BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of the Demand Side Management and Energy Efficiency Riders of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company	))))))	Case No. 14-1947-EL-RDR

COMMENTS ON STAFF REPORT SUBMITTED BY OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY

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INTRODUCTION

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "the Companies") submit this Response to the Staff Review and Recommendation ("Staff Report") filed in this matter on June 28, 2018. The Staff Report relates to the Companies' Demand Side Management and Efficiency Rider ("Rider DSE") and request to recover program costs, lost distribution revenue ("LDR") and shared savings related to the Companies' 2015 energy efficiency and demand response programs.

As explained below, Staff's recommendation to limit the number of years used to calculate LDR violates the plain language of current Commission-approved tariffs and stipulations. Since 2010, Staff and the Companies have agreed to multiple stipulations that were approved by the Commission and provide for the Companies to receive LDR for all approved energy efficiency and peak demand reduction programs, without any limitation on the number of years used to calculate LDR. Staff's recommendation to set a maximum three-year limit on the savings included in the calculation of LDR contradicts these stipulations and the Companies' tariffs. The Companies also object to Staff's classification of certain program expenses incurred in 2014 but invoiced to the Companies in 2015 as "out-of-period." These program expenses were incurred in support of the Companies' energy efficiency and demand response programs and appropriately charged to Rider DSE in 2015.

The harm caused by Staff's recommendation is compounded by the lateness of the Staff Report. The Staff Report, filed June 28, 2018, addresses LDR and program costs from 2015.[1] In the years since 2015, the Companies have conducted their business, including the development of

[1] Concurrently with these Comments, the Companies are also filing Comments on another Staff Report filed on June 28, 2018 in Case No. 13-2173-EL-RDR. That Staff Report addresses even earlier energy efficiency and demand response programs, for 2014, and recommends the same maximum three-year limit on the calculation of LDR.

energy efficiency and demand response programs, with the understanding that they would recover LDR without a limitation on the number of years used in the calculation, as approved by the Commission. Moreover, since 2015 the Companies entered into yet another stipulation with Staff, in the Companies' most recent Electric Security Plan ("ESP") proceeding, which provided for recovery of LDR without any such limit on the number of years used in the LDR calculation. *See* Case No. 14-1297-EL-SSO ("ESP IV"), ESP IV Third Supplemental Stipulation and Recommendation, Section F.2 (Dec. 1, 2015) ("[A]ll lost distribution revenue shall continue to be recovered in its current fashion up to the time any decoupling mechanism is implemented.").

For these reasons, and as explained further below, the Commission must reject these recommendations of the Staff Report.

COMMENTS

I. The Staff Report's Recommendation to Limit the Maximum Number of Years Used to Determine LDR Violates the Companies' Commission Approved Tariffs and Contradicts Commission-Approved Stipulations in Several Other of the Companies' Cases.

The Staff Report's recommendation to limit the maximum number of years of savings used to determine LDR violates the plain language of Rider DSE in each of the Companies' tariffs. That language places no time limit or other qualification or condition on the recovery of LDR:

> 2. The DSE2 charges set forth in this Rider recover costs incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the, [sic] energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code through demand-response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs. <u>The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all program costs, including but not limited to</u> any customer incentives or rebates paid, applicable carrying costs, all reasonable administrative costs to conduct such programs,

> <u>lost distribution revenues resulting from the implementation of such programs</u>, and any performance incentives such as shared savings.

Rider DSE, P.U.C.O. No. 11, Sheet 115, Effective July 1, 2018 (emphasis added).

In addition, this recommendation contradicts stipulation provisions agreed to by Staff and approved by the Commission in the Companies' ESPs for several years, dating back to Case No. 10-388-EL-SSO ("ESP II"). The stipulation in ESP II, to which Staff is a signatory party, entitles the Companies to receive LDR for all approved energy efficiency and peak demand reduction programs:

> During the term of this ESP, the Companies shall be entitled to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission. Such lost distribution revenues do not include approved historical mercantile self directed projected. The Signatory Parties agree that the collection of such lost distribution revenues by the Companies after May 31, 2014 is not addressed nor resolved by the terms of this Stipulation.

ESP II Stipulation and Recommendation, Section E.3 (Mar. 23, 2010). Staff and the Companies, along with other parties, entered into a stipulation with a nearly identical provision in Case No. 12-1230-EL-SSO ("ESP III"):

> During the term of this ESP 3, the Companies shall be entitled to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission. Such lost distribution revenues do not include approved historical mercantile self directed projects. The Signatory Parties agree that the collection of such lost distribution revenues by the Companies after May 31, 2016 is not addressed nor resolved by the terms of this Stipulation.

See ESP III Stipulation and Recommendation, Section E.3 (Apr. 13, 2012). The Commission approved both ESPs without modifying these stipulated terms. *See, e.g.*, ESP III Opinion and Order at 39 (July 18, 2012).

These stipulations include no limit on the number of years of savings used to determine LDR associated with each energy efficiency measure. In fact, the Commission has rejected recommendations to cap collection of LDR with a time period. For instance, in ESP III, the Office of the Ohio Consumers' Counsel ("OCC") and Citizen Power ("CP") argued that the collection of LDR should be capped by either a dollar amount or a time period, specifically a three-year limitation. *See* ESP III, Joint Initial Brief of OCC and CP at 33-38 (June 22, 2012); *see also* ESP III Second Entry on Rehearing at 11 (Jan. 30, 2013). The Commission, however, rejected OCC and CP's recommendation of such an arbitrary cap on LDR:

> However, the Commission notes that lost distribution revenue, which is based upon measurable and verifiable energy savings, is directly related to the statutory mandates for energy efficiency savings contained in Section 4928.66, Revised Code. There is no basis in the record of this case for instituting an arbitrary cap on lost distribution revenue, as proposed by OCC/CP, while the statutory mandates for energy efficiency savings increase every year.

