DSE2 charge for Ohio Edison’s GT customers increased over 450%, fell 84%, and then increased 625% over the course of about a year. Similar volatility occurred in the DSE2 charges for GT customers of Cleveland Electric Illuminating Company (“CEI”) and Toledo Edison Company (“TE”).³ This extreme volatility impedes annual budget planning and cash flow management for large energy-intensive GT customers.⁴ And this volatility can hinder economic development in Ohio. As the Commission recently recognized, “rate stability is an essential tool in order to promote economic development and ensure business retention in Ohio.”⁵ R.C. 4928.02(N) provides that it is state policy to facilitate Ohio’s effectiveness in the global economy. Accordingly, it is necessary for the Commission to take action to remedy this volatility problem.

To help reduce the volatility of the DSE2 charges for these customers, the Commission should direct FirstEnergy to make the initial allocation of all DSE2 costs for Large Enterprise customers (rates GP, GSU, and GT) based upon projected program expenditures by rate schedule.⁶ Those DSE2 charges would then be trued-up later based upon actual program usage by rate schedule. The Commission should also specifically direct FirstEnergy not to allocate any of the costs recovered under the DSE2 charge among Large Enterprise rate schedules on the basis of energy. There is no compelling reason for FirstEnergy to use energy as the basis for the

² Goins Testimony at 8:16-17.

³ Goins Testimony at 8:15-16.

⁴ Goins Testimony at 9:6-7.

⁵ Opinion & Order, Case No. 10-2376-EL-UNC (Dec. 14, 2011) at 38.

⁶ Goins Testimony at 10:18-19.

initial DSE2 cost allocation among the Large Enterprise rate schedules. Energy usage is not directly related to the actual or potential use of Large Enterprise EE/PDR programs by each rate schedule.⁷

Using energy usage by rate schedule as the basis for the initial EE/PDR cost allocation contributes to the volatility of the DSE2 charge for GT customers. For example, under the current approach, GT customers may initially be allocated a larger share of the DSE2 costs than GP or GSU customers, based upon their energy usage (which could be larger than that of GP or GSU customers). But GP or GSU customers may in fact be responsible for a greater proportional amount of FirstEnergy's actual EE/PDR program expenditures than those GT customers. Under these circumstances, when FirstEnergy later trues-up the DSE2 charges based upon actual program expenditures by rate schedule, the DSE2 charge for GT customers could significantly drop since GT customers caused fewer EE/PDR program expenditures than GP or GSU customers. Thus, the lack of a relationship between energy usage by rate schedule and the potential/actual use of FirstEnergy's EE/PDR programs by rate schedule would increase the volatility of DSE2 charges for GT customers.

The Commission can enhance rate stability to customers by specifically directing FirstEnergy to initially allocate all DSE2 costs for Large Enterprise customers based upon projected program expenditures by rate schedule. The DSE2 charge has now been in effect for more than two years and a number of FirstEnergy's programs are extensions of programs already approved in its last EE/PDR plans. At this point, FirstEnergy should have developed reasonable methods to forecast program usage by rate schedule.⁸ Therefore, it is reasonable for FirstEnergy to use projected program expenditures by rate schedule as the basis for its initial allocation of DSE2 costs among the GP, GSU, and GT rate schedules.

For added protection for customers against volatile DSE2 charges, the Commission could also require FirstEnergy to limit actual program costs to no more than 10% above projected expenditures. Again, FirstEnergy now has years of experience in its EE/PDR programs and should be able to reasonably forecast its program expenditures.⁹ Such an approach would also provide greater rate stability for customers. In any event, by directing FirstEnergy to use projected program expenditures rather than energy usage by rate schedule to initially

⁷ Goins Testimony at 10:11-15.

⁸ Goins Testimony at 10:23-25.

⁹ Goins Testimony at 10:19-25.

allocate the DSE2 costs among the GP, GSU, and GT rate schedules, the Commission can provide a more reasonable level of rate stability for large, energy-intensive businesses in Ohio.

b. To Remedy the Potential for Disproportionately High DSE2 Charges to Individual Large GT Customers, the Commission Should Establish an Individual Customer Cost Cap At No More Than \$500,000 Per Year, Which Is Equal To The Maximum Amount Of Rebate Those Customers Can Receive Under The Mercantile Self Direct Program.

The more critical problem with the DSE2 charge, which the Commission must address in this case, is that those charges have been “inordinately high” for individual GT customers since they were first implemented in May 2011, which may be the result of flaws in the rate design of the DSE2 charge.¹⁰ For example, since July 2012, an Ohio Edison GT customer using 10,000 MWh/month would have paid nearly \$30,000 a month (equivalent to \$360,000/year) in DSE2 charges. These charges would be even higher for a similar customer taking service from CEI or TE. And for a very large GT customer, the bill impact of the DSE2 charges would have been significantly greater. In fact, the annualized DSE2 cost burden could easily exceed \$1 million annually for FirstEnergy’s largest customers, and could grow as statutory EE/PDR benchmarks increase in the future.¹¹ These substantial costs can have an adverse impact on economic development in Ohio, as Dr. Goins explained:

Many large industrial customers operate in highly-competitive and low margin industries. Large annual DSE2 costs can have negative impacts on a company’s competitiveness and profitability by directly competing with other investment projects for limited capital funds, reducing capital available for business expansion and hiring new workers, and directly reducing a company’s profit.¹²

Such high charges to individual large GT customers may be the result of flaws in the current design of the DSE2 rate. Currently, the DSE2 charge uses a volumetric kWh charge, which is generally used to recover costs that vary with changes in energy use, to recover its EE/PDR program costs among a given rate class. But a volumetric charge is not appropriate for the types of costs recovered under the DSE2 charge. FirstEnergy’s EE/PDR program costs do not vary with changes in energy use.¹³ Moreover, the DSE2 rate design does not provide any direct linkage between any EE/PDR benefits received and the EE/PDR program costs paid within a

¹⁰ Goins Testimony at 8:7-8.

¹¹ Goins Testimony at 9:2-3.

¹² Goins Testimony at 9:15-20.

¹³ Goins Testimony at 12:7-10.

rate class. Instead, the current DSE2 rate design creates the potential for large intra-class subsidies,¹⁴ where individual large GT customers may be charged a disproportionate share of the EE/PDR costs within their rate class.

There is no rational basis to assume, as the current DSE2 rate design does, that FirstEnergy's EE/PDR programs benefit a very large GT customer several times more than a smaller GT customer.¹⁵ Further, it is reasonable to assume that smaller GT customers (with lower energy-usage) are more likely to take advantage of FirstEnergy's Large Enterprise EE/PDR programs, such as the lighting or HVAC programs, than larger GT customers (with higher energy-usage).¹⁶ That is because electric costs represent a large portion of the operating costs for many of those larger GT customers. Consequently, larger GT customers are more likely to have already implemented self-funded energy efficiency measures to reduce their operating costs and protect their bottom line. The current DSE2 rate design fails to recognize the possibility that smaller GT customers may get more benefit from FirstEnergy's EE/PDR programs than larger GT customers.

To ensure that the largest GT customers are not excessively charged as a result of paying a disproportionate share of EE/PDR program costs under the DSE2 rate design, the Commission should establish important rate protections for those customers. For example, the Commission should cap the DSE2 monthly charges to individual GT customers at a maximum of \$10,000 per customer.¹⁷ With such a cap in place, FirstEnergy would continue to apply DSE2 charges to each customer's total monthly kWh use, but would limit an individual customer's bill to \$10,000 per month. Any excess above the \$10,000 cap on a customer's bill would be deferred until the next DSE2 charge true-up, and then added to the projected EE/PDR program costs for Large Enterprise customers as a group (Rates GP, GSU, and GT). By spreading the deferred DSE2 charges among the three Large Enterprise rate schedules, the Commission can minimize the total bill impacts on individual customers.¹⁸

¹⁴ Goins Testimony at 4:12-21.

¹⁵ Goins Testimony at 12:14-17.

¹⁶ Goins Testimony at 12:17-21.

¹⁷ Goins Testimony at 11:5-9.

¹⁸ Goins Testimony at 13:4-12.

Establishing a monthly cap would ensure that the largest GT customers continue to bear a significant share of FirstEnergy's EE/PDR program costs (up to \$120,000 per customer per year), while also protecting those customers against DSE2 charges far in excess of potential benefits from the EE/PDR programs.¹⁹ Moreover, establishing an individual customer cost cap helps the Commission avoid implementing rates that would result in unreasonably priced electric service, in violation of R.C. 4928.02(A).

For fairness reasons, the Commission could also expressly limit the annual EE/PDR program spending by individual GT customers to same level of \$120,000 per year. If a GT customer qualified for an EE/PDR project rebate in excess of \$120,000, that rebate would be spread over two or more years in order to keep the customer from exceeding the \$120,000 annual spending cap.²⁰ Such an approach would more closely align individual customer EE/PDR costs to the potential benefits of FirstEnergy's EE/PDR programs.

If the Commission decides to increase the amount of OEG's suggested GT customer cap, in no event should the Commission require individual GT customers to pay more than \$500,000 per customer per year. An individual mercantile customer can take a maximum of \$500,000 per year in rebates under the mercantile self-direct program.²¹ Consequently, it is equitable to limit the maximum amount that large mercantile customers must pay under the DSE2 charge to no more than \$500,000 per year. The establishment of an individual GT customer cost cap of no more than \$500,000 per year under the DSE2 charge will ensure that the largest GT customers do not pay EE/PDR program costs far in excess of program-related benefits they receive. And a monthly DSE cost cap will provide large GT customers reasonable protection against excessive DSE2 bill impacts without the need for major changes to the flawed rate design of DSE2 charges.²²

Alternatively, there are other approaches that the Commission could establish to protect the largest GT customers from paying a disproportionate share of the DSE2 costs. One approach is for FirstEnergy to use a declining block DSE2 rate to mitigate potential bill impacts on customers. This is comparable to the current declining block rate in the Universal Service Fund rider that Ohio utilities currently use to collect the costs of low-income customer assistance programs. Another approach would include capping the monthly kWh per customer

¹⁹ Goins Testimony at 11:9-13.

²⁰ Goins Testimony at 13:13-20.

²¹ Tr. Vol. I (Oct. 23, 2012) at 37:11-20.

²² Goins Testimony at 14:3-5.

to which the DSE2 charge is applied, or making the DSE2 charge a monthly customer charge.²³ But in any event, it is necessary for the Commission to establish some critical rate protection in this proceeding to ensure that the largest GT customers are not forced to pay unreasonably high rates as a result of the flawed rate design of the current DSE2 charge.

II. The Commission Should Reject FirstEnergy's Proposed Incentive Mechanism.

FirstEnergy proposed to establish a shared savings mechanism in this proceeding which would allow each operating company to earn an incentive on its EE/PDR programs for exceeding the statutory benchmarks set forth in R.C. 4928.66. These incentives payments would be recovered through Rider DSE.

The Commission should reject FirstEnergy's request for an incentive mechanism since FirstEnergy has provided no persuasive evidence that its proposal is reasonable, necessary, or in the public interest.²⁴ FirstEnergy has offered no empirical analysis or justification to support its proposed incentive mechanism. FirstEnergy merely points to the incentive mechanisms established through settlements for other Ohio utilities.²⁵ But FirstEnergy does not explain why an incentive mechanism is necessary for it to achieve performance above the EE/PDR benchmarks. In fact, FirstEnergy's past performance indicates that its proposed incentive mechanism is unnecessary to beat the benchmarks. For example, both CEI and TE far exceeded their cumulative EE and PDR benchmarks in 2011, even though no incentive mechanism was in place.²⁶ In addition, because FirstEnergy's EE/PDR program costs are passed directly through to customers, FirstEnergy assumes no real financial risk for EE/PDR program costs that produce benefits exceeding the statutory performance benchmarks. Moreover, FirstEnergy already is compensated for lost distribution revenues associated with its EE/PDR programs. The Commission is not required to establish an incentive mechanism for FirstEnergy simply because it asked for one.

FirstEnergy's proposed incentive mechanism has the potential to increase EE/PDR-related costs significantly for customers.²⁷ And the Companies' potential EE/PDR costs are already substantial. In this case, FirstEnergy is requesting the Commission's approval to spend approximately \$248.8 million for its EE/PDR

²³ Goins Testimony at 13:21-28.

²⁴ Goins Testimony at 5:26-27.

²⁵ See Direct Testimony of Erin G. DeMiray at 6:21-7:4.

²⁶ Goins Testimony at 15:15-17.

²⁷ Goins Testimony at 15:8-21.

plans.²⁸ This amount does not include lost distribution revenues (estimated at \$20 million in 2013) or any future incentive payments to the Companies, should FirstEnergy's request for an incentive mechanism be approved. But if its requested incentive mechanism is approved, the already substantial price tag for FirstEnergy's EE/PDR plans could significantly increase.

Further, FirstEnergy's proposed incentive mechanism puts no cap on the level of potential annual incentive payments. As a result, FirstEnergy would have an incentive to spend as much as possible to exceed the statutory benchmarks—even if the excess spending created significant financial hardship for customers. Although the cost of achieving additional EE/PDR savings might be "cost-effective" based on a measure of lifetime benefits, the incremental costs on individual customers could far exceed the incremental benefit, if any, that they get.²⁹ As FirstEnergy witness George Fitzpatrick observed, customers that do not participate in EE/PDR programs will incur EE/PDR program costs even if they have no program-related reduction in electricity costs.³⁰ Moreover, witness Fitzpatrick seemed to acknowledge that incremental DSE2 charges may exceed savings even for program participants. The likelihood of such adverse cost consequences for FirstEnergy's customers will increase if FirstEnergy has a financial incentive to exceed its statutory benchmarks.³¹

OEG/Nucor witness Dr. Goins identified a number of specific concerns about FirstEnergy's proposal in addition to the lack of an annual cap on the proposed incentive mechanism payments, including:

- There is no empirical justification for the proposed tiered incentive levels—including the 13 percent incentive applicable to costs incurred in achieving savings that exceed the benchmark by at least 115 percent.
- The proposal would allow a company to earn an incentive simply for meeting (not just exceeding) the statutory benchmarks. Further, the incentive is calculated based on the adjusted net life-time benefits of a company's *entire* portfolio, instead of being limited just to the portion of the savings above and beyond what a company is required to achieve under the benchmarks.

²⁸ Tr. Vol. I (Oct. 22, 2012) at 33:7-11; Tr. Vol. II (Oct. 23, 2012) at 128:1-10.

²⁹ Goins Testimony at 15:22-16:1.

³⁰ See Direct Testimony of George L. Fitzpatrick at 13-14.

³¹ Goins Testimony at 16:4-8.

- The proposal appears to be applicable to mercantile self-direct projects installed after March 23, 2011, even though the savings produced by these projects would be the result of the customer's own efforts, not a program operated by FirstEnergy.
- The proposal lacks detail regarding how incentive payments earned by a FirstEnergy company would be allocated and recovered from customers.

FirstEnergy has provided no evidence that an EE/PDR incentive is necessary, or that such an incentive would provide material benefits to retail customers if it were approved and implemented.³² The Commission should reject FirstEnergy's proposed incentive mechanism.

If the Commission does decide to approve an incentive mechanism for FirstEnergy, at least four major changes should be made to minimize the cost risk to customers. First, the level of annual incentive payments should be capped at no more than 8 percent of prudent program spending per FirstEnergy company.³³ Second, the Commission should significantly lower the percentage incentive levels. Third, incentives should apply only to EE/PDR expenses incurred in exceeding the statutory savings benchmark. That is, FirstEnergy should not earn an incentive simply for meeting, or slightly exceeding, the benchmarks. And, in calculating the incentive payment, the incentive percentage should be applied only to the portion of net program benefits attributable to program performance in excess of the statutory benchmarks. The incentive structure shown in Table 2 below reflects a reasonable alternative to the tiered incentive structure proposed by FirstEnergy.³⁴

| Table 2. Alternative Incentive Mechanisms | | | |
|--|-----------------------|----------------------|-----------------|
| | | Incentive (%) | |
| Tier | Compliance (%) | FirstEnergy | Modified |
| 1 | <100 | 0 | 0 |
| 2 | 100 - 105 | 5 | 0 |
| 3 | 106 - 110 | 7.5 | 2 |
| 4 | 111 - 115 | 10 | 4 |
| 5 | >115 | 13 | 6 |

³² Goins Testimony at 17:6-8.

³³ This recommendation was included in the Objections filed in this case by the Ohio Consumers Counsel.

³⁴ Goins Testimony at 18:8-9.

Finally, the effects of all mercantile self-direct projects, transmission and distribution projects, and behavioral programs should be removed from the shared savings calculation.

III. The Commission Should Require FirstEnergy to Bid Its ELR Load Into the PJM Capacity Auctions.

According to FirstEnergy, it intends to bid eligible installed energy efficiency credits for which it has ownership rights into the PJM auctions.³⁵ FirstEnergy is silent regarding its plans to bid Rider ELR interruptible load in the capacity auctions. But the Commission should expressly require FirstEnergy to bid interruptible load under Rider ELR into the PJM capacity markets.

In addition to the other benefits it provides, Rider ELR interruptible load is an ideal capacity resource. By bidding in the ELR load as a “price taker,” the ELR load can displace higher-priced generation resources and result in lower capacity clearing prices. In addition, payments that FirstEnergy receives from PJM for the ELR load can be flowed back to customers to reduce the Rider DSE charges. FirstEnergy has experience bidding ELR interruptible load into the PJM capacity auctions.³⁶ For example, it bid its Rider ELR load into the PJM capacity auctions for the 2011-12 delivery year.³⁷

FirstEnergy’s occasional participation in the PJM demand response auctions largely appears to be an issue of timing. PJM holds its annual base residual auction (“BRA”) each spring for capacity year delivered three years ahead. For example, capacity bought or sold during the May 2012 BRA will be delivered during the June 2015/2016 capacity year. However, the term of Rider ELR is currently tied to the term of FirstEnergy’s three-year ESPs.³⁸ As a result, FirstEnergy has been unwilling to bid Rider ELR load into capacity auctions for delivery years extending beyond the term of its then-current ESP since it could not know with certainty whether the ELR load would be available in the delivery year.³⁹ Earlier this year, FirstEnergy proposed to extend its existing ESP through May 2016, in part so that it could bid Rider ELR load into PJM’s May 2012 capacity auction for the

³⁵ Dargie Testimony at 15.

³⁶ Goins Testimony at 21:6-12.

³⁷ *In the Matter of the Commission’s Review of the Participation of The Cleveland Electric Illuminating Company, the Ohio Edison Company, and the Toledo Edison Company in the May 2012 PJM Reliability Pricing Model Auction*, Case No. 12-814-EL-UNC, Report of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company at 3-4 (March 29, 2012) (explaining that FirstEnergy offered ELR load into PJM’s capacity auction for the 2011-12 delivery year).

³⁸ Goins Testimony at 21:16-22.

³⁹ *Id.* at 4.

2015/16 delivery year.⁴⁰ However, the Commission did not approve the ESP extension until well after the May capacity auction. Since FirstEnergy did not know whether it would have the Rider ELR load available in 2015-16, FirstEnergy did not bid the ELR load into the May 2012 BRA.⁴¹

The Commission should require FirstEnergy to bid ELR interruptible load into the BRA notwithstanding the timing issue related to the termination of a particular ESP. FirstEnergy has bid ELR interruptible load into PJM capacity auctions in the past.⁴² In addition, Rider ELR customers provide FirstEnergy with a long-term, stable supply of interruptible load. And FirstEnergy has sold interruptible service to most ELR customers for many years. As long as the basic terms and conditions of Rider ELR remain unchanged (or ideally, are improved), FirstEnergy should continue to have a stable supply of interruptible load—even beyond the term of the current ESP. Because of its longstanding customer-supplier relationship with ELR customers, FirstEnergy can be reasonably assured that most ELR customers will continue to take interruptible service under Rider ELR or a similar rate offered by FirstEnergy. As FirstEnergy acknowledges, generation companies bid planned, but not yet built generation into PJM base residual auctions, even though there is some risk that the generation will not be built.⁴³ FirstEnergy should do the same with its ELR interruptible load.

Moreover, the Commission can allay part of FirstEnergy's concern that some ELR interruptible load may not be available three years hence by finding in this case that FirstEnergy has acted prudently in bidding ELR load into PJM's capacity auctions based on a reasonable and prudent forecast of interruptible load that will be available on its system. The Commission should also consider explicitly finding that FirstEnergy may recover reasonable costs associated with PJM penalties or shortfalls incurred if interruptible load is not available in a particular capacity delivery year. This latter finding would minimize or eliminate the financial risk to both FirstEnergy and ELR customers.⁴⁴

⁴⁰ See *In the Matter of the Application of the Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Stipulation and Recommendation at 2-3 (April 13, 2012).

