BEFORE

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Review of the Non-Market-Based Services Rider Pilot Program Established by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company | )))) | Case No. 22-0391-EL-RDR |

**REPLY COMMENTS OF NUCOR STEEL MARION, INC.**

Pursuant to the Entry dated July 19, 2023, in the above-captioned proceeding, Nucor Steel Marion, Inc. hereby submits these reply comments to the Public Utilities Commission of Ohio responding to certain issues raised in comments filed by other parties regarding the *Review of the Non-Market-Based Services Riders Established by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company and Associated Pilot Program* (“Audit Report”) prepared by Exeter Associates, Inc.

**I. REPLY COMMENTS**

**A. Parties Agree with Exeter that NSPL-Based Pricing is an Appropriate Way to Calculate Transmission Charges that Reflects Cost Causation and that the Design of Rider NMB is the Cause of Cost Shifts**

 Under the Rider NMB Pilot Program, participating customers pay transmission costs calculated based on the customer’s NSPL demand. Several parties support the Audit Report’s conclusions on the merits of NSPL-based pricing and the general structure of the Pilot Program calculation for customer transmission charges. For example, the Ohio Energy Leadership Council (“OELC”) states:

The Exeter review and audit of Rider NMB and the NMB Pilot Program demonstrates that the pilot program has been successful in establishing a rate mechanism that sends better price signals to commercial and industrial customers participating in the program, resulting in system-wide savings for other FirstEnergy customers through reduced system peaks, while limiting any cost-shifting in the program principally to other non-participating large commercial and industrial customers served by FirstEnergy.[[1]](#footnote-1)

The Ohio Energy Group (“OEG”), the Ohio Manufacturers Association Energy Group (“OMAEG”), the Retail Energy Supply Association (“RESA”), and the Ohio Hospital Association (“OHA”) also recognize the benefits the NSPL pricing mechanism provides for customers who have the ability to respond to price signals in order to better manage their transmission costs.[[2]](#footnote-2)

No party takes issue with the cost savings and other benefits of the Pilot Program identified by Exeter in the Audit Report. In fact, some parties observe that, if anything, the Audit Report understates the value provided by the program. OMAEG observes that the Audit Report may have underestimated the transmission congestion cost savings associated with the Pilot Program.[[3]](#footnote-3) And OEG notes that the Audit Report may not have addressed the potential benefit of the Pilot Program in reducing the ATSI zone’s share of PJM region-wide costs.[[4]](#footnote-4)

Finally, parties recognize that the cost shifts identified in the Audit Report are primarily due to the design of Rider NMB and not the Pilot Program. For example, the Ohio Consumers Counsel (“OCC”) notes that Exeter “identified cost shifts as occurring due to the structure of Rider NMB.”[[5]](#footnote-5) Similarly, OMAEG agrees with Exeter’s conclusion that Rider NMB allocations are inconsistent with PJM cost causation and explains that cost shifting is due to the flawed design of Rider NMB.[[6]](#footnote-6) Exeter’s conclusion that cost shifts are due to the design of Rider NMB and not the Pilot Program was unchallenged.

**B. Any Modifications to Rider NMB and the NMB Pilot Program Should be Considered in FirstEnergy’s Pending ESP V Case**

While there was general agreement among most parties about the benefits of the NSPL pricing approach reflected in the Pilot Program and the flaws in the design of Rider NMB, the main area of disagreement among the parties concerns what to do about Rider NMB itself. Specifically, there is a split among the parties as to Exeter’s Recommendation 1, which is to eliminate Rider NMB for all customers and assign PJM transmission charges (and all other billing line items currently included in Rider NMB) to the customers’ retail suppliers.[[7]](#footnote-7) OCC, OMAEG, and Calpine Retail Holdings, LLC (“Calpine”) urge the Commission to adopt Recommendation 1, while RESA, OEG, and FirstEnergy advise against elimination of Rider NMB.[[8]](#footnote-8)

Consistent with Exeter’s Recommendation 3 and the comments of several parties in this case,[[9]](#footnote-9) the discussion of what to do about Rider NMB and the Pilot Program should be continued in FirstEnergy’s pending ESP V proceeding. In the meantime, to avoid any unnecessary disruption to customer expectations and to allow parties time to adjust to any changes to Rider NMB or the Pilot Program, no changes should be made to Rider NMB or the Pilot Program through the term of the current ESP. As OEG recommends, the Commission “should preserve the status quo until the current ESP expires and then make any desired modifications to the programs as part of any new ESP approved for FirstEnergy.”[[10]](#footnote-10)

**II. CONCLUSION**

 Nucor agrees with OELC’s observation that the “NMB Pilot Program has, in a word, been a success.”[[11]](#footnote-11) As a result, the Pilot Program should continue at least through the term of FirstEnergy’s current ESP, and the NSPL pricing mechanism reflected in the Pilot Program should be available for at least certain types of customers going forward and on a permanent basis. Modifications to Rider NMB and the NMB Pilot Program should be addressed in FirstEnergy’s pending ESP V proceeding.

Respectfully submitted,

*/s/ Michael K. Lavanga*

Michael K. Lavanga

PHV #1014-2023

E-Mail: mkl@smxblaw.com

*Counsel of Record*

Joseph R. Briscar

PHV #21216-2023

E-Mail: jrb@smxblaw.com

Stone Mattheis Xenopoulos & Brew, PC

1025 Thomas Jefferson Street, NW

Suite 800 West

Washington, DC 20007

(202) 342-0800 (Main Number)

(202) 342-0807 (Facsimile)

 **Attorneys for Nucor Steel Marion, Inc.**

**CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio’s e-filing system will electronically serve notice of the filing of this document on the parties who have electronically subscribed to this case. In addition, I hereby certify that a copy of the foregoing was served upon the following parties of record or as a courtesy, via electronic transmission on September 1, 2023.

kfling@firstenergycorp.com

edanford@firstenergycorp.com

mkurtz@BKLlawfirm.com

kboehm@BKLlawfirm.com

jkylercohn@BKLlawfirm.com

Stacie.Cathcart@igs.com

Evan.Betterton@igs.com

Michael.Nugent@igs.com

angela.obrien@occ.ohio.gov

connor.semple@occ.ohio.gov

dproano@bakerlaw.com

ahaque@bakerlaw.com

eprouty@bakerlaw.com

bojko@carpenterlipps.com

dparram@brickergraydon.com

rmains@brickergraydon.com

rhiannon.howard@ohioago.gov

amy.botschnerobrien@ohioago.gov

megan.addison@puco.ohio.gov

greg.price@puco.ohio.gov

jacqueline.st.john@puco.ohio.gov

*/s/ Michael K. Lavanga*

 Michael K. Lavanga, Esq.

1. OELC Comments at 3*.* [↑](#footnote-ref-1)
2. OEG Comments at 5-6; OMAEG Comments at 3; RESA Comments at 10; OHA Comments at 5. [↑](#footnote-ref-2)
3. OMAEG Comments at 8-10. [↑](#footnote-ref-3)
4. OEG Comments at 3. [↑](#footnote-ref-4)
5. OCC Comments at 3. [↑](#footnote-ref-5)
6. OMAEG Comments at 4-5; 7-8. [↑](#footnote-ref-6)
7. Audit Report at 50-51. [↑](#footnote-ref-7)
8. *See*OCC Comments at 2-4; OMAEG Comments at 3-4; Calpine Comments at 2-4; RESA Comments at 5-8; OEG Comments at 4-6; FirstEnergy Comments at 1-2. [↑](#footnote-ref-8)
9. Audit Report at 53-54; OEG Comments at 6; RESA Comments at 10. [↑](#footnote-ref-9)
10. OEG Comments at 6. [↑](#footnote-ref-10)
11. OELC Comments at 4. [↑](#footnote-ref-11)