ESP III Second Entry on Rehearing at 15 (Jan. 30, 2013). The Staff Report violates this ruling.

In the Companies' most recent ESP, ESP IV, Staff and the Companies continued to agree to recovery of LDR without any limitation on the number of years used in the LDR calculation. In ESP IV, the Companies and Staff stipulated that "all lost distribution revenue shall continue to be recovered in its current fashion up to the time that any decoupling mechanism is implemented." ESP IV Third Supplemental Stipulation and Recommendation, Section F.2 (Dec. 1, 2015). The Commission approved ESP IV without modifying this term. *See* ESP IV Opinion and Order at 121 (March 31, 2016).

The "current fashion" referenced in the Third Supplemental Stipulation is the fashion in which all LDR is recovered as set forth in the ESP II and III stipulations, which do not contain any limit on the number of years used in the LDR calculation. Further, the Companies have not implemented a decoupling mechanism as contemplated by the ESP IV Third Supplemental Stipulation. While the Companies filed an application in Case No. 17-334-EL-ATA to propose a transition to a straight-fixed variable ("SFV") cost recovery mechanism for residential customers' base distribution rates, consistent with their obligations under the ESP IV stipulation, the Commission denied the application. Case No. 17-334-EL-ATA Entry ¶ 7 (June 13, 2018) ("the Commission finds that FirstEnergy's application considering the implementation of an SFV cost recovery mechanism for residential customers should be denied at this time.").

For nearly ten years, the Companies have conducted their business in reliance on these stipulations, which were negotiated as a package of multiple provisions, and which provide for LDR recovery without limits on the number of years used in the LDR calculation. Now, the Staff proposes a fundamental change to the agreements that were reached.

Further, Staff's justification for setting an arbitrary limit for LDR at three years is based on an incorrect and irrelevant premise. According to Staff, its recommended three-year period "would be consistent with the period of time in which the saved energy would appear in the Companies' baselines." The Companies' baselines, however, are irrelevant to calculating LDR. The Companies' three-year baseline is used to determine average annual sales for the purpose of calculating energy efficiency savings targets for statutory compliance. The baseline has nothing to do with determining LDR. Energy efficiency savings cause the Companies to lose revenues until the reduced level of sales are reflected in revised base rates. These lost sales are appropriately included in the determination of LDR, without any time limitation, consistent with Commission approval.

For these reasons, Staff's recommendation to impose a maximum three-year cap on LDR must be rejected.

II. The Staff Report's Recommendation to Remove Allegedly Out-of-Period Expenses from Rider DSE Fails to Recognize That These Expenses Were Invoiced to the Companies in 2015 and reported only in that year.

Staff recommends removing $12,331 of transactions from Rider DSE, asserting they are outside the current audit period.[2] Importantly, Staff does not suggest that the transactions were not valid energy efficiency program expenses or that those expenses were not realized by the Companies in 2015. Instead, Staff recommends their disallowance because these expenses were associated with 2014 programs. As explained below, Staff's recommendation is based on a misunderstanding of the Companies' reporting practices related to Rider DSE. The recommendation risks disallowing valid energy efficiency expenses based solely on the year in which they are invoiced. Accordingly, the Commission should reject Staff's recommendation.

The transactions in question stem from activity related to the Companies' 2014 energy efficiency programs. At the end of 2014, certain programs accrued expenses for services performed by the Companies' vendors for which the Companies had not received invoices. Accounting for these expenses as accruals is in line with generally accepted accounting principles. In 2015, the accruals were reversed, and the invoices were received and booked to Rider DSE with a 2014 energy efficiency program designation. The $12,331 recommended for disallowance by Staff is the difference between the estimated accruals in 2014 and the final vendor invoices processed in 2015.

In booking accruals, accrual reversals, and expenses to Rider DSE, the Companies recognize the transactions in the period they occur. In the Companies' records, however, a notation is made indicating the energy efficiency portfolio program year associated with those expenses.

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[2] Staff's adjustment is based in part on $394 in costs related to the Ohio CVR study which were charged in error to the smart grid project, rather than energy efficiency. However, the Companies resolved this in January 2015 by making a correcting journal entry.

This practice is necessary to align program expenses and savings for energy efficiency portfolio reporting, cost-effectiveness tests, and, if applicable, shared savings calculations.

To disallow these transactions because they were realized after the energy efficiency portfolio program year with which they are associated would cause the Companies to forego recovery of valid program expenses in contravention of the plain language of their tariffs. See Rider DSE, quoted above. Disallowing these transactions will also discourage the Companies from performing program activities near the end of the calendar year due to the risk of not receiving the invoice until the following year. The Commission should reject Staff's recommendation.

CONCLUSION

While this response addresses the Companies' greatest concerns with the recommendations contained in the Staff Report, the Companies reserve the right to further contest the other recommendations in the Staff Report in subsequent stages of this proceeding. For the foregoing reasons, the Companies respectfully request that the Commission reject the Staff Report's recommendations which are discussed in this response, and approve the Companies' recovery of the reported expenses.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments has been filed electronically with the Public Utilities Commission of Ohio's Docketing Division. The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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