

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Delivery Capital</b>	<b>:</b>	
<b>Recovery Rider Contained in the</b>	<b>:</b>	
<b>Tariffs of Ohio Edison Company, The</b>	<b>:</b>	<b>Case No. 19-1887-EL-RDR</b>
<b>Cleveland Electric Illuminating</b>	<b>:</b>	
<b>Company and The Toledo Edison</b>	<b>:</b>	
<b>Company</b>	<b>:</b>	

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**REPLY COMMENTS  
OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY**

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**INTRODUCTION**

Pursuant to the Attorney Examiner’s Entry of June 26, 2020, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (“Companies”) hereby submit reply comments to the comments of the Office of the Ohio Consumers’ Counsel (“OCC”) and of the Staff of the Public Utilities Commission of Ohio (“Commission”) regarding the audit report on the Companies’ Delivery Capital Recovery Rider (“Rider DCR”) for the year 2019 (“2019 Audit Report”) filed on June 12, 2020 by Blue Ridge Consulting Services, Inc. (“Blue Ridge”). As noted in their comments, the Companies agree with or have already implemented the majority of the 2019 Audit Report’s recommendations, to which Staff and OCC also agree. However, four issues were raised in comments by Staff or OCC: 1) the proper excess deferred income tax (“EDIT”) amounts to reflect in Rider DCR revenue requirements; 2) exclusion from Rider DCR of the costs for the initial trimming of vegetation which was outside a corridor, or “off-corridor” and the Companies’ process for documenting such work; 3) reducing the backlog of

work order unitization; and 4) reducing budget variances for work orders. As explained in the Companies' comments and below, the Companies used the proper final audited EDIT balances in Rider DCR consistent with the implementation filing for the Tax Cuts and Jobs Act of 2017 and the terms of the Stipulation and Recommendation approved by the Commission on July 17, 2019 in Case No. 18-1604-EL-UNC, et al. ("Stipulation"), and properly capitalized certain vegetation management expenditures consistent with the Companies' longstanding accounting policy that is fully within the Commission's discretion to approve. Also as more fully explained below, the Companies recommend that Staff's recommendation for plans to reduce unitization backlog be modified to reflect practical and effective goals. Accordingly, the Companies recommend the Commission reject OCC's and Staff's EDIT and vegetation management recommendations, as well as Staff's capital budgeting recommendation.

## **COMMENTS**

### **A. Excess Deferred Income Taxes**

Staff and OCC recommend the Commission adopt Blue Ridge's recommendation to reverse all adjustments made to these balances since the Stipulation, except for reclasses between normalized and non-normalized property, so that the Total Property EDIT reflected in Rider DCR matches the Total Property EDIT as of December 31, 2017, in the Stipulation.<sup>1</sup> However, as noted in the Companies' comments, Blue Ridge's recommendation regarding EDIT is based on a misunderstanding of the Commission-approved Stipulation.<sup>2</sup> Blue Ridge's misunderstanding of the Stipulation fails to recognize that the Stipulation plainly labels all of the balances reflected therein as "illustrative."<sup>3</sup> While those balances were based upon the Companies' financial

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<sup>1</sup> Staff Comments at p. 3; OCC Comments at p.6-8.

<sup>2</sup> Companies' Comments at p. 2.

<sup>3</sup> Attachment A and Supplemental Attachment A, TCJA Stipulation, filed November 9, 2018 and January 25, 2019, respectively, in Case No. 18-1604-EL-UNC et al. (all pages in Attachment A and Supplemental Attachment A containing EDIT balances labeled as "Illustrative").

reporting for 2017, they were subject to adjustment and therefore were not final. These preliminary balances were used in the Stipulation because they were the best available balances at that time, and they were labeled as “illustrative” in recognition that they were not the actual final balances. The lack of qualification by the Companies’ outside auditor at that time does not invalidate proper adjustment when better information became available.

Further, Blue Ridge and OCC explicitly recommend that the Companies’ “reclass” adjustments to the illustrative balances be retained, even though it means using balances that do not match those in the Stipulation.<sup>4</sup> It is inappropriate to accept only certain adjustments to the illustrative balances included in the Stipulation as if some of the information was final while other information was subject to revision. The Stipulation provides that “[t]he actual amount of EDIT flowing back to customers will reflect the final, audited balances, including a federal and state tax gross up, as of December 31, 2017”<sup>5</sup> and “for all tax savings associated with the Tax Cuts and Jobs Act 2017 to flow back to customers.”<sup>6</sup> The Companies’ Rider DCR filing is consistent with the Stipulation and the Companies’ Rider TSA filing implementing the Stipulation as previously noted. All other recommendations to the contrary are not.

Staff’s and OCC’s comments are in direct conflict with the plain language of the Stipulation and should be rejected.

## **B. Vegetation Management Capitalization**

Staff and OCC support Blue Ridge’s recommendations regarding the Companies’ vegetation management capitalization policy. As the Companies have noted, their policy is consistent with GAAP accounting and the treatment reflected in the Companies’ last distribution

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<sup>4</sup> See, for example, 2019 Audit Report at p. 14; OCC Comments at p.7.

<sup>5</sup> Stipulation at 9.

<sup>6</sup> *Id.* at 2.

rate case, and is fully within the Commission's discretion to allow.<sup>7</sup> For these reasons and as explained in the Companies' comments, recommendations regarding the Companies' vegetation management policy should be rejected.

Staff and OCC also recommend that the Commission require the use of photographic evidence for future Rider DCR recovery of such capitalized costs.<sup>8</sup> OCC improperly goes further to suggest that photographs are needed to evaluate prudence and that the absence of certain management review practices somehow taints the policy. However, OCC is wrong on both counts: neither Blue Ridge nor any other party has challenged the prudence of the Companies' vegetation management program or costs, and the Companies do, in fact, have a robust approval process in place to verify the categorization of vegetation management costs.<sup>9</sup> Contrary to OCC's claim, photographs of individual trees or limbs are unnecessary to establish the prudence of their removal. The prudence of the program activity has not been questioned, and disagreement over the accounting policy is wholly unrelated to whether the activity should be performed.

As the Companies noted in their comments, the recommendation to require photographic evidence is both costly and redundant.<sup>10</sup> Hundreds of devices would need to be purchased, distributed to field crews, and maintained. Further, secure VPN connections would need to be established in order to capture and transmit such photographic data into the Companies' internal information management system, which could increase data storage costs as photographs often

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<sup>7</sup> Companies' Comments at p. 4-6.

<sup>8</sup> Staff Comments at p. 3; OCC Comments at p. 5-6.

<sup>9</sup> 2019 Audit Report at p. 39. ("The Companies also provided additional detailed information regarding how both contractor supervision and the Companies review and approve time sheets. Multiple levels of approval are performed to ensure that the time sheets are accurate and complete. Field work is directed by Contractor Supervision with periodic random checks by Vegetation Management specialist. The Companies explained how time sheets are submitted, how they are reviewed, and how they are approved. Forestry management reviews and approves invoices. The Companies believe the current timesheet review process aligns the industry best management practices.")

<sup>10</sup> Companies' Comments at p. 6.

require larger file sizes than other forms of data. Most importantly, however, photographs would be a costly redundancy to the Companies' existing robust management review process.<sup>11</sup>

For all the foregoing reasons, the Companies respectfully request that Staff's and OCC's vegetation management recommendations to disallow capitalization or to require photographic data be rejected.

### **C. Unitization Backlog.**

Staff recommends that the Commission require concrete goals to reduce the Companies' work order unitizations older than 15 months by 50% within 12 months of the Order in this case, prioritizing the oldest and largest work orders.<sup>12</sup> Staff further recommends the Commission require the Companies to submit a plan within 12 months of the Order in this case to completely eliminate all work orders older than 15 months and to reduce the number of work orders less than 15 months old.<sup>13</sup> The Companies generally do not disagree with establishing concrete goals for the unitization backlog or developing a plan to address the backlog. However, any such goal or plan should be established with a focus on dollar amount, as opposed to age, in order to minimize the potential impact on Rider DCR through modified depreciation expense as a result of unitization. Further, with the high volume of work orders placed into service each year,<sup>14</sup> complete elimination of the unitization backlog is impractical and inefficient. Thus, maintaining a focus on the work orders with the largest balances will more efficiently yield more accurate depreciation expenses while avoiding the diminishing marginal return effect of pursuing the smaller work orders.

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<sup>11</sup> *Id.*

<sup>12</sup> Staff Comments at p. 2.

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

<sup>14</sup> During this audit period, the Companies placed into service over 90,000 work orders. Audit Report at p. 56.

#### **D. Budget Variances**

Staff notes Blue Ridge’s recommendation that the Companies “further enhance and refine their project estimating process” and recommends the Companies provide a process improvement plan that would reduce the volume of budget variances.<sup>15</sup> While Staff’s recommendation focuses on the number of projects in Blue Ridge’s sample that exceed a certain actual-to-budget variance threshold, this is not representative of the Companies’ overall capital portfolio.<sup>16</sup> The Companies’ overall actual-to-budget variance for the audit period December 2018 to November 2019 was less than 3% of the total budgeted capital portfolio of approximately \$350 million. The Companies are thus very effective at managing their overall budget variance.

Blue Ridge acknowledges that the Companies’ capital portfolio approval process does not require approvals at the individual project or work order level.<sup>17</sup> However, because the budget is completed at a functional level with funds in larger categories while the work is done at a more granular work order level, individual work orders may appear to reflect larger budget variances than they really have when viewed in isolation. Further, the Companies develop their capital portfolio up to 18 months in advance and are subject to ongoing review and changes that can impact work on individual projects. These changes include emergent projects, storms, or project delays outside of the Companies’ control (e.g., new business delays at the request of the developer). Blue Ridge’s deeper investigation into work order details sheds the proper light under

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

<sup>16</sup> As the Companies explained in Reply Comments in the 2017 Audit Report (Case No. 17-2009-EL-RDR): “... the work orders in the Auditor’s sample are more complex in nature and thus more prone to budget variances. Blue Ridge uses a cost magnitude sampling technique combined with professional judgment—not random sampling. This cost magnitude sampling technique first segregates work orders by dollar amount so that only work orders above a materiality threshold are sampled for analysis, along with the work orders subjectively selected by Blue Ridge. Such work orders are more likely to be multi-year, multi-phase, complex, emergent, or “blanket” in nature, and are more prone to the many variables which can affect actual-to-budget variances. This sampling technique is appropriate for the “deeper dive” analysis that allows Blue Ridge to determine whether processes and controls and outcomes were adequate and not unreasonable for these most challenging and dynamic types of projects.” (internal citation omitted).

<sup>17</sup> Audit Report at p. 64.

which to view such variances. Blue Ridge found that the Companies' budget explanations on all work order variances examined were not unreasonable.<sup>18</sup>

The Companies actively and appropriately manage their work order projects to achieve efficient outcomes as part of an overall capital budget portfolio. So long as the overall budget variance is within an acceptable tolerance, and the individual project or work order variances are explained and found not unreasonable, the Commission can be assured that projects are being planned and executed properly in the dynamic operation of the electric distribution grid. The Commission should continue to evaluate the Companies' capital budget management in this manner as opposed to focusing on the volume of individual projects within a subset that may be outside a pre-determined cost variance threshold.

## **CONCLUSION**

The Companies used the proper final audited EDIT balances in Rider DCR consistent with prior Commission approval. The Companies also properly capitalized certain limited vegetation management cost categories, and the recommendations to collect photographic evidence would simply add significant cost that is unnecessarily redundant to existing management review controls. Concrete goals for reducing the unitization backlog should focus on dollar amounts to achieve an efficient improvement to depreciation expenses. The Companies' low overall budget variance and lack of any findings of unreasonable project or work order variances demonstrates that the Companies' management of the capital portfolio is effective. For the reasons discussed above, the Companies respectfully request the Commission issue an order that rejects Blue Ridge

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<sup>18</sup> Audit Report at p. 65.

Recommendation Nos. 2 and 8, and either rejects or modifies OCC's and Staff's recommendations set forth in their comments.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Reply Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 11th day of August, 2020. The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. A courtesy copy is also being served via electronic mail to the following:

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