

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF THE
ALTERNATIVE ENERGY RESOURCE RIDER
OF OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON
COMPANY.

CASE NO. 17-2275-EL-RDR
CASE NO. 18-1644-EL-RDR
CASE NO. 19-1902-EL-RDR
CASE NO. 20-1668-EL-RDR
CASE NO. 21-1129-EL-RDR
CASE NO. 22-1037-EL-RDR

ENTRY

Entered in the Journal on March 6, 2024

I. SUMMARY

{¶ 1} The Commission directs Staff to issue the request for proposal for audit services to assist the Commission with its review of the alternative energy resource rider of 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 customers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including firm supply of electric generation services. 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} The Commission has approved several riders in FirstEnergy's ESP proceedings, some of which require the Companies quarterly updates and are subject to an annual audit by the Commission. One of these Commission-approved riders is the Alternative Energy Resource Rider (Rider AER). *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 08-935-EL-SSO, et al.; *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 10-388-EL-SSO; *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 12-1230-EL-SSO; *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO (ESP IV Case). Rider AER recovers all costs associated with securing compliance with the alternative energy resource requirements including, but not limited to, all renewable energy credit costs and associated carrying costs. Pursuant to the Commission's orders in the ESP proceedings listed above, FirstEnergy was directed to file updates for Rider AER on a quarterly basis, which would become effective unless suspended by the Commission prior to the effective date.

{¶ 5} On January 16, 2018, the Supreme Court of Ohio reversed a prior Commission order disallowing the Companies' recovery of \$43 million of costs under Rider AER, stating that the Commission had engaged in retroactive ratemaking by disallowing recovery of costs that were charged and recovered pursuant to filed tariffs, which became effective, absent a Commission order saying otherwise, one month following the quarterly filing dates. *In re Rev. of Alternative Energy Rider Contained in Tariffs of Ohio Edison Co.*, 153 Ohio St.3d 289, 2018-Ohio-229, 106 N.E.3d 1 (*Rider AER Case*).

{¶ 6} On March 19, 2018, FirstEnergy filed revised proposed tariffs for Rider AER in Case No. 17-2275-EL-RDR (*2018 Rider AER Review*), stating that, in light of the *Rider AER Case*, FirstEnergy was revising its proposed tariffs to include language to clarify that the charges contained in Rider AER shall be subject to reconciliation and refund following any audits conducted by Staff.

{¶ 7} On March 28, 2018, the Commission issued a Finding and Order in the *2018 Rider AER Review*, approving the Companies' proposed revisions to the tariff sheet for Rider AER that incorporated the following reconciliation language: "This Rider is subject to reconciliation, including, but not limited to increases or refunds. Such reconciliation shall be based solely upon the results of audits ordered by the Commission in accordance with the July 18, 2012 Opinion and Order in Case No. 12-1230-EL-SSO, and the March 31, 2016 Opinion and Order in Case No. 14-1297-EL-SSO." The Companies filed compliance tariffs on March 29, 2018, for rates effective April 1, 2018.

{¶ 8} On February 28, 2019, FirstEnergy filed an application in the *2018 Rider AER Review*, in support of Staff's 2018 annual review of Rider AER.

{¶ 9} On February 28, 2020, FirstEnergy filed an application in Case No. 18-1644-EL-RDR, in support of Staff's 2019 annual review of Rider AER (*2019 Rider AER Review*).

{¶ 10} On March 1, 2021, FirstEnergy filed an application in Case No. 19-1902-EL-RDR, in support of Staff's 2020 annual review of Rider AER (*2020 Rider AER Review*).

{¶ 11} On February 28, 2022, FirstEnergy filed an application in Case No. 20-1668-EL-RDR, in support of Staff's 2021 annual review of Rider AER (*2021 Rider AER Review*).

{¶ 12} On February 24, 2023, FirstEnergy filed an application in Case No. 21-1129-EL-RDR, in support of Staff's 2022 annual review of Rider AER (*2022 Rider AER Review*).

{¶ 13} On February 26, 2024, FirstEnergy filed an application in Case No. 22-1037-EL-RDR, in support of Staff's 2023 annual review of Rider AER (*2023 Rider AER Review*).

{¶ 14} As an initial matter, given that the above-captioned cases relate to annual reviews of Rider AER, the Commission finds that the cases should be consolidated, sua sponte, in the spirit of administrative efficiency. Not only will consolidation promote efficiency in the resolution of these cases, the Commission also notes that no party will be prejudiced as no procedural schedule has been issued in any of the cases at issue.

{¶ 15} To assist the Commission with the audit of the Companies' Rider AER costs for the period from April 1, 2018, through December 31, 2023, the Commission directs Staff to issue the request for proposal (RFP) for audit services attached to this Entry.

{¶ 16} All proposals submitted pursuant to the RFP are due by April 3, 2024. In order to demonstrate the ability to perform the services required in the RFP, the proposal must show, in detail, the auditor's understanding of the project and the work required. Each proposal must address, with specificity, how the auditor will handle all of the issues in the RFP. The auditor must demonstrate that it will be able to perform the required services, showing its clear understanding of the tasks to be completed, the experience and qualifications of the personnel who will perform the work, and the anticipated breakdown of costs and timing. The selection criteria to be used by the Commission to determine the selection of the auditor shall be the technical and management capabilities of each firm, as well as the overall cost of each bid.

{¶ 17} The Companies shall directly contract with the auditor chosen by the Commission and bear the costs of the services solicited in the RFP.

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

{¶ 19} The auditor shall perform its audit and investigation as an independent contractor. Any conclusions, results, or recommendations formulated by the auditor 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 the auditor or its agents in the preparation and presentation of the report.

{¶ 20} The auditor 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. The auditor 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.

{¶ 21} 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.

{¶ 22} Upon request of the auditor or Staff, the Companies shall provide any and all documents or information requested. The Companies may conspicuously mark such documents or information as "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.

III. ORDER

{¶ 23} It is, therefore,

{¶ 24} ORDERED, That the above-captioned cases be consolidated. It is, further,

{¶ 25} ORDERED, That Staff issue the RFP attached to this Entry and that April 3, 2024, be set as the due date for proposals in response to the RFP. It is, further,

{¶ 26} ORDERED, That, in accordance with Paragraph 17, the Companies bear the cost of the audit services of the auditor chosen by the Commission, as set forth in the RFP. It is, further,

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

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

MJA/dmh

REQUEST FOR PROPOSAL NO. RA24-AER-1

A MANAGEMENT/PERFORMANCE AND FINANCIAL AUDIT
OF THE ALTERNATIVE ENERGY RIDER (AER) FOR
CLEVELAND ELECTRIC ILLUMINATING COMPANY, THE
OHIO EDISON COMPANY, AND THE TOLEDO EDISON
COMPANY

Issued by:
THE
PUBLIC UTILITIES COMMISSION OF OHIO
180 East Broad Street
Columbus, Ohio 43215

PROPOSAL DUE: April 3, 2024



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I. INTRODUCTION

On July 31, 2008, Amended Substitute Senate Bill Number 221 (SB 221) was enacted in Ohio and established alternative energy benchmarks for electric distribution utilities (EDUs) and electric services companies in the state, provided for the use of renewable energy credits, along with other changes to the energy legislation contained in the Ohio Revised Code. Pursuant to R.C. 4928.64, the EDUs were required to provide defined portions of the electricity required for its standard service offer from alternative energy resources, including a specific requirement from renewable energy resources, beginning in 2009. The Public Utilities Commission of Ohio (Commission) was also required to annually review the EDU's and electric service company's compliance with the requirements.

On March 25, 2009, the Commission approved a Stipulation and Recommendation as part of the electric security plan proceeding in Case No. 08-935-EL-SSO, et al. (ESP 1) that established the Alternative Energy Resource Rider (Rider AER) for Cleveland Electric Illuminating Company, the Ohio Edison Company, and the Toledo Edison Company (collectively, FirstEnergy Ohio or the Companies) to recover the costs for compliance with R.C. 4928.64.¹ The Stipulation and Recommendation also set forth the mechanics and process for updating Rider AER, as described below:

Renewable energy resource requirements for the period January 1, 2009 through May 31, 2011 will be met using a separate RFP process to obtain Renewable Energy Credits. A generation rider will be established to recover, on a quarterly basis, the prudently incurred cost of such credits pursuant to R.C. § 4928.64 including the cost of administering the RFP and carrying charges on any unrecovered balances including accumulated deferred interest. The aforementioned generation rider shall be reconciled quarterly and will be bypassable to a shopping customer consistent with R.C. § 4928.64(E), and the supplier of such shopping customer shall provide the requisite renewable energy resources. Carrying charges shall accrue at a rate of 0.7066 percent per month and without reduction for accumulated deferred income taxes.²

On August 25, 2010, the Commission approved a Stipulation and Recommendation in Case No. 10-388-EL-SSO (ESP 2) that continued Rider AER and set forth the following provisions:

Renewable energy resource requirements for the period of June 1, 2011, through May 31, 2014, will be met by using a separate request for proposal (RFP) process to obtain renewable energy credits (RECs). If the Companies are unable to acquire the required number of RECs through the RFP process, the Companies may acquire the remaining needed RECs through bilateral contracts. The costs related to the procurement of all RECs, including any costs associated with administering the

¹ Case Nos. 08-395-EL-SSO, et al., Second Opinion & Order (Mar. 25, 2009) at p. 9.

² Case Nos. 08-395-EL-SSO, et al., Stipulation & Recommendation (Feb. 19, 2009) at p. 10-11.

*RFP, will be included in Rider AER for recovery in the year in which the RECs are utilized to meet the Companies' renewable energy requirements, with any reconciliation between actual and forecasted information being recognized through Rider AER in the subsequent quarter.*³

*The Companies will work with any interested Signatory Party or non-opposing party to the Combined Stipulation to develop four RFPs to purchase RECs, including solar RECs, through ten-year contracts. The Companies will file with the Commission a separate application for approval of each of the four RFPs. The first application will be filed within 90 days after the Commission's Opinion and Order in this proceeding and will seek competitive bids to purchase through ten-year contracts the annual delivery of 5,000 solar RECs originating in Ohio, with a delivery period between June 1, 2011 and December 31, 2020, and the annual delivery of 20,000 non-solar RECs originating in Ohio, with a delivery period between June 1, 2011 and December 31, 2020. The number of solar RECs to be purchased in subsequent RFPs will be conditioned upon the SSO load of the Companies. The applications to the Commission will seek approval of recovery of all reasonable costs associated with acquiring RECs through the ten-year contracts through Rider AER or such other rider established to recover such costs.*⁴

On July 18, 2012, the Commission approved a Stipulation and Recommendation in Case No. 12-1230-EL-SSO (ESP 3) that continued Rider AER and set forth the following provisions:

*Renewable energy resource requirements for the period of June 1, 2014, through May 31, 2016, will be met by using a separate request for proposal (RFP) process to obtain renewable energy credits (RECs). If the Companies are unable to acquire the required number of RECs through the RFP process, then the Companies may seek the remaining needed RECs through bilateral contracts. The costs related to the procurement of all RECs, including costs associated with administering the RFP, will be included in Rider AER for recovery in the year in which the RECs are utilized to meet the Companies' renewable energy requirements, with any reconciliation between actual and forecasted information being recognized through Rider AER in the subsequent quarter.*⁵

The Companies will honor the commitments they made in the Combined Stipulation related to conducting a maximum of four RFPs through which the Companies will seek competitive bids to purchase RECs, including solar RECs, through ten-year contracts. The Companies will file with the Commission a separate application for approval of an RFP the Companies deem most appropriate. The filing of the application shall be within 90 days after the Commission's Opinion and Order or

³ Case No. 10-388-EL-SSO, Opinion & Order (Aug. 25, 2010) at p. 8-9.

⁴ *Id.* at p. 10-11.

⁵ Case No. 12-1230-EL-SSO, Opinion & Order (July 18, 2012) at p. 7-8.

final Entry on Rehearing in this proceeding. The number of solar RECs will continue to be conditioned upon the SSO load of the Companies. The applications to the Commission will seek approval of recovery of all costs associated with acquiring RECs through the ten-year contracts through Rider AER or such other rider established to recover such costs. Additionally, such costs shall be recovered over the contract period (including any period for reconciliation) and shall be recovered irrespective of the Companies' need for RECs to meet their statutory requirement.⁶

On March 31, 2016, the Commission approved a Stipulation and Recommendation, with modification, as part of ESP 4 that continued Rider AER with the following modifications:

FirstEnergy further provides that while the costs of the Companies' compliance with renewable energy requirements will continue to be recovered through the Alternative Energy Resource Rider (Rider AER), the rate design of Rider AER will be modified so that estimated costs are recovered within the quarter they are expected to be incurred. FirstEnergy also states that the Companies seek to eliminate the loss differentiation of Rider AER and that these modifications are in compliance with the recommendations made in the financial audit report in Case No. 11-5201-EL-RDR. (Co. Ex. 45 at 5; Co. Ex. 14 at 11; Tr. Vol. XVIII at 3635.)⁷

Moreover, the Commission notes that the application contains a provision, regarding Rider AER, to limit refunds from out-of-period adjustments (Co. Ex. 1 at 10-11). While we note that refunds based upon out-of-period adjustments are generally disfavored, such determinations should be made on a case-by-case basis. Accordingly, we will modify the Stipulated ESP IV to strike that proposed provision.⁸

The term of ESP 4 runs through May 31, 2024.

On January 18, 2012, the Commission set forth an Entry in Case No. 11-5201-EL-RDR that directed the staff of the Commission to issue a request for proposals (RFP) for a management/performance and financial audit of Rider AER in two audit cycles – the first covering the period October 2009 through December 2011 and the second covering the 2012 calendar year. On February 23, 2012, the Commission issued an Entry selecting the consultants hired to complete the audits. On August 15, 2012, the audit report for the first audit cycle was docketed.

On August 7, 2013, the Commission issued an Opinion and Order addressing the audit report recommendations that disallowed more than \$43 million of costs associated with imprudent REC purchases to meet the Companies' compliance obligations. The Commission also modified previously authorized protective orders to allow for the general disclosure of the Companies'

⁶ *Id.* at 9.

⁷ Case No. 14-1297-EL-SSO, Opinion & Order (Mar. 31, 2016) at p. 77.

⁸ *Id.* at p. 97.

affiliate, FirstEnergy Solutions, as a bidder in the RFP process to obtain RECs but ordered that other specific information related to the bids would continue to be confidential subject to the protective orders. On September 18, 2013, and December 18, 2013, respectively, the Commission issued Entries addressing the applications for rehearing filed by parties in the case.

On January 23, 2014, the Companies filed an appeal with The Supreme Court of Ohio challenging the Commission's \$43 million disallowance arguing that it was unlawful retroactive ratemaking. On February 18, 2014, the Ohio Consumers' Counsel (OCC) and the Environmental Law and Policy Center (ELPC) both filed cross-appeals; OCC challenged the protective orders and the amounts that were authorized for recovery by the Commission and ELPC challenged the protective orders. The Supreme Court of Ohio agreed with the Companies' argument that the \$43 million disallowance was unlawful because the Rider AER tariff did not specify a refund process. The Supreme Court of Ohio also agreed with the arguments challenging the protective orders and reversed the Commission's decision to grant trade-secret protection. OCC's other argument was rejected.⁹

On March 5, 2019, a Stipulation and Recommendation was filed in Case No. 11-5201-EL-RDR to resolve issues related to the protective order issues, which was approved by the Commission on January 13, 2021.

On March 28, 2018, the Commission issued a Finding and Order in Case No. 17-2275-EL-RDR, et al., approving the Companies' proposed revisions to the tariff sheet for Rider AER. Thereafter, on March 29, 2018, the Companies filed tariffs in compliance with the Commission's Finding and Order, effective April 1, 2018, incorporating the following reconciliation language.

*This Rider is subject to reconciliation, including, but not limited to increases or refunds. Such reconciliation shall be based solely upon the results of audits ordered by the Commission in accordance with the July 18, 2012 Opinion and Order in Case No. 12-1230-EL-SSO, and the March 31, 2016 Opinion and Order in Case No. 14-1297-EL-SSO.*¹⁰

II. PURPOSE

The Commission is seeking proposals to review the accounting, accuracy, prudence, and compliance of FirstEnergy Ohio with its Commission-approved Rider AER with regards to the AER costs and compliance with the renewable portfolio standard (RPS).

The auditor and/or retained subcontractors shall be familiar with and comply with the following:

⁹ *In re Rev. of Alternative Energy Rider Contained in Tariffs of Ohio Edison Co.*, 153 Ohio St.3d 289, 2018-Ohio-229.

¹⁰ Case No. 17-2275-EL-RDR, et al., Tariff Filing (Mar. 29, 2018).

- R.C. 4928.64: Electric distribution utility to provide electricity from qualifying renewable energy resources.
- R.C. 4928.641: Costs being recovered through bypassable charge.
- R.C. 4928.642: Reduction from compliance amount.
- R.C. 4928.643: Baselines for compliance with qualified renewable energy resource requirements.
- R.C. 4928.644: Adjustments to baselines.
- R.C. 4928.645: Use of renewable energy credits.
- R.C. 4928.65: Adoption of rules governing disclosure of costs to customers of the renewable energy resource, energy efficiency savings, and peak demand reduction requirements.
- Ohio Adm.Code 4901:1-40, setting forth the Commission's rules regarding the Alternative Energy Portfolio Standard.
- The regulatory environment impacting the electric industry.
- The business operations of electric distribution utility companies.
- Renewable portfolio standards for electric utilities.
- Single issue cost recovery mechanisms.
- Generally accepted accounting principles (GAAP).
- Federal Energy Regulatory Commission (FERC) Uniform System of Accounts.
- Various accounting and tax changes or decisions issued during or impacting the audit period.

III. SCOPE OF INVESTIGATION

The auditor's investigation shall determine if FirstEnergy Ohio has appropriately implemented its Commission-approved Rider AER, including the appropriateness of costs associated with the Company's renewable energy requirement compliance activities.

The audit shall include: a financial audit of the RPS compliance costs recovered for the period **April 1, 2018, through December 31, 2023**, along with a management and performance audit of the Company's RPS compliance activities during that period.

Guidance and minimum requirements for the scope of work to be performed and the requirements of the audit report can be found in **Attachment 1** (Financial Audit Program Standards) and **Attachment 2** (Management/Performance Audit Program Standards) to this RFP.

A. GENERAL PROJECT REQUIREMENTS

The auditor selected shall:

- Review Rider AER-related provisions contained within the Commission’s decisions in Case Nos. 08-935-EL-SSO et al., 10-388-EL-SSO, 12-1230-EL-SSO and 14-1297-EL-SSO.
- Obtain and review actual Rider AER costs from April 1, 2018, through December 31, 2023, in Case Nos. 17-2275-EL-RDR (2018 AER Costs), 18-1644-EL-RDR (2019 AER Costs), 19-1902-EL-RDR (2020 AER Costs), 20-1668-EL-RDR (2021 AER Costs), 21-1129-EL-RDR (2022 AER Costs), and 22-1037-EL-RDR (2023 AER Costs).
- Review all related PUCO cases, including applicable filings, testimony and work papers regarding:
 - 11-5201-EL-RDR (10/2009 through 12/2011 Audit)
 - 19-0913-EL-ACP (2018 AER Compliance Filing)
 - 20-0777-EL-ACP (2019 AER Compliance Filing)
 - 21-0440-EL-ACP (2020 AER Compliance Filing)
 - 22-0417-EL-ACP (2021 AER Compliance Filing)
 - 23-0412-EL-ACP (2022 AER Compliance Filing)
- Obtain and review specific relevant documentation through data requests and interviews.
- Obtain and review all appropriate documentation relating to the Company’s compliance with the Commission-approved AER.

B. ROLE OF AUDITOR

Any auditor who is chosen by the Commission to perform an audit expressly agrees to perform his or her audit as an independent contractor. Any conclusions, results, or recommendations formulated by the auditor may be examined by any participant to the proceeding for which the audit report was generated. Further, it shall be understood that the Commission and/or the Commission’s staff (Staff) shall not be liable for any acts committed by the auditor or its agents while conducting its audit activities.

C. COMMISSION STAFF SUPERVISION

PUCO Staff will oversee the project. Staff personnel shall be informed of all correspondence between the selected auditor and the Company and shall be given at least three working days’ notice of all meetings and interviews with the Company to allow Staff the opportunity to attend. The auditor shall update Staff no less than once a week for the duration of the audit. These updates may occur via telephone or electronic media (e.g., teleconference or email) as acceptable to Staff.

D. COST OF AUDIT AND QUOTATION OF CHARGES

The proposed cost of the audit shall include all expenses associated with conducting the audit and presenting the findings and recommendations in the audit report. A detailed presentation of costs shall be provided, broken down by phase/task, in conformance with this Request for Proposal. The proposed costs shall be considered firm prices for performing the work described in the proposal.

E. COST OF PRESENTING EXPERT TESTIMONY

The proposed cost of the audit shall include actual costs associated with serving as an expert witness before the Commission during the applicable hearing, including time and materials. These expenses will be billed separately from the cost of the audit. Expenses associated with the presentation of testimony will include the following:

- Actual transportation expense (i.e., airfare, etc.)
- Actual living expenses (hotels, meals, local transportation)
- Actual preparation time, up to 8 hours per witness
- Actual hours spent in travel
- Actual hours spent presenting testimony

IV. TIMELINE

The timeline presented below is intended to provide the auditor an understanding of the timeframe during which the audit is to be conducted. Although precise dates are used below, the actual dates for awarding the audit and for conducting audit and hearing activities may vary somewhat when they are set through a subsequent Commission entry.

Audit proposals due	April 3, 2024
Award audit (Commission Order)	April 17, 2024
Audit Conducted	April 17 – December 4, 2024
Draft audit report presented to Staff	December 5, 2024
Final audit report filed with Commission	December 18, 2024

V. DEADLINES AND DELIVERABLES

A. AVAILABILITY OF DOCUMENTS

The Company shall provide any and all documents or information requested by the auditor selected and Staff. The Company may conspicuously mark such documents or information as being “confidential.” In no event, however, shall the Company refuse or delay to provide such documents or information.

Staff or the auditor selected shall not publicly disclose any document marked “confidential” by the Company, except upon three days prior notice of intent to disclose served upon the Company’s counsel. Three days after such notice, Staff or the auditor may disclose or otherwise make use of such documents or information for any purpose, unless the Company move the Commission 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. Service shall be complete upon mailing or delivery in person.

B. FISCAL REPORTS

The auditor will submit invoices when work is 50 percent complete and when work is 100 percent complete, unless more frequent intervals are agreed to by Staff. The invoices shall include details regarding the dates and activities covered by each invoice, and shall be sufficiently detailed to allow Staff to identify the work completed, the time spent in each billable activity, the personnel involved, and the corresponding charges in relation to the activity schedule originally set forth in the auditor’s proposal. All invoices are to be sent to the Company and copies are to be sent to Staff.

After approval of the invoice by the Staff, the Company will be authorized to make payment.

The Company shall be ordered by the Commission to enter into a contract, which shall incorporate by reference all provisions of this proposal, with the auditor chosen by the Commission to perform the audit. Auditors shall submit a copy of this contract agreement between the auditor and Company to the Staff member assigned to the audit.

C. INTERIM REPORTING

At the midpoint of the audit activities, the auditor selected will provide a progress report to Staff. This report will briefly describe progress made on required audit activities, as well as initial/tentative findings and conclusions on issues investigated to date. Unless requested by Staff, this interim report may be made verbally.

D. DRAFT REPORT

Two copies of a draft of the final audit report shall be sent to Staff in accordance with the timeline described in Section IV. The report may be sent electronically upon prior agreement by Staff.

E. FINAL REPORT

One copy of the final audit report plus one reproducible original shall be docketed with the Commission by the morning of the date specified in Section IV. The final report should include an executive summary of recommendations. The final docketed report should contain an overview of the investigation, recommended adjustments, if any, and an attestation by the auditor that the financial information contained in the application is from a reliable source. Along with the docketed report, the auditor shall deliver to Staff one hard copy of the audit report. The final audit report should be docketed in a “searchable” PDF format. If it is necessary to prepare a redacted report, due to confidentiality concerns, two copies of a non-redacted report shall also be provided to both the Commission and the Company. If necessary, the final redacted report should be redacted using the Adobe Acrobat “redaction tool”. The non-redacted report shall clearly be labeled “confidential.”

F. WORKING PAPERS

A complete set of working papers is an integral part of the audit requirements. With the final audit report, the auditor selected shall deliver to Staff one complete set of working papers that contain documents used and procedures followed to develop the conclusions set forth in the audit report. Working papers should include Applicant’s name, case number, description (items in folder), and source documents.

The auditor selected shall maintain working papers and document all supporting information, including, without limitation, meetings, interviews, or any pertinent information. The auditor selected shall utilize Staff’s data request procedures, utilizing a Microsoft Outlook public folder (or similarly accessible method) for issuing information requests and recording responses or may use its own system, provided Staff has full access to all data requests and responses and is able to store the requests and responses in Microsoft Outlook. All text documents should be word searchable and all data and formulas in Excel spreadsheets shall be fully disclosed and accessible.

G. PRODUCTION OF DOCUMENTS

At any time, upon request of the Commission or Staff, the auditor selected shall immediately produce any document of information obtained or produced within the scope of the audit.

H. TESTIMONY

The auditor shall be expected to present expert testimony during the course of any hearing at which the audit report is considered. The individual providing testimony will be one or more persons who conducted or directed the audit activities being considered at any hearing.

VI. MINIMUM CONTENTS OF PROPOSAL

Each proposal shall contain page numbers and a table of contents. In a separate section, reflected in the table of contents, the following information shall be provided:

- A. Name, mailing address, and telephone number of the individual to contact if further information is needed;
- B. An indication of how the bidder plans to incorporate Staff's participation in the proposed work plan; and
- C. The name(s) of all subcontractors to be used in the performance of the proposed work, identification of the specific items to be performed/provided by the subcontractor, and the cost of the proposed subcontractor's work; or if no subcontractors are to be used, the entry "Subcontractor – none." All such subcontractors indicated in the proposal will be acknowledged as accepted by the Commission upon selection of the proposal for contract awarded unless the auditor is previously notified of the contrary. No addition, deletion, or substitution of subcontractors will be permitted during the course of the contract unless approved in advance by Staff in writing. If subcontractors are proposed, all information required in this section shall be supplied for each subcontractor proposed. Such information shall be supplied in a format parallel to the overall format specified for the contractor.
- D. The following required Equal Employment Opportunity (EEO) data must be provided for the auditor and each subcontractor:
 - 1. The total number of employees;
 - 2. The percentage of the total who are women;
 - 3. The percentage of the total who are Black, Hispanic, Asian, or American Indian (please specify);
 - 4. The total number of employees located in Ohio offices;
 - 5. The percentage of the Ohio total who are women;
 - 6. The percentage of the Ohio total who are Black, Hispanic, Asian, or American Indian (please specify);
 - 7. The number of individuals to be assigned to the project;
 - 8. The percentage of the total assigned who are women;

9. The percentage of the total assigned who are Black, Hispanic, Asian, or American Indian (please specify);
- E. A listing of contracts the auditor and each subcontractor has with the State of Ohio and:
1. Name of the state agency(s) for each contract;
 2. The cost of each contract;
 3. The duration of each current contract.
- F. A statement that neither the auditor, nor its parent(s) or subsidiaries have a financial interest in the Company and/or shared officers or directors and that the auditor, if selected, will not acquire or be subject to such an interest during the course of the work described in this RFP.
- If the auditor believes that such a financial interest may exist and that such a statement cannot be completed as part of the proposal, please provide a description of the auditor's (including parents and subsidiaries) financial interest(s) in the Company, or the Company's affiliates.
- Auditors maintaining any present or ongoing contracts or agreements with the Company and affiliates may, at the discretion of the Commission, be disqualified by reason of possible conflict of interest. In the proposal, such contracts should be described in sufficient detail that the Commission can determine whether a conflict of interest exists. A response indicating that this information will be provided on request or that such contracts are too numerous to enumerate will be cause for disqualification of the auditor.
- G. A listing of all the auditor's and each subcontractor's offices, facilities, and equipment to be used in performance under this contract and their locations, including a specification of offices, facilities, and equipment located in Ohio. If none, state – none.
- H. For the auditor and each subcontractor, a description of all existing, pending, or past rulings, judgements, findings, contingent liabilities, revocation of authority, regulatory investigations, judicial actions, or other formal or informal notices of violations, fines, or any other matter related to services in Ohio or equivalent services in another jurisdiction within the past five years.
- I. A statement of financial responsibility including certification that the auditor, joint partners if the auditor is a conglomerate operation, and any subcontractors have no outstanding liens or claims against them.
- J. Contact persons that the Commission or Staff may call to receive an assessment of the auditor's, and each subcontractor's previous performance. References should be provided

for the company or companies proposing and for the individuals designated as principals for the project. The information required for each reference is as follows:

- Name of individual to contact for reference
 - Company/facility that employed the individual
 - Telephone number
 - Whether reference is for the company or a principal
 - Project or work for which reference is given
- K. A description of the proposed scope of work to be performed including a work plan, expected deliverable products and task timing. In a separately numbered section, the auditor will provide a detailed cost breakdown by phase/task of the work plan including the class of personnel performing each phase/task of the work, the hourly rate charged for each class, the number of hours charged for each class, an equivalent breakdown of all subcontracted work, any direct or indirect cost items which the auditor plans to charge, and the total cost. The maximum contract price quoted by the auditor shall include all items of work defined in the proposal. The auditor will be expected to deliver the performance described in its proposal not to exceed the agreed upon price.
- L. Identification, by name, of the lead personnel to be employed, the extent of their involvement in the project, and a description of how the proposed personnel's experience matches project requirements. Contract terms will not permit substitution of lead personnel without prior written approval of the Commission. Identification of lead personnel in the cost proposal will not constitute satisfactory compliance with this requirement.
- M. A description of the qualifications, experience, and proven results achieved by all professional lead or significant personnel to be employed on the project, with a summary of work performed on projects similar to the one contemplated by this RFP including specific references. The Commission reserves the right to request samples of prior relevant work from any auditor prior to making its final consultant selection.
- N. Identification by name, title and the hourly rate of pay and all other related costs of the individual or individuals who will present expert testimony before the Commission during the appropriate hearing.

VII. REVIEW CRITERIA

Proposals will be evaluated on a basis which includes the following criteria:

- A. Compliance with Minimum Contents Requirements

Lack of satisfactory response to the minimum content requirements will be grounds for elimination of any proposal from further consideration.

B. Cost

The total proposed contract price is specified in the Proposal. Auditors are encouraged to provide as competitive a bid as is practicable.

C. Understanding of Project

Whether the entity bidding on the project has grasped intent of the project; is knowledgeable of the technical aspects required; indicates understanding of potential problems; demonstrates understanding of regulatory issues, trends, and perspectives; and the work plan indicates appropriate phasing. Whether the method of handling the project is indicated, the proposal reflects thorough understanding of project requirement, the methods appear realistic under stated time constraints, and innovative methodologies appear appropriate to the project. The proposal is responsive to the RFP.

D. Experience of Personnel Assigned to Project and Related Organizational Experience

Experience of personnel assigned to the project and related organizational experience; relevant experience in field, qualified to undertake assignment. References of previous clients/projects provided.

E. Timelines

Demonstrated ability to meet stated deadline; realistic timelines provided; demonstrated proven results of lead personnel.

VIII. OTHER PROPOSAL CRITERIA

A. Relevance

The auditor shall include only relevant information and pertinent exhibits in the proposal. Duplication of materials provided in the RFP, exhaustive resumes, inclusion of standard company promotional materials, etc., will not garner additional points in the evaluation process and may detract from the clarity and conciseness of the proposal.

B. Proprietary Data in Proposal

Submissions to the Public Utilities Commission of Ohio become public documents available to open inspection. Proprietary data in a proposal will also assume this status. Therefore, discretionary action is recommended for any proprietary data to be submitted in proposals.

C. Due Date and Submittal

No later than 5:00 p.m. on April 3, 2024, an electronic copy of the proposal must be submitted to Krystina.Schaefer@puco.ohio.gov.

D. Contractor Requirements and Minority Participation

The Commission, in awarding the contract, will give preference to Ohio contractors. Ohio contractors include not only established domestic companies actively doing business in Ohio but also encompass multi-state companies with headquarters outside of Ohio but with substantial commitments of offices, divisions, and facilities within the state. The Commission will give preference to proposals that demonstrate compliance with minority and women EEO criteria.

E. Late Proposals

A proposal is late if received at any time after the due date set for receipt of the proposals. A late proposal will be considered along with other proposals only if it is received before the evaluation of proposals has, in the sole opinion of the Commission, substantially progressed. Any late proposal will not be considered, unless it is the only proposal received or in the sole judgment of the Commission it offers some important technical or scientific advantage that is of benefit to the Commission.

F. Modification or Withdrawal of Proposal

Any proposal may be modified or withdrawn upon written request of the auditor if such request is received by the Commission at the above address by the date set for receipt of original proposals.

G. Modification or Withdrawal of RFP

This Request for Proposal may be modified or withdrawn at any time prior to the time set for receipt of proposals and thereafter, as long as no proposal has been opened. Upon any such modification or withdrawal, all bidders will be notified and any person or firm who has expressly requested such notice in writing will also be notified of such changes at the discretion of the Commission.

H. Right to Reject Any and All Proposals

The Commission reserves the right, without limitation or discussion with those submitting proposals, to reject any and all proposals.

I. Penalty For Divulging Information

The auditor selected shall abide by all provisions of Sections 4901.16 of the Ohio Revised Code which states; “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.”

The auditor shall not divulge any information regarding its audit activities to the media or to any other entity, except in its report and testimony before the Commission, before, during, and /or after the audit. All comments or concerns that the auditor wants to address shall be directed to the Commission’s Media Office.

J. Conflict of Interest/Ethics

The auditor represents, warrants and certifies that it and its employees engaged in the administration or performance of this audit are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws including but not limited to Chapter 102 and Sections 2921.42 and 2921.43 of the Ohio Revised Code. the auditor further represents, warrants, and certifies that neither the auditor nor any of its employees will do any act that is inconsistent with such laws or otherwise presents a conflict of interest.

K. RFP Website

All firms wishing to remain on the Commission’s bidder list must subscribe to the PUCO RFP list by clicking on the “PUCO RFP Email Notification List” link at:
<https://puco.ohio.gov/documents-and-rules/request-for-proposals>

Pending RFPs and further information will be posted at the above website.

