BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the 2017 Review of The Delivery Capital Recovery Rider Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.	)))))	Case No. 17-2009-EL-RDR

REPLY COMMENTS ON THE AUDIT OF FIRSTENERGY'S CHARGES TO CONSUMERS UNDER THE DELIVERY CAPITAL RECOVERY RIDER BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Public Utilities Commission of Ohio ("PUCO") should direct the FirstEnergy utilities[1] to implement the recommendations made by BlueRidge in the 2017 Rider DCR Audit Report. BlueRidge conducted an audit of FirstEnergy's 2017 Delivery Capital Recovery Rider ("Rider DCR") and recommended that FirstEnergy return $54,887,940 to consumers.[2] The majority of these overcharges were a result of FirstEnergy's proposed improper application of the federal Tax Cuts and Jobs Act of 2017 (the "federal tax cuts"). Additionally, approximately $3.6 million of the overcharges were a result of FirstEnergy's accounting for vegetation management inconsistent with FERC guidelines.

BlueRidge's recommendations can be seen in Table 1 from the audit report below:

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[1] Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company ("FirstEnergy").

[2] See 2017 Audit Report at 9-10.

Table 1: Impact of Blue Ridge's Findings on Rider DCR Revenue Requirement

Adj #	Description	CEI	OE	TE	Total
	As Filed	**$ 140,265,193**	**$ 147,036,276**	**$ 36,860,287**	**$ 324,161,756**
1	Intercompany Transfer Error	-	702	-	702
2	Rider EDR(g) Wrong Amounts	(137)	-	-	(137)
3, 4	Dropped	-	-	-	-
5	Non-Utility Property	-	-	(153,555)	(153,555)
6, 7, 8	Vegetation Mgmt-Expense	(1,637,487)	(1,590,203)	(451,052)	(3,678,742)
9	ATSI Not Excluded	-	(3,458)	-	(3,458)
10	Delayed Retirement	-	-	-	-
11	AFUDC Overstated	(6,208)	-	-	(6,208)
12	Inconsistent Depreciation	(97,846)	(22,701)	-	(120,547)
13	Regulatory Liability	(20,099,373)	(24,379,378)	(6,447,244)	(50,925,996)
14	Delayed Retirement	-	-	-	-
15	Delayed Retirement	-	-	-	-
16	Delayed Retirement	-	-	-	-
17	Delayed Retirement	-	-	-	-
	Impact of All Adjustments	**(21,841,052)**	**(25,995,039)**	**(7,051,850)**	(54,887,940)
	Recommended Adjusted Rider DCR Revenue Requirements	**$ 118,424,142**	**$ 121,041,237**	**$ 29,808,437**	**$ 269,273,815**

FirstEnergy challenges BlueRidge Recommendation 10 (Adjustments 6, 7, and 8 in Table 1) regarding its vegetation management accounting policies.[3] FirstEnergy's challenge should be rejected. FirstEnergy should not be allowed to capitalize vegetation management expenses contrary to FERC guidelines and keep the over $3.6 million in overcharges during the audit period.

FirstEnergy also challenges BlueRidge Recommendation 17 (Adjustment 13 in Table 1) that FirstEnergy be required to record a regulatory liability equal to the amount of the increase in Rider DCR rate base filed on January 12, 2018. However, FirstEnergy notes that this issue is "addressed in [FirstEnergy's] stipulation in the Tax Cut and Jobs Act proceeding, Case No. 18-1604-EL-UNC."[4] Consistent with this, the PUCO should not allow FirstEnergy to increase rate base until the excess accumulated deferred income tax ("ADIT") is returned to customers.

[3] Comments of Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company (May 10, 2019) (the "FirstEnergy Comments").

[4] FirstEnergy Comments (May 10, 2019) at 5.

II. THE PUCO SHOULD ENSURE THAT RIDER DCR RATE BASE ONLY INCREASES BY THE AMOUNT OF EXCESS ACCUMULATED DEFERRED INCOME TAX THAT FIRSTENERGY RETURNS TO CUSTOMERS

The PUCO should ensure that Rider DCR rate base only increases by the amount of Excess ADIT that FirstEnergy returns to customers. BlueRidge recommended that FirstEnergy "record a regulatory liability to reflect a potential refund (but the refund has not been made yet) of the excess deferred taxes owed to ratepayers because the Companies historically collected federal tax expense at 35% but will later pay the deferred portion to the federal government at 21%."[5] But in the time since BlueRidge filed the audit report, FirstEnergy agreed to a settlement with parties, including OCC, to return the Excess ADIT to consumers. That settlement would provide a total $449 million value, in refunds and lower bills, to residential consumers resulting from the federal tax cuts.[6]

FirstEnergy notes that BlueRidge's Recommendation 17 "is addressed in the Companies' stipulation in the Tax Cuts and Jobs Act proceeding, Case No. 18-1604-EL-UNC."[7] Consistent with FirstEnergy's agreement that this issue would be resolved by the PUCO's adoption of the tax settlement in Case No. 18-1604-EL-UNC, FirstEnergy should not be permitted to increase the Rider DCR rate base until the Excess ADIT is returned to customers.

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[5] See 2017 Audit Report at 9.

[6] In re FirstEnergy to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017, Case No. 18-1604-EL-UNC, et al., Direct Testimony of Wm. Ross Willis (Feb. 1, 2018) at WRW Attachment B.

[7] FirstEnergy Comments at 5.

III. THE PUCO SHOULD ADOPT BLUERIDGE RECOMMENDATION 10 TO ALIGN FIRSTENERGY'S VEGETATION MANAGEMENT POLICIES WITH FERC GUIDELINES

The PUCO should adopt BlueRidge's Recommendation 10 and direct FirstEnergy to align its vegetation management policies with FERC accounting guidelines.[8] BlueRidge noted that FirstEnergy's vegetation management policies give it "broad leeway to remove any tree or limb outside a corridor for any reason and assign it as a capital cost."[9] Despite BlueRidge's recommendations, FirstEnergy argues its accounting policy sets forth detailed criteria when vegetation management costs qualify for capitalization.[10] FirstEnergy then provides an overview of FirstEnergy Policy 1.3, which confirms the auditor's analysis that FirstEnergy has overbroad authority to remove vegetation outside a corridor and assign it as a capital cost. The PUCO should adopt BlueRidge's recommendation for FirstEnergy to align its vegetation management policies with FERC guidelines.

FirstEnergy then argues that its vegetation management policy benefits reliability and mitigates the need to go back and perform additional work later. FirstEnergy implies that FERC's guidelines are insufficient for reliability. FirstEnergy's argument lacks merit. FERC's vegetation management guidelines allow utilities to conduct vegetation management to maintain reliability without capitalizing costs that should be expensed as Operations and Maintenance ("O&M") costs. The PUCO should not be persuaded by FirstEnergy that FERC's guidelines do not adequately support reliability.

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[8] Audit Report at 23, Rec-10.

[9] Audit Report at 62.

[10] FirstEnergy Comments at 2-3.

Finally, FirstEnergy argues that it has been accounting for vegetation management inconsistent with FERC guidelines for so long that the PUCO should not now require it to comply with FERC guidelines.[11] Once again, the PUCO should reject FirstEnergy's argument. FirstEnergy is long overdue to bring its vegetation management policies in line with FERC guidelines. Aligning FirstEnergy's vegetation management policies with FERC guidelines would maintain reliability while protecting consumers from being overcharged. The PUCO should reject FirstEnergy's arguments and adopt BlueRidge's recommendation. Consumers should not be overcharged by $50 million per year due to FirstEnergy's failure to record a regulatory liability.

IV. THE PUCO SHOULD ADOPT BLUERIDGE'S RECOMMENDATION TO PROHIBIT FIRSTENERGY FROM CHARGING CUSTOMERS OVER $3.6 MILLION FOR VEGETATION MANAGEMENT COSTS THAT FIRSTENERGY SHOULD NOT HAVE CAPITALIZED

The PUCO should adopt BlueRidge's recommendation to exclude $3,678,742 of identified vegetation management O&M costs from Rider DCR because FirstEnergy improperly capitalized those costs.[12] As noted above, BlueRidge concluded that FirstEnergy's improper capitalization of vegetation management costs, and the commensurate double charging of customers, resulted from vegetation management policies that are inconsistent with FERC's Uniform System of Accounts.[13] According to BlueRidge, during the audit period FirstEnergy capitalized and included in Rider DCR $3,678,742 in vegetation management costs that should have been expensed as O&M

[11] FirstEnergy Comments at 3 ("Further, the Companies first implemented this policy in 2004, many years prior to the establishment of Rider DCR.").

[12] Audit Report at 62-64, Adjustment #6, #7, and #8.

[13] Id at 64.

costs. This results in customers being double charged for vegetation management costs; once in base rates and again in Rider DCR. And this amount is just what BlueRidge identified in the three work orders it reviewed. There are likely many more work orders during the audit period in which FirstEnergy capitalized vegetation management costs that should have been expensed as O&M costs.

The PUCO should require an audit of all work orders involving vegetation management costs included in Rider DCR during the audit period. This would determine the total amount of vegetation management costs that FirstEnergy capitalized instead of expensing as O&M costs. Customers pay FirstEnergy's vegetation management O&M costs in base distribution rates, so they should not be charged again for the same costs in Rider DCR. And to prevent this unjust result from happening again, the PUCO should direct that all future Rider DCR audits include a more comprehensive review of FirstEnergy's vegetation management accounting. The PUCO should adopt BlueRidge Recommendation 10 to exclude $3,678,742 of identified vegetation management costs from Rider DCR to prevent customers from being charged twice by FirstEnergy for vegetation management.

V. CONCLUSION

The PUCO should adopt all of BlueRidge's recommendations regarding Rider DCR. Despite FirstEnergy's arguments, the PUCO should (1) prohibit FirstEnergy from increasing the Rider DCR rate base until the Excess ADIT is returned to customers, (2) require FirstEnergy to align its vegetation management practices with FERC guidelines, and (3) prohibit FirstEnergy from charging customers over $3.6 million for vegetation management costs that should not have been capitalized.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic transmission this 10th day of June 2019.

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