

**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. 17-2276-EL-RDR  
Edison Company to update the tariff for       )  
Rider AMI.                                               )

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**COMMENTS FOR CONSUMER PROTECTION  
IN SUPPORT OF DISALLOWING CERTAIN EXPENSES FROM BEING  
COLLECTED FROM CONSUMERS THROUGH RIDER AMI  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The Public Utilities PUCO of Ohio (“PUCO”) should protect the 1.9 million residential customers of the Ohio Edison Company, The Cleveland Electric Illuminating company, and The Toledo Edison Company (collectively, “FirstEnergy”) by preventing FirstEnergy from collecting too much grid modernization investment costs and new meter expenses from consumers.

**II. RECOMMENDATIONS**

- A. The OCC recommends that the PUCO protect consumers, now and in the future, from paying unjust and unreasonable rates for grid modernization and smart meter expenses that are not matched by the Department of Energy (“DOE”) and not approved by the PUCO.**

On February 28, 2019, FirstEnergy filed its application for the annual review of its 2018 costs applicable to the Advanced Metering Infrastructure/Modern Grid Rider (“Rider AMI”). Rider AMI is a non-bypassable rider approved by the PUCO as the mechanism for collecting costs related to the deployment of smart grid and advanced

metering infrastructure.<sup>1</sup> The PUCO directed FirstEnergy to update and reconcile these expenses on a quarterly basis and also to annually file an application for the PUCO Staff review of Rider AMI.<sup>2</sup>

The PUCO Staff audited FirstEnergy's financial statements, which were provided in this application, to determine if FirstEnergy's policies and procedures comply with sound ratemaking principles and PUCO policies.<sup>3</sup> The Staff also considered the PUCO's Order in Case No. 10-388-EL-SSO, which granted FirstEnergy's application for the establishment of the Ohio Site Deployment of the smart grid initiative.<sup>4</sup> The Order in that case stated that "The Companies shall not complete any part of the Ohio Site Deployment that the United States Department of Energy (DOE) does not match funding in an equal amount."<sup>5</sup>

FirstEnergy is seeking to collect more than \$2.7 million from customers through Rider AMI.<sup>6</sup> Based upon its audit, the PUCO Staff found that expenses totaling \$774,535 should be removed from Rider AMI because the expenses were not matched by the DOE

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<sup>1</sup> See *In re the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Opinion and Order at 9-10 (March 31, 2016).

<sup>2</sup> See *In re the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order at 44 (July 18, 2012) ("The Commission clarifies that the Companies annually should file applications in separate dockets for the review and audit of Riders DCR, AMI, AER, NMB, and DSE.").

<sup>3</sup> Staff Review and Recommendation at 2-3; See *In re the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 10-388-EL-SSO, Opinion and Order at 13-14 (August 25, 2010).

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.*

<sup>6</sup> Total expenditures were \$2,733,562.08.

and were not separately approved by the PUCO.<sup>7</sup> The OCC agrees with the PUCO Staff that FirstEnergy should not be permitted to charge customers for disallowed expenses.<sup>8</sup> Ohio law requires that rates charged by utilities be just and reasonable for service that is adequate.<sup>9</sup> Expenses that have been specifically disallowed by the PUCO cannot be just and reasonable. The PUCO should adopt its Staff's recommendation that the new capital installations expenditures be removed from Rider AMI to protect customers from paying unjust and unreasonable rates.<sup>10</sup>

The PUCO should also take steps to protect FirstEnergy's customers from future attempts by FirstEnergy to charge these disallowed expenses. the PUCO approved the continuation of the Ohio Site Deployment pilot program for the period June 1, 2015 through June 1, 2019 subject to annual prudence reviews.<sup>11</sup> The final review by the PUCO will be conducted as part of the 2019 Rider AMI review in 2020. By ending the Ohio Site Deployment pilot program on June 1, 2019, customers will no longer be responsible for paying approximately \$8.5 million annually for reports involving the performance of the Distribution Automation Circuit Refiguration ("DACR") and Volt-Var Optimization ("VVO") circuits that deployed in 2010.

According to recent discovery responses, there is reason to believe that First Energy has no intention of terminating the Ohio Site Deployment pilot program and to

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<sup>7</sup> *Id.* at 4 (\$676,912 for new capital installations plus \$97,623 for capital expenditures).

<sup>8</sup> *Id.*

<sup>9</sup> R.C. 4909.17 (No rate or charge shall be effective until the PUCO, by order, determines it to be just and reasonable).

<sup>10</sup> Staff Review and Recommendation at 3 (The Staff disallowed \$676,912 for new capital expenditures. This is a portion of the total disallowance of \$).

<sup>11</sup> See FE's SmartGrid Case, Case No. 09-1820-EL-ATA, Finding and Order at 3 (May 28, 2015).

cease filing these unnecessary and very expensive \$8.5 million reports.<sup>12</sup> In fact, FirstEnergy specifically claims that it intends to continue filing these annual reports.<sup>13</sup>

OCC requests that the PUCO require its Staff, as part of its 2019 prudency review, to verify that FirstEnergy is not continuing to collect money from customers associated with the Ohio Site Deployment pilot program after June 1, 2019. Any funds that have been collected from customers should be returned as a credit through Rider AMI.

**B. The OCC also recommends that the PUCO protect consumers against paying unjust and unreasonable rates for smart meter equipment that is outside the scope of Rider AMI.**

Staff 's second recommendation is to exclude FirstEnergy's capital expenditures for replacement and repair of smart meters and reclosers from the Rider because they are outside the scope of Rider AMI.<sup>14</sup> The OCC agrees with the PUCO Staff that FirstEnergy's application improperly includes costs for capital expenditures and expenses for the replacement and repair of smart meters, communications devices, and recloser controls for CEI's pilot program.<sup>15</sup> As Staff found, any capital replacement expenditures should be recognized through the Delivery Capital Recovery Rider ("Rider DCR"), if at all.<sup>16</sup> They do not belong in Rider AMI. Moreover, and as the Staff correctly asserted, the cost of repairs for smart meters and reclosers are typically expensed and recovered through base rates because they are ordinary operation and maintenance expenses. They

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<sup>12</sup> FirstEnergy response to OCC INT-1-005.

<sup>13</sup> *Id.*

<sup>14</sup> Staff Review and Recommendation at 4 (totaling \$97,623).

<sup>15</sup> *Id.*

<sup>16</sup> See Combined Stipulation at 13 (March 23, 2010) (Rider DCR will be established to provide the Companies with the opportunity to earn a return on and of plant in service associated with distribution, subtransmission, and general and intangible plants including allocated general plant from FirstEnergy Service Company that supports the Companies, which was not included in the rate base determined in the Opinion and Order of January 21, 2009 in Case No. 07-551-EL-AIR et al.).

also do not belong in Rider AMI. To protect FirstEnergy customers from paying unjust and unreasonable rates for smart meters and other equipment that falls outside the scope of Rider AMI, the PUCO should adopt its Staff's recommendation to disallow these expenses.

### **III. CONCLUSION**

The PUCO should adopt its Staff's recommendation to exclude FirstEnergy's improper capital expenditures (from capital investments outside the scope of Rider AMI and the capitalization of repairing costs that should be expensed and recovered from base rates) totaling \$774,535 to protect consumers from paying unjust and unreasonable rates. Moreover, FirstEnergy should also be directed to modify its Application and calculate the reductions of the 2018 AMI revenue requirement of the Ohio Edison Company, The Cleveland Electric Illuminating company, and The Toledo Edison Company. The resulting credits to customers from the 2018 Rider AMI charges should be returned to customers immediately through an adjustment of the AMI Rider charge to be collected in 2020.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 28th day of February 2020.

/s/ Ambrosia E. Logsdon  
Ambrosia E. Logsdon  
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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Comments Comments for Consumer Protection in Support of Disallowing Certain Expenses from Being Collected from Consumers Through Rider AMI by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Logsdon, Ambrosia E.