

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE FILING BY OHIO  
EDISON COMPANY, THE CLEVELAND  
ELECTRIC ILLUMINATING COMPANY AND  
THE TOLEDO EDISON COMPANY OF A  
GRID MODERNIZATION BUSINESS PLAN.

CASE NO. 16-481-EL-UNC

IN THE MATTER OF THE FILING BY OHIO  
EDISON COMPANY, THE CLEVELAND  
ELECTRIC ILLUMINATING COMPANY AND  
THE TOLEDO EDISON COMPANY OF AN  
APPLICATION FOR APPROVAL OF A  
DISTRIBUTION PLATFORM  
MODERNIZATION PLAN

CASE NO. 17-2436-EL-UNC

IN THE MATTER OF THE APPLICATION OF  
OHIO EDISON COMPANY, THE  
CLEVELAND ELECTRIC ILLUMINATING  
COMPANY AND THE TOLEDO EDISON  
COMPANY TO IMPLEMENT MATTERS  
RELATING TO THE TAX CUTS AND JOBS  
ACT OF 2017.

CASE NO. 18-1604-EL-UNC

IN THE MATTER OF THE APPLICATION OF  
OHIO EDISON COMPANY, THE  
CLEVELAND ELECTRIC ILLUMINATING  
COMPANY AND THE TOLEDO EDISON  
COMPANY FOR APPROVAL OF A TARIFF  
CHANGE.

CASE NO. 18-1656-EL-ATA

### ENTRY

Entered in the Journal on April 20, 2022

### I. SUMMARY

{¶ 1} The Commission selects Daymark Energy Advisors, Inc., to provide audit services to assist Staff with the review of the operational benefits associated with the first phase of the grid modernization plan for Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.

## II. DISCUSSION

{¶ 2} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) are electric distribution utilities, as defined in R.C. 4928.01(A)(6), and public utilities as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric service to customers, including a firm supply of electric generation service. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} On March 31, 2016, in Case No. 14-1297-EL-SSO, the Commission approved FirstEnergy's application for its fourth ESP (ESP IV). *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and the Toledo Edison Co. for Authority to Provide for a Std. Serv. Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Elec. Security Plan*, Case No. 14-1297-EL-SSO (*ESP IV Case*), Opinion and Order (Mar. 31, 2016). Moreover, on October 12, 2016, the Commission issued the Fifth Entry on Rehearing in the *ESP IV Case*, further modifying ESP IV.

{¶ 5} Among other terms, ESP IV required the Companies to undertake grid modernization initiatives that promote customer choice in Ohio and to file a grid modernization business plan. *ESP IV Case*, Opinion and Order at 22, 95-96. Accordingly, on February 29, 2016, the Companies filed a grid modernization plan with the Commission in Case No. 16-481-EL-UNC (*Grid Mod Case*).<sup>1</sup> Specifically, the Companies' plan provided scenarios for the Companies to achieve smart meter installation, as well as other grid

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<sup>1</sup> The attorney examiner took administrative notice of the plan filed in the *Grid Mod Case* during the evidentiary hearing (Tr. Vol. 1 at 28).

modernization investments like distribution automation and integrated volt-VAR control (Co. Ex. 2 at 5; Co. Ex. 1 at 5-6; business plan application at 13).

{¶ 6} Subsequently, in the Fifth Entry on Rehearing in the *ESP IV Case*, the Commission noted that we intended to undertake a detailed policy review of grid modernization and that FirstEnergy's grid modernization business plan would be addressed following such review. *ESP IV Case*, Fifth Entry on Rehearing at 96-97. The Commission commenced this detailed policy review in 2017, and, on August 29, 2018, the Commission released *PowerForward: A Roadmap to Ohio's Electricity Future*. In the interim, on December 4, 2017, the Companies filed an application for approval of a distribution platform modernization plan (DPM Plan) in Case No. 17-2436-EL-UNC (*DPM Plan Case*) as a complement to the initiative (Co. Ex. 1 at 3; Co. Ex. 2 at 5).<sup>2</sup> According to FirstEnergy, the DPM Plan was designed to be completed over a three-year period to provide enhanced reliability and timelier outage restoration (DPM Plan at 1).

{¶ 7} On January 10, 2018, the Commission opened an investigation into the financial impacts of Tax Cuts and Jobs Act of 2017 (TCJA) on regulated utilities in this state. *See In re the Commission's Investigation of the Financial Impact of the TCJA on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry (Jan. 10, 2018). On October 24, 2018, following an extensive comment period and hearing, the Commission directed public utilities to file applications not for an increase in rates, pursuant to R.C. 4909.18, by January 1, 2019, in order to return to consumers the tax impacts resulting from the TCJA. On October 30, 2018, the Companies filed an application to establish a process to resolve TCJA-related issues in Case No. 18-1604-EL-UNC.

{¶ 8} On November 9, 2018, a stipulation and recommendation was filed, recommending a resolution for the above-captioned cases. The Companies indicated the resolution included components of the applications in both the Grid Mod Case and the DPM

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<sup>2</sup> The attorney examiner took administrative notice of the plan filed in the *DPM Plan Case* during the evidentiary hearing (Tr. Vol. 1 at 28).

Plan Case and represented the first phase of its grid modernization initiative (Grid Mod I). On January 25, 2019, a supplemental stipulation and recommendation was filed, which modified the original stipulation (collectively referred to as the Stipulation).

{¶ 9} By Entry issued November 15, 2018, the attorney examiner consolidated the above-captioned cases and set a procedural schedule, including scheduling an evidentiary hearing, which commenced on February 5, 2019. The hearing concluded on February 6, 2019.

{¶ 10} The Commission issued its Opinion and Order on July 17, 2019, approving the Stipulation, subject to the Commission's adjustments to the calculation of the total estimated net benefits proposed for Grid Mod I. Opinion and Order at ¶¶ 115-116. Pursuant to the terms of the approved Stipulation, the Commission directed Staff, or its consultant, to conduct an operational benefits assessment and review prior to the next projected phase of the Companies' grid modernization investments to evaluate whether the actual functionality and performance of the project is consistent with the planned specifications. Opinion and Order at ¶¶ 44-45, 71.

{¶ 11} Pursuant to R.C. 4903.10, any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days after the Commission's order is journalized. Environmental Law and Policy Center, the Natural Resources Defense Council, and the Ohio Environmental Council (Environmental Advocates) filed an application for rehearing on August 16, 2019, seeking the Commission's reconsideration of our decision to reject Environmental Advocates' proposal to incorporate a \$30 million smart thermostat program in Grid Mod I and our findings regarding the confidentiality of settlement negotiations. The Companies and Industrial Energy Users-Ohio filed memoranda contra on August 26, 2019. By Entry on Rehearing issued September 11, 2019, the Commission denied Environmental Advocates' application for rehearing.

{¶ 12} Pursuant to the terms of the Stipulation, on August 25, 2021, the Commission directed Staff to issue a request for proposal (RFP) to acquire consulting services to assist

the Commission with the operational benefits assessment to evaluate whether the actual functionality and performance of Grid Mod I are consistent with planned specifications as approved in the Stipulation. Entry (Aug.25, 2021). Subsequently, the Commission selected PA Consulting Group, Inc. (PA Consulting) as the auditor in this case. Entry (Oct. 20, 2022) at ¶ 16.

{¶ 13} However, on March 7, 2022, Staff filed a letter in the docket representing that PA Consulting is withdrawing from its work on this audit.

{¶ 14} Accordingly, on March 9, 2022, the Commission issued an Entry directing Staff to reissue a RFP to acquire audit services to assist the Commission with the operational benefits assessment and evaluate whether the actual functionality and performance of Grid Mod I are consistent with planned specifications as approved in the Stipulation.

{¶ 15} The proposals received in response to the RFP have been evaluated and, after consideration of those proposals, the Commission selects Daymark Energy Advisors, Inc. (Daymark). The Commission finds that Daymark has the necessary experience to complete the required work.

{¶ 16} The Companies shall enter into a contract with Daymark by May 4, 2022, for the purpose of providing payment for its auditing services. The contract shall incorporate the terms and conditions of the RFP, the auditor's proposal, and relevant Commission entries in this case.

{¶ 17} The Commission shall solely direct the work of the auditor. Staff will review and approve payment invoices submitted by the auditor.

{¶ 18} Daymark will execute its duties pursuant to the Commission's statutory authority to investigate and acquire records, contracts, reports, and other documentation under R.C. 4903.02, 4903.03, 4905.06, 4905.15, and 4905.16. Daymark is subject to the Commission's statutory duty under R.C. 4901.16, which provides:

Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent. Whoever violates this section shall be disqualified from acting as agent, or acting in any other capacity under the appointment or employment of the commission.

**{¶ 19}** Upon request of Daymark or Staff, the Companies shall provide any and all documents or information requested. The Companies may conspicuously mark such documents or information “confidential” if the Companies believe the document should be deemed as such. In no event, however, shall the Companies refuse or delay in providing such documents or information.

**{¶ 20}** Once disclosure is permitted by R.C. 4901.16, the following process applies to the release of any document or information marked as confidential. Three days’ prior notice of intent to disclose shall be provided to the party claiming confidentiality. Three days after such notice, Staff or the auditor may disclose or otherwise make use of such documents or information for any lawful purpose, unless the Commission receives a request for a protective order pertaining to such documents or information within the three-day notice period. The three-day notice period will be computed according to Ohio Adm.Code 4901-1-07.

**{¶ 21}** Daymark shall perform its audit and investigation as an independent contractor. Any conclusions, results, or recommendations formulated by Daymark may be examined by any participant to this proceeding. Further, it shall be understood that the Commission and/or its Staff shall not be liable for any acts committed by Daymark or its agents in the preparation and presentation of the report.

### III. ORDER

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That Daymark be selected to perform the consulting activities set forth above and in the RFP. It is, further,

{¶ 24} ORDERED, That the Companies and Daymark shall observe the requirements set forth herein. It is, further,

{¶ 25} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

GAP/hac

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**Case No(s). 16-0481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, 18-1656-EL-  
ATA**

Summary: Entry selecting Daymark Energy Advisors, Inc., to provide audit services to assist Staff with the review of the operational benefits associated with the first phase of the grid modernization plan for Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio