BEFORE

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Ohio )

Edison Company, The Cleveland Electric )

Illuminating Company, and The Toledo Edison ) Case No. 16-743-EL-POR

Company for Approval of Their Energy Efficiency )

and Peak Demand Reduction Program Portfolio )

Plans for 2017 through 2019 )

**COMMENTS OF NUCOR STEEL MARION, INC. ON RIDER ELR**

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**COMMENTS OF NUCOR STEEL MARION, INC. ON RIDER ELR**

Pursuant to the Fifth Entry on Rehearing in the above-captioned case issued on February 24, 2021, Nucor Steel Marion, Inc. (“Nucor”) respectfully submits these comments on whether Rider ELR is an energy efficiency program established pursuant to the mandates contained in R.C. § 4928.66. As discussed further below, Rider ELR is an interruptible rate approved as part of FirstEnergy’s standard service offer (“SSO”) rate plans primarily intended to support economic development and industry retention and to enhance grid reliability and is not an energy efficiency program established pursuant to the statutory energy efficiency mandates. The history of the rider and the Commission proceedings addressing it, as well as the applicable statute, do not require or support termination of the rider. Accordingly, Rider ELR should not be terminated pursuant to R.C. § 4928.66(G).

**I. COMMENTS**

**A. Introduction and Summary**

Nucor is a large industrial customer of Ohio Edison that has taken service under Rider ELR since its inception in FirstEnergy’s first electric security plan (“ESP”) case. Nucor has advocated for the availability of robust retail interruptible rates, and in support of Rider ELR in particular, in all of FirstEnergy’s ESP proceedings. Rider ELR is a non-firm service, and as such is a lower-quality, less reliable electric service than that provided to firm customers. Nucor’s steel-making process uses massive amounts of electric energy, and Nucor chooses this lower-quality electric service in return for a lower rate so that it can be more competitive in extremely competitive national and world-wide steel markets.

Nucor strongly supports retaining and continuing Rider ELR. The rider was most recently approved as part of the ESP IV stipulation that was negotiated in good faith, vetted fully through extensive litigation, and found by the Commission to be just and reasonable.[[1]](#footnote-1) The availability of a strong and stable interruptible rate such as Rider ELR is vital to the ability of Nucor and other large, energy-intensive manufacturers to remain competitive. Based on the outcome of the Commission proceedings on ESP IV, as well as earlier ESP proceedings, Nucor (and presumably the other customers on Rider ELR) have relied upon the availability of continued service under the rider and have planned their investments, operations and budgets accordingly. Cancellation of Rider ELR, particularly in the middle of an ESP, would cause major disruption and rate shock for these customers.

In the Fifth Entry on Rehearing, the Commission granted the rehearing request of the Office of the Ohio Consumers’ Counsel (“OCC”) and invited parties to provide comments on “whether, in consideration of the history, purpose and nature of Rider ELR, Rider ELR is an energy efficiency program established pursuant to the mandates contained in R.C. § 4928.66 which should be terminated pursuant to R.C. § 4928.66(G).”[[2]](#footnote-2) As explained further in these comments, upon consideration of the history, purpose and nature of Rider ELR, it is clear that the rider is not an energy efficiency program that should be terminated pursuant to R.C. § 4928.66(G). Rider ELR is a rate established as part of FirstEnergy’s initial electric security plan, which has been reapproved in every subsequent ESP. It is not an energy efficiency program, its purpose is not to meet energy efficiency requirements under the statute, nor was it established under or approved as part of FirstEnergy’s portfolio plan.

Instead, Rider ELR has two primary purposes – (1) economic development and (2) system reliability. First, Rider ELR is an economic development/job retention rate intended to help retain the industrial customers that took service under FirstEnergy’s legacy interruptible rates, thereby helping to advance Ohio’s policy of facilitating “the state’s effectiveness in the global economy.”[[3]](#footnote-3) Second, the rate also provides reliability benefits by providing a long-term and stable supply of interruptible load that may be called upon to address system emergencies. The rate has allowed FirstEnergy to avoid costs associated with capacity, transmission, and reserves. While the peak demand reduction provided by Rider ELR was appropriately counted toward meeting FirstEnergy’s statutory peak demand reduction benchmarks, this was a side benefit, and does not justify eliminating Rider ELR and forgoing the primary benefits it provides.

OCC’s reasoning in arguing for the termination of funding for Rider ELR under Section 4928.66(G) has already been rejected by the Commission. In FirstEnergy’s initial EE/PDR portfolio plan proceeding, the Commission made clear that Rider ELR was already a rate approved as part of the ESP and not as part of FirstEnergy’s portfolio. Nevertheless, in past ESP cases, OCC and other parties have attempted to characterize Rider ELR as an EE/PDR program that should be treated the same as the programs included in FirstEnergy’s EE/PDR portfolio. Whenever the Commission has considered these arguments it has rejected them, recognizing that Rider ELR is a not a portfolio program, but instead is a rate that has a life of its own outside the EE/PDR framework and a purpose separate and apart from meeting the statutory benchmarks.

Finally, Section 4928.66, as amended by House Bill 6 through the addition of Sections 4928.66(F) and 4928.66(G), clearly does not require the termination of interruptible rates like Rider ELR. Sections 4928.66(F) and 4928.66(G) require the termination of utility portfolio plans and the funding mechanisms associated with those plans. Since Rider ELR was not established through FirstEnergy’s portfolio and was not funded through the portfolio cost recovery mechanism, Rider ELR need not and should not be terminated pursuant to R.C. § 4928.66(G).

**B. Rider ELR is a Long-Standing Interruptible Rate That Has Multiple Purposes and Provides Several Benefits**

**1. Overview of Rider ELR and Associated Cost Recovery Riders**

Rider ELR is an interruptible rate primarily available to industrial customers who were long standing interruptible customers prior to the establishment of the current SSO framework under Amended Substitute Senate Bill No. 221 (“SB 221”). Under Rider ELR, all of a customer’s load in excess of the customer’s designated Firm Load is subject to interruption when an Emergency Curtailment Event is called.[[4]](#footnote-4) The key terms and conditions governing Emergency Curtailment Events in Rider ELR include the following:

* An Emergency Curtailment Event is defined as “one in which the Company, a regional transmission organization and/or a transmission operator determines, in its respective sole discretion, that an emergency situation exists that may jeopardize the integrity of either the distribution or transmission system in the area.”[[5]](#footnote-5) The rider further provides that “PJM, which is the regional transmission organization of which the Company is a member, may also initiate an Emergency Curtailment Event upon their sole determination that a pre-emergency situation exists.”[[6]](#footnote-6)
* If an Emergency Curtailment Event is requested by PJM, the Rider ELR customer must curtail its load down to its Firm Load level within approximately 30 minutes, unless the customer has received an exception that allows it to receive longer notice.[[7]](#footnote-7) An Emergency Curtailment Event “requested solely by PJM may occur any day during the year with no restrictions on the number of events that could occur.”[[8]](#footnote-8) The maximum duration for an Emergency Curtailment Event called by PJM during the months of May through October is 12 hours between 10:00 AM and 10:00 PM, and for the months of November through April, the maximum duration of a curtailment is 15 hours between the hours of 6:00 AM and 9:00 PM.[[9]](#footnote-9)
* In addition to PJM, interruptions under Rider ELR may be called by the customer’s distribution utility or a transmission operator (*i.e.*, ATSI).[[10]](#footnote-10) An Emergency Curtailment Event requested solely by the distribution utility and/or transmission operator “may occur anytime during the year with no restrictions on the number of events or the duration of an event.”[[11]](#footnote-11)

In short, customers on Rider ELR are subject to possible interruptions by three different entities at any time during the year and must plan their operations accordingly. Rider ELR customers that fail to curtail their load down to their Firm Load as prescribed by the tariff are subject to significant penalties.

Rider ELR customers receive credits applied to the customer’s Curtailable Load for the month.[[12]](#footnote-12) Currently, half of the cost of the credit is recovered through the Standard Charge Provision of the Economic Development Rider, Rider EDR.[[13]](#footnote-13) The other half of the cost of the credit is recovered from customers through the DSE1 charge under Rider DSE. The DSE1 charge is a separate mechanism from DSE2, the charge established to recover the cost of the FirstEnergy’s portfolio program. Rider DSE defines DSE1 charges as follows:

The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR).

By contrast, Rider DSE defines DSE2 charges as follows:

The DSE2 charges set forth in this Rider recover costs incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the, energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code through demand-response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs.[[14]](#footnote-14)

**2. Purposes and Benefits of Rider ELR**

Rider ELR is an interruptible rate established to provide reliability and economic development benefits to the system. Since its inception, the rider has been available to large industrial customers who had been on FirstEnergy’s pre-SB 221 legacy interruptible rates. In fact, most of the cost of the Rider ELR credit was initially recovered through the Economic Development Rider, with only a small portion of the credit recovered through the DSE1 charge.[[15]](#footnote-15) While cost recovery was spread evenly between Rider EDR and DSE1 in subsequent ESPs, the fact that at least half of the cost of the rider has always been recovered through the Economic Development Rider demonstrates that economic development/job retention was and remains a primary purpose of Rider ELR.

Rider ELR provides reliability benefits by providing a stable, long-term supply of interruptible load that can be called upon in the case of a system emