

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The	)	
Ohio Power Company for Authority to	)	Case No. 13-2385-EL-SSO
Establish a Standard Service Offer	)	
Pursuant to § 4928.143, Revised Code, in	)	
the Form of an Electric Security Plan	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 13-2386-EL-AAM
Accounting Authority	)	

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**INITIAL POST-HEARING BRIEF OF FIRSTENERGY SOLUTIONS CORP.**

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## I. INTRODUCTION

FirstEnergy Solutions Corp. ("FES") generally supports Ohio Power Company's ("Ohio Power" or "Company") Application to Establish a Standard Service Offer ("Application"). However, the Commission should modify two portions of the Application. First, the Company's proposed purchase of receivables ("POR") program contains several provisions that have the potential to act as barriers to competition and disadvantage Competitive Retail Electric Service ("CRES") providers with effective collection practices. Second, PJM line item 1930 should be classified as a non-market-based charge ("NMB"), contrary to the Company's Application, which classifies the line item as a market-based charge ("MB").

## II. THE PROPOSED ESP SHOULD BE MODIFIED

### A. The Purchase of Receivables Proposal Penalizes Responsible Retail Providers

As part of the Application, Ohio Power is seeking to implement a non-recourse purchase of receivables POR program for CRES providers.<sup>1</sup> Ohio Power's proposal seeks to tie a CRES provider's use of consolidated billing to its POR program,<sup>2</sup> while reserving the ability to raise the discount rate in the future for the implementation of functionalities that would supposedly benefit CRES providers.<sup>3</sup> AEP also proposes a \$0.77 per-customer fee for consolidated billing.<sup>4</sup> As explained below, the Commission should modify Ohio Power's POR proposal and allow CRES providers to use consolidated billing without being forced to participate in the POR program, eliminate the \$0.77 fee, and prohibit Ohio Power from recovering non-POR related costs through a POR discount rate in the future.

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<sup>1</sup> Testimony of Stacey D. Gabbard on behalf of Ohio Power ("Gabbard Direct").

<sup>2</sup> Id. At 6-7.

<sup>3</sup> Id.

<sup>4</sup> Id at 14.

CRES providers have been active in Ohio's retail electric market for 14 years. From the inception of competition in Ohio, CRES providers worked diligently to implement responsible business practices to serve retail customers. One of the most vital aspects of a CRES provider's business is collection of customer bill payments. Introducing a mandatory POR program in Ohio Power's service territory with the potential for a percent-off discount would penalize CRES providers that have collection practices that are better than any discount rate set by Ohio Power. Instead, CRES providers should have the option to enroll in Ohio Power's POR program or not. Making the POR optional in this manner will allow CRES providers to weigh their own collection practices against whatever discount rate may be applied to their receivables by Ohio Power in the future. This is far preferable to forcing CRES providers to participate, potentially at a loss, based on that provider's unrelated use of consolidated billing.

Consolidated billing provides customers with a user-friendly experience.<sup>5</sup> Under Ohio Power's proposal, A CRES provider with an exceptional debt-collection rate would be forced to choose between giving up revenue by enrolling in Ohio Power's POR program, or issuing a separate bill. Issuing a separate bill would not allow a customer to take advantage of consolidated billing's benefits since, under Ohio Power's proposed ESP, consolidated billing would be limited to suppliers participating in the POR program. For example, Company Witness Gabbard indicates that POR tied to consolidated billing will allow customers to receive one bill and deal with only one company and would also free customers from being subject to duplicative credit checks and adverse credit scores.<sup>6</sup> However, Ohio Power failed to offer any tangible evidence that would justify the potential penalty that could result from a mandatory POR. Ohio

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<sup>5</sup> Testimony of Louis D'Alessandris on behalf of FES ("D'Alessandris Direct"), p. 5.

<sup>6</sup> Gabbard Direct at 4-5.

Power's proposed program is also inconsistent with the only other Ohio electric distribution utility ("EDU") with a POR program, Duke Energy Ohio ("Duke").

Duke introduced POR as part of a Commission-approved stipulation.<sup>7</sup> Duke's POR program does not include the unreasonable constraints proposed by Ohio Power. For example, in Duke's program CRES providers are free to serve consolidated billing customers without the use of POR. In addition, Duke does not charge a per-customer fee such as the one that Ohio Power is requesting. In reality, Ohio Power is imposing a consolidated bill fee, which further increases the potential POR penalty for a CRES provider. To enroll in Ohio Power's POR program, a CRES provider with effective collection practices would be faced with not only the possibility of the discount rate rising in the future, but also a per-customer fee. The distinctions between the current POR program in Duke's territory and the proposed Ohio Power program are noteworthy, especially considering Ohio Power's repeated comparisons to the shopping levels and practices in Duke's territory.<sup>8</sup> If Ohio Power's goal is in fact like Duke's, to increase supplier diversity in its territory, then, Ohio Power's proposed POR should not result in additional barriers to CRES providers with a low percentage of uncollectible bills. To make matters worse, Ohio Power seeks the ability to recover costs unrelated to the implementation and administration of its POR program through the discount rate.

While the direct testimony filed by the Company indicated that only POR-related costs could cause the discount rate to be higher than zero<sup>9</sup>, Witness Gabbard stated otherwise in cross-examination. When asked about other situations that would cause the discount rate to vary,

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<sup>7</sup> Case No. 11-3549-EL-SSO. November 22, 2011, Opinion and Order, p. 33.

<sup>8</sup> Hearing Transcript ("Tr.") Volume ("Vol.") III, p. 787, lines 18-21, p. 828, lines 5-14, 17-21; p. 867, lines 7-14.

<sup>9</sup> Gabbard Direct at 7.

Witness Gabbard stated that the discount rate could also be used as a tool to recover the cost of other "supplier enhancements" unrelated to the POR program.<sup>10</sup>

The Commission should not allow Ohio Power to recover costs unrelated to the POR program through a POR discount rate. It is a core regulatory principal that costs should, whenever possible, be recovered from the cost causers. Utilizing the POR discount rate to recover unrelated costs of various other supplier enhancements runs contrary to this principal. On cross-examination, Witness Gabbard admitted as much when he acknowledged that "supplier enhancements" advocated by suppliers with a minority of the consolidated bill shopping load, and opposed by those with the majority of the consolidated bill shopping load, would be predominately paid for by the latter under his proposal for expanded use of the POR discount rate.<sup>11</sup>

FES has no objection to Ohio Power recovering costs for supplier enhancements, to the extent those enhancements benefit the CRES market in Ohio Power territory as a whole. As for the proper method of recovery, Ohio Power justifies its recovery of the Bad Debt Rider from all customers based on its overall benefits to the CRES market and therefore to all customers, since all have the option to shop. Supplier enhancements that broadly benefit the CRES market should likewise be recovered from all customers, rather than through an unrealtd POR discount rate.<sup>12</sup> On the other hand, FES would strongly question the propriety of Ohio Power implementing a supplier enhancement that only benefits a select few suppliers to the detriment of others, which would be a distinct risk if the expanded use of the POR discount rate were allowed by the Commission.

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<sup>10</sup> Tr. Vol. III pp. 795-96.

<sup>11</sup> Tr. Vol. III pp. 796-97.

<sup>12</sup> Tr. Vol. III pp. 797-800.

Accordingly, the Commission should modify the proposed ESP to make it clear that only costs related to the implementation and administration of the POR program may be recovered through the POR discount rate. If, in the future, Ohio Power incurs costs related to broadly beneficial supplier enhancements, then the Commission should consider allowing the company to recover its costs from all customers, since all customers will share the benefits of a more vibrant CRES market. Further, the Commission should remove a potential barrier to competition and modify the proposed ESP to make it clear that participation in the POR is both voluntary, and not contingent on whether a supplier elects to use consolidated billing.

**B. The Proposed Assignment of Responsibility for PJM Billing Line Item 1930  
Should be Modified**

The Commission should attempt to standardize the treatment of PJM line items across all Ohio EDU's wherever practicable. Specifically, PJM line item 1930, part of generation deactivation or Reliability Must Run charges, are properly classified as NMB. As part of the Application, Ohio Power, apparently inadvertently, classified line item 1930 as MB.<sup>13</sup> The other three Ohio EDU's classify this line item as NMB.<sup>14</sup> Future RMR charges are unknowable, and there are no trading instruments to lock in such a future charge, making it impossible for bidders to hedge against any fluctuations.<sup>15</sup> Instead, bidders must include a risk premium in their prices to customers, which has the potential to be greater than the actual RMR charge.<sup>16</sup> If the Company accepted responsibility for this line item, only actual costs would be recovered, thereby

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<sup>13</sup> Company Exhibit CL-2, Attachment F.

<sup>14</sup> Case No. 11-3549-EL-SSO, October 24, 2011, Stipulation, Attachment F, p. 92 of 96; FirstEnergy Operating Company's Supplier Tariffs, [https://www.firstenergycorp.com/content/customer/customer\\_choice/ohio/\\_ohio\\_tariffs.html](https://www.firstenergycorp.com/content/customer/customer_choice/ohio/_ohio_tariffs.html); Case No. 12-0426-EL-SSO, Book II, p. 3 of Appendix G, filed March 30, 2012.

<sup>15</sup> Tr. Vol. I, p. 167; Tr. Vol. IV, p. 1009.

<sup>16</sup> D'Alessandris Direct, p. 4.

eliminating bidder risk premiums. Company Witness Pablo Vegas admitted that the Company would be willing to change the classification of this charge to NMB if they misclassified it.<sup>17</sup> Further, Company Witness Moore confirmed that PJM line item 1930 is NMB.<sup>18</sup> FES agrees with Company Witnesses Vegas and Moore and the Commission should modify the proposed ESP to reflect this change.

### III. CONCLUSION

For the reasons stated herein, the Commission should modify Ohio Power's Application.

Respectfully submitted,

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<sup>17</sup> Tr. Vol. I, pp. 167-68.

<sup>18</sup> Tr. Vol. IV, p. 1009.



## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 23rd day of July 2014, via e-mail upon the parties below.

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**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 13-2385-EL-SSO, 13-2386-EL-AAM**

Summary: Brief Initial Brief electronically filed by Mr. Scott J Casto on behalf of FirstEnergy Solutions Corp.