⁴¹ Goins Testimony at 21:22-22:9.

⁴² Tr. Vol. VI (Oct. , 2012) at 1175:10-15 (reflecting the FirstEnergy bid interruptible load into the PJM Base Residual Auction for the 2013/14 delivery year).

⁴³ Tr. Vol. VI at 1177:24-1178:10.

⁴⁴ Goins Testimony at 22:21-23:11.

IV. The Commission Should Require FirstEnergy to Use the Definition of Curtailable Load in Rider ELR in Estimating the PDR Value of its ELR Program.

According to FirstEnergy, Rider ELR interruptible load will provide the following PDR savings in 2013: approximately 32 MW for CEI, 42 MW for Ohio Edison, and 126 MW for Toledo Edison.⁴⁵ FirstEnergy currently does not have a forecast estimate of ELR resources for 2014-15.⁴⁶ In calculating PDR savings provided by ELR load, FirstEnergy set the PDR value for each Rider ELR customer equal to the planning year kW of demand resources registered for each customer in PJM.⁴⁷ But FirstEnergy's use of ELR load registered in PJM appears to understate substantially the PDR value of Rider ELR interruptible load, and is inconsistent with the period used to determine Curtailable Load under Rider ELR.⁴⁸

Under Rider ELR, each customer's Curtailable Load is the difference between the customer's maximum demand and firm contract demand in the peak measurement period of 11 a.m.-5 p.m. EST (12 p.m.-6 p.m. EDT) on non-holiday weekdays. FirstEnergy should use the Curtailable Load measurement provided in Rider ELR to calculate PDR savings provided by ELR customers. The Curtailable Load measurement in Rider ELR recognizes that during a curtailment, ELR customers must reduce demand down to or below contract firm demand, and may not increase load above contract firm demand at any time during the curtailment event. Regardless of the amount of ELR interruptible load registered in PJM, the level of Rider ELR interruptible load available for curtailment equals maximum demand less firm contract demand. FirstEnergy's use of registered PJM interruptible load significantly understates the full benefit that Rider ELR customers provide.⁴⁹

Accordingly, the Commission should require FirstEnergy to use the definition of Curtailable Load in Rider ELR in estimating the PDR value of its ELR program. That is, available PDR interruptible load should reflect the difference between an interruptible customer's maximum demand and firm contract demand in the peak measurement period of 11 a.m.-5 p.m. EST (12 p.m.-6 p.m. EDT) on non-holiday weekdays. To

⁴⁵ Application at Attachment A, Ohio Edison Company Energy Efficiency & Peak Demand Reduction Portfolio Plan, Appendix C-1: EE&C/DR Program Measure Assumptions; FirstEnergy Response to Nucor 1-19(a).

⁴⁶ FirstEnergy Response to Nucor 1-19(a).

⁴⁷ FirstEnergy Response to Nucor 1-20(a).

⁴⁸ Goins Testimony at 19:7-10.

⁴⁹ Goins Testimony at 19:10-24.

implement this change, FirstEnergy should calculate the PDR value for Rider ELR interruptible load for a given year as follows:

- Sum the Curtailable Load for each Rider ELR customer to produce a total monthly Rider ELR Curtailable Load;
- Average the monthly Curtailable Load for the summer months (June, July, and August);
- Set the PDR value equal to the average monthly summer Curtailable Load.

Calculating PDR value in this way more accurately reflects the level of PDR benefit Rider ELR actually provides, and likely will reduce FirstEnergy's need to acquire additional demand response resources to meet its benchmarks.⁵⁰

CONCLUSION

For the foregoing reasons, the Commission should adopt OEG's recommendations in this proceeding.

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November 20, 2012

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⁵⁰ Goins Testimony at 20:3-20.

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 20th day of November, 2012 to the following:



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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/20/2012 4:05:23 PM

in

Case No(s). 12-2190-EL-POR, 12-2191-EL-POR, 12-2192-EL-POR

Summary: Brief Ohio Energy Group's (OEG) Post-Hearing Brief electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group