L. Statutory Scope of Audit

Any auditor selected by the Commission to perform an audit shall execute its duties pursuant to the Public Utilities Commission’s statutory authority to investigate and acquire records, contracts, reports and other documentation under Sections 4903.02, 4903.03, 4905.06, 4905.15, and 4905.16, Revised Code.

M. Auditor Selection

The Commission reserves the right to determine that the described audit will not be conducted or will be conducted by Staff, depending on the Commission's needs and circumstances at the time of the selection.

IX. QUESTIONS

Technical questions regarding this RFP should be directed to Krystina Schaefer at Krystina.Schaefer@puco.ohio.gov. Direct administrative questions to Zee Molter at Zee.Molter@puco.ohio.gov.

ATTACHMENT 1

Financial Audit Program Standards

The information included here is intended to provide guidance, but appropriate discretion on the part of the auditor will be necessary in order to conduct an audit in conformance with the specific requirements of the Company's AER. The following instructions do not provide specific details for auditing every aspect of the Company's AER activities. It is anticipated that the auditor will ascertain and apply the relevant criteria in review of the Company's decisions and actions related to its RPS compliance activities.

The financial audit shall include at least the following items:

1. A review of the Company's Rider AER quarterly filings during the audit period to verify the accuracy of the information and calculations.
2. A review of the individual components that may have been included within the Company's AER information and calculations in order to verify that the costs were appropriately included. If applicable, these components include, but are not limited to, the following:
 - a. Both costs and gains associated with REC or S-REC transactions
 - b. Costs of implementing renewable procurement RFPs
 - c. Brokerage fees
 - d. Attribute tracking system costs
 - e. Incremental labor costs
 - f. Carrying costs on inventory
 - g. AER Audit costs
3. A review to verify the accuracy of information and calculations related to any carrying charges included in the Company's quarterly Rider AER calculations.
4. A sample of invoices for costs included in the AER to assure that only appropriately incurred costs were included.
5. A review of the Company's status relative to the three percent provision contained within R.C. 4928.64(C)(3).
6. A review comparing the costs recovered through the Company's AER during the audit period to the costs incurred.
7. A review of the Company's compliance with recommendations from the prior audit, if applicable.
8. A market price comparison, which the Commission and/or Staff can utilize to evaluate the reasonableness of the prices paid by the Company for RECs during the audit period.
9. A review of any other specific items as identified by the Commission or Staff.

The auditor shall prepare a financial audit report section to be filed with the Commission that shall:

1. State the scope and objectives of the audit.
2. State the standards utilized in conducting the audit.
3. Objectively present findings, facts, and conclusions in a clear and concise manner.
4. State specific recommendations, if any, and, when possible, an estimate of the savings to be realized by implementing the recommendations.

ATTACHMENT 2

Management/Performance Audit Program Standards

The information included here is intended to provide guidance, but appropriate discretion on the part of the auditor will be necessary in order to conduct an audit in conformance with the specific requirements of the Company's Rider AER. The following instructions do not provide specific details for auditing every aspect of the Company's Rider AER activities. It is anticipated that the auditor will ascertain and apply the relevant criteria in review of the Company's decisions and actions related to its RPS compliance activities.

The management/performance audit shall include, at least, the following items:

1. A review of the Company's RPS compliance planning activities during the audit period, including the schedule and process for evaluating compliance options as well as considerations such as (1) management of existing multi-year commitments for renewable resources, if applicable, and (2) preparation for compliance with projected future obligations under the RPS.
2. A review of the REC and S-REC transactions entered into by the Company during the audit period, with an assessment as to the management strategy, methods the Company used to analyze RPS compliance options, and the reasonableness of the transactions.
3. An assessment of the applicable REC and S-REC markets during the audit period, including a discussion of the current dynamics of the industry in which the Company operates, and the impact of these dynamics on the Company's practices regarding REC procurement, sale, and generation. A review of the Company's compliance with recommendations from the prior audit, if applicable.
4. A review of any other specific items as identified by the Commission or Staff.

The auditor shall prepare a management/performance audit report section to be filed with the Commission that shall:

1. State the scope and objectives utilized in conducting the audit.
2. State the methodology utilized in conducting the audit.
3. Objectively present findings, facts, and conclusions in a clear and concise manner.
4. Include only the findings, facts and conclusions which are adequately supported in the audit report or in the auditor's working papers; and may include supporting schedules or cross referencing of issues.
5. Identify and explain any issues, areas or questions which need further examination.
6. State specific recommendations and, when possible, an estimate of the savings to be realized by implementing the recommendations.
7. Evaluate management decisions considering the conditions, circumstances, and available information at the time the decisions were made.

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

3/6/2024 2:40:03 PM

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Case No(s). 17-2275-EL-RDR, 18-1644-EL-RDR, 19-1902-EL-RDR, 20-1668-EL-RDR, 21-1129-EL-RDR, 22-1037-EL-RDR

Summary: Entry directing Staff to issue the request for proposal for audit services to assist the Commission with its review of the alternative energy resource rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.