

**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) Case No. 14-1297-EL-SSO
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)

**APPLICATION FOR REHEARING AND MEMORANDUM IN SUPPORT OF
INTERSTATE GAS SUPPLY, INC.**

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APPLICATION FOR REHEARING

Pursuant to Section 4903.10, Revised Code, and Rule 4901-1-35, Ohio Administrative Code (“O.A.C.”), Interstate Gas Supply, Inc. (“IGS Energy” or “IGS”) respectfully submits this Application for Rehearing of the Fifth Entry on Rehearing (“Entry”) issued by the Public Utilities Commission of Ohio (“Commission”) on November 12, 2016, modifying and approving an electric security plan (“ESP”) for Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy”) for the following reason:

- 1. The Entry unlawfully and unreasonably determined that the record evidence does not support the authorization of a placeholder Retail Competition Enhancement Rider (“RCE Rider”). Because the record evidence suggests that additional customer engagement is necessary to maximize the potential of smart grid, the Commission on rehearing should authorize a placeholder RCE Rider to incentivize customer engagement and evaluate the reasonableness of the rider rate in a separate proceeding.**

As discussed in the Memorandum in Support attached hereto, IGS respectfully requests that the Commission grant this Application for Rehearing and correct the errors identified herein.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

After more than two years of litigation related to FirstEnergy’s application to establish an ESP, the Commission issued its Fifth Entry on Rehearing. While the Commission’s lengthy Entry addressed a host of issues, the Entry largely focused on enabling FirstEnergy to invest in smart grid.¹ By laying that technological foundational investment, the Entry indicates that the Commission hopes to transform the electric sector in FirstEnergy’s service territory by reducing outages and deploying innovative products and services for the betterment of society and the economy.² IGS supports the Entry’s stated end goal; however, the Entry missed an important opportunity to take immediate, needed steps when it reversed authorization of the placeholder RCE Rider.

In the Opinion and Order approving the Stipulation in this proceeding, Rider RCE was approved as a placeholder rider for purposes of unbundling costs incurred to support

¹ See Concurring Opinion of Chairman Haque at 1-3 (summarizing Fifth Entry on Rehearing) (Oct. 12, 2016).

² *Id.*; see also Entry at 50-51; 88-89 (Oct. 12, 2016).

Standard Service Offer (“SSO”) service.³ In order to more accurately reflect an agreement entered into between IGS and FirstEnergy, FirstEnergy filed an application for rehearing of the Order—not requesting that Rider RCE be overturned, but rather that the Order be modified to indicate that the placeholder RCE Rider should be approved for purposes of incentivizing shopping.

In its Entry ruling on FirstEnergy’s application for rehearing, the Commission incorrectly overturned Rider RCE on the basis that the record evidence only supported a rider for purposes of “unbundling.”⁴ The Entry, however, ignores a record that indicates incentives for shopping are necessary because direct residential retail electric competition has lagged behind the commercial and industrial classes. Instead, competition has largely resulted from opt-out aggregation, which requires zero customer engagement with the competitive marketplace. In the absence of direct customer engagement with the retail electric market, smart grid deployment is unlikely to provide an effective platform for innovative products and services. To increase participation in the competitive market, IGS and FirstEnergy agreed to file an application for approval of a rider to incentivize shopping.⁵ As discussed further below, there is sufficient evidence in the record to support the RCE Rider on a placeholder basis.

Further, IGS and FirstEnergy are not asking the Commission to approve a dollar amount to be included in Rider RCE in this proceeding. An amount to be included in Rider RCE will be determined in a separate case, where parties will have an opportunity

³ Opinion and Order at 98 (Mar. 31, 2016) (hereinafter “Order”).

⁴ Entry at 135 (Oct. 12, 2016).

⁵ Ohio Manufacturers’ Association Energy Group (“OMAEG”) Ex. 24.

to present evidence on an amount to be included in Rider RCE. Therefore, approving Rider RCE will have no immediate impact on customers at this time. To the extent there is an application to populate Rider RCE that will have an impact on customers, there will be ample opportunity to support such application with the record in that future proceeding.

For these reasons, IGS urges the Commission to reverse its Entry and take this necessary step to further support the effectiveness of smart grid rollout and the competitive market.

II. BACKGROUND

On August 4, 2014, FirstEnergy filed an application to establish an SSO in the form of an ESP. Although the application raised several unique and complicated issues, as is relevant to this pleading, IGS initially submitted testimony identifying that the application failed to address underlying shortcomings with respect to retail competition and direct customer engagement, especially in the residential sector. Specifically, **based upon concrete data**, the Supplemental Direct Testimony of Matthew White stated, “I conclude that retail competition in FirstEnergy’s service territory is not robust.”⁶ Mr. White identified that “[i]t can be concluded that the Ohio competitive electric markets have done a good job encouraging opt-out aggregation in the FirstEnergy service territory, but have done a poor job at encouraging customers to affirmatively enroll in a competitive product or otherwise engage in the competitive market.”⁷ Mr. White further testified that customer engagement in the retail electric market is a prerequisite for customers to utilize innovative products and services that will enable more efficient energy usage:

⁶ IGS Ex. 11 at 4. See also Ex. MW-4.

⁷ IGS Ex. 11 at 17-18 and Ex. MW-4.

IGS continues to advocate for moving Ohio's competitive retail electric markets forward in a way that encourages customer engagement. **In order for customers to be more willing to adopt value added products and services that enable them to use and consume energy more efficiently, customers must be engaged in the competitive retail electric market.** Unfortunately, the current SSO service discourages customer engagement and encourages customers to view electric service as a commodity only product over which they have no control. As such, IGS has made a number of proposals over the years that would encourage customers to affirmatively choose a retail electric product based on the preferences of the customers.⁸

Mr. White further testified that, over the years, IGS has proposed several different mechanisms through which the Commission may enhance the retail electric market.

On December 1, 2015, a diverse group of parties submitted a Third Supplemental Stipulation and Recommendation (“Stipulation”) to resolve the outstanding issues presented in this proceeding.⁹ The Stipulation provided that FirstEnergy shall transform the electric sector through the rollout of smart grid technologies, which among other things, are ultimately intended to enhance customer engagement and retail competition:

The Signatory Parties, including the Staff, believe that **now is the time for the Companies to implement groundbreaking efforts to actively engage with retail customers** to modernize and expand the electric distribution grid to ensure that the State's long-term resource adequacy needs continue to be met in a responsible manner. In particular, the Companies, Staff, and the Signatory Parties are confident that ' their **grid modernization initiatives should not only provide savings from advance metering infrastructure, Distribution Automation, circuit reconfiguration, and VOLT VAR, but also enhance retail competition in the State of Ohio through the full deployment of advanced smart meters.**¹⁰

⁸ IGS Ex. 11 at 17 (emphasis added). Mr. White further stated that “[b]y encouraging customers to remain on SSO service, the Commission is effectively adopting a policy that discourages engagement in the retail electric markets. In the long run, a disengaged market will miss out on the multitude of innovative products and technologies that will enhance Ohio’s electric reliability and enable customers to use energy more efficiently.” *Id.* at 20-21.

⁹ This Stipulation was the last of four submitted in this proceeding.

¹⁰ FirstEnergy Ex. 154 at 2 (Third Supplemental Stipulation)(emphasis added). The Stipulation is further supported by the Fifth Supplemental Testimony of Eileen Mikkelsen. FirstEnergy Ex. 155 at 3-4, 10 (Fifth Supplemental Testimony of Eileen Mikkelsen).

In partial opposition to the Stipulation, the Retail Energy Supply Association submitted the testimony of witness Brenda Crockett-McNew. In her testimony, Ms. Crockett-McNew agreed that smart grid deployment may enable suppliers to offer customers innovative products and services:

Customers currently without smart meters would further benefit from greater product options, such as time-of-use or peak-shaving products. There are companies who use the meters within homes and businesses (through device-level analytics) to allow customers to make better-informed energy decisions. This type of grid modernization is changing the face of utility and electricity services to the benefit of all customers.¹¹

The Commission relied upon Ms. Crockett-McNew's testimony in the Entry to support its conclusion that smart grid will promote the development of innovative products and services.¹² During cross-examination, however, Ms. Crockett-McNew testified that her testimony is based upon her experience in Texas.¹³ While IGS has a great deal of respect for Ms. Crockett-McNew, it is commonly known that the Texas retail electric market is structurally different from Ohio. All customers in Texas are required to engage directly with the retail electric market—default service does not exist; customers must evaluate between competing offers, products and services and choose an electric supplier that fits their individual needs.¹⁴ As identified by Mr. White, smart grid will not enhance the retail electric market without direct customer engagement. Fortunately, IGS and FirstEnergy

¹¹ RESA Ex. 7 at 7; see also Rehearing Tr. Vol. IV at 844-46.

¹² Entry at 50-51, 88-89, 123, 163 (Oct. 12, 2016).

¹³ "I can speak to my experience in Texas and I believe that that would be the case. With the advent of more smart meters and that technology, more products can be developed and offered to customers in Ohio." Rehearing Tr. at IV at 844.

¹⁴ See FirstEnergy Ex. 120 at 30.

have presented to the Commission a potential solution for future evaluation in a separate proceeding.

To address the shortcomings in residential customer engagement, on January 14, 2016, IGS entered into a Competitive Market Enhancement Agreement (“Enhancement Agreement”) with FirstEnergy and joined the Stipulation as a signatory party. Pursuant to the Enhancement Agreement, “[i]n an effort to demonstrate continued support for the competitive market, the Companies agree[d] to make a filing that requests the Commission to establish a retail competition incentive mechanism [RCE Rider] in addition to the bypassable charges applied to non-shopping customers with the purpose of incenting shopping.”¹⁵ Thus, the RCE Rider was intended to enhance customer engagement with the competitive retail electric market and to provide financial incentives to encourage shopping.

Following the submission of briefs, on March 31, 2016, the Commission issued an Order modifying and approving the Stipulation. Among other things, the Commission authorized FirstEnergy to establish a placeholder RCE Rider set at zero, which shall be the subject of a future application.¹⁶ Although the Enhancement Agreement did not contemplate “unbundling” of distribution rates, the Order contemplated that FirstEnergy would explore the concept of “unbundling” in a future application.¹⁷ FirstEnergy filed an application for rehearing requesting that the Commission clarify that the Commission did not intend for the Companies to explore an exercise of unbundling distribution rates in

¹⁵ OMAEG Ex. 24.

¹⁶ Order at 98 (Mar. 31, 2016).

¹⁷ *Id.*

order to satisfy the objective of the Enhancement Agreement. IGS represented in a letter submitted on May 2, 2016 that while IGS continues to support the concept of unbundling, “to the extent that FirstEnergy’s application for rehearing is consistent with the intent of the Enhancement Agreement, IGS is supportive of FirstEnergy’s requested modification to the Order.”¹⁸ To be clear, IGS is not requesting that the Commission direct FirstEnergy to unbundle distribution rates to implement and effectuate the Enhancement Agreement.

In the Entry that is the subject of this application for rehearing, the Commission granted FirstEnergy’s application for rehearing, but also determined that IGS and FirstEnergy had failed to submit sufficient evidence to support their alternative proposal for RCE Rider even on a placeholder basis, stating:

The Commission notes that, although FirstEnergy may dispute the characterization. Rider RCE would effectively "unbundle" distribution rates by assessing a charge on standard service customers and distributing the proceeds of that charge to all non-Rate GT customers. Nonetheless, we will accept the claims by FirstEnergy and IGS that the testimony by IGS witness White does not support the creation of Rider RCE. However, absent the testimony of IGS witness White in support of Rider RCE, we find that there is insufficient evidence to support the creation of Rider RCE, even on a placeholder, zero-cost basis. Neither FirstEnergy nor IGS presented any testimony in support of Rider RCE, and we find that the limited commentary of FirstEnergy witness Mikkelsen on cross-examination is insufficient by itself to support the creation of the rider.¹⁹

IGS respectfully disagrees with the Commission’s Entry and urges the Commission to reverse its decision on rehearing to ensure that customer engagement in FirstEnergy’s service territory improves.

¹⁸ Correspondence of IGS Energy (May 2, 2016).

¹⁹ Entry at 135 (Oct. 12, 2016) (citations omitted).

III. ARGUMENT

- A. The Entry unlawfully and unreasonably determined that the record evidence does not support the authorization of a placeholder RCE Rider. Because the record evidence suggests that additional customer engagement is necessary to maximize the potential of smart grid, the Commission on rehearing should authorize a placeholder RCE Rider to incentivize customer engagement and evaluate the reasonableness of the rider rate in a separate proceeding.

The Entry determined that neither IGS' testimony nor Ms. Mikkelsen's commentary on cross-examination provided evidentiary support for the placeholder RCE Rider. The Entry, however, failed to recognize important policy testimony, factual statements, and statistics contained in the record, which support the creation of the rider. Although the Commission has identified that the end goal of smart grid deployment is to enhance the retail electric market through the deployment of innovative products and services, Mr. White unequivocally identified in his Supplemental Direct Testimony that "**i]n order for customers to be more willing to adopt value added products and services that enable them to use and consume energy more efficiently, customers must be engaged in the competitive retail electric market.**"²⁰ Mr. White also concluded that unfortunately customers are not currently engaged in the retail electric market.²¹ Thus, there is clearly record evidence to support a conclusion that there is in fact a deficiency in retail competition and customer engagement that should be addressed in order to unlock the full potential of smart grid.

²⁰ IGS Ex. 11 at 17 (emphasis added). See also *id.* at 20-21.

²¹ *Id.* at 4, 17-18 and Ex. MW-4.

In support of the a solution to this shortcoming, Ms. Mikkelsen's testified that the RCE Rider placeholder may encourage additional customer engagement and switching: it "would potentially create greater supplier interest in participating in the competitive market for the companies and, in turn, provide . . . a more robust competitive environment for the customers of the companies."²² The concept of the Rider RCE is the recommended solution to enhance customer engagement and competition in FirstEnergy's service territory. The specific details related to the proposal can be refined in a future proceeding.

The basic structure of the RCE Rider was discussed in the record sufficiently to provide the Commission with a factual basis to authorize the rider on a placeholder basis. Indeed, the structure of the rider was set forth in the Competitive Market Enhancement Agreement, which was admitted into evidence and supported by Ms. Mikkelsen during cross-examination. Ms. Mikkelsen further identified how the mechanics of the rider would work, and indicated that the Commission may consider the specifics of the rider in a separate proceeding. Ms. Mikkelsen testified that "as contemplated here with respect to the filing, the filing would propose that it apply as a bypassable charge to all non-GT customers served by the companies."²³ She further agreed that "the credit would be given both to non-GT SSO customers, and non-GT shopping customers."²⁴ Thus, the Order is properly supported by the evidence in the record.

²² Tr. Vol. XXXVII at 7927-28.

²³ *Id.* at 7925-26.

²⁴ *Id.* at 7913.

Moreover, the goal of the RCE—incentivizing shopping to develop the competitive retail electric market—is fully supported by the state policy enumerated in R.C. 4928.02 and the mandate set forth by the General Assembly when it restructured Ohio’s electric market.²⁵ In furtherance of these goals, the Commission has previously approved various mechanisms to incentivize customers to directly engage with the retail electric market through choice of a competitive electric supplier.²⁶ The Commission should follow that precedent and authorize the placeholder RCE Rider. The rider will allow the Commission to address the shortcomings in the competitive retail electric market identified by Mr. White, which—if unaddressed—may provide a barrier to unlocking the full potential of FirstEnergy’s pending smart grid deployment.

Again, IGS and FirstEnergy are not seeking to populate a rate in the rider in this proceeding—those details would be addressed in a separate application subject to due process. The Commission is permitted to authorize a placeholder rider and has done so in several prior cases.²⁷ This case should not be treated differently. Therefore, IGS urges

²⁵ See R.C. 4928.31-40 *et sec.*

²⁶ *In the Matter of the Application of FirstEnergy Corp. on Behalf of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Transition Plans and for Authorization to Collect Transition Revenues*, Case No. 99-1212-EL-ETP, Opinion and Order at 16-18 (Jul. 19, 2000); *In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2929-EL-UNC, Opinion and Order at 21-24 (Jul. 2, 2012).

²⁷ *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case Nos. 13-2385-EL-SSO, *et al.*, Opinion and Order at 25 (Feb. 25, 2015) (hereinafter “AEP ESP III Case”); *id.* at 25, 81, 87 (establishing three placeholder riders). *In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan*, Case Nos. 08-920-EL-SSO, *et al.*, Opinion and Order (Dec. 17, 2008) at 17; *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, *et al.*, Second Opinion and Order (Mar. 25, 2009) at 15; *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*. Case Nos. 11-346-EL-SSO, *et al.*, Opinion and Order at 39-40, 50, 56 (Dec. 14, 2011) (approving three placeholder riders to be the subject of potential later applications)

the Commission to grant this Application for Rehearing and authorize the placeholder RCE Rider.

IV. CONCLUSION

While total customer switching has been a success in FirstEnergy's service territory, it has largely been the product of municipal aggregation as opposed to direct customer engagement in the competitive market. The former type of passive participation may provide a route to smart grid investment without innovation, whereas the latter may provide a launching pad to revolutionizing the manner in which customers use energy. Therefore, IGS recommends that the Commission grant this Application for Rehearing and reverse the October 12, 2016 Entry to authorize a placeholder RCE Rider and allow FirstEnergy to file a subsequent application that will incentivize retail electric choice, customer engagement, and unlock the potential of smart grid.

Respectfully submitted,

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(hereinafter "*AEP ESP II Case*"); *AEP ESP II Case*, Opinion and Order at 24-25,49 (Aug. 8, 2012) (approving two placeholder riders); *See also In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case Nos. 08-917-EL-SSO, *et al.*, Opinion and Order at 52,64 (Mar. 23, 2009) (permitting Ohio Power Company to file additional applications based upon additional information not present in existing ESP application).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Application for Rehearing and Memorandum in Support of Interstate Gas Supply, Inc.* was served this the 14th day of November 2016 via electronic mail upon the following:

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Summary: Application for Rehearing electronically filed by Mr. Joseph E. Oliker on behalf of IGS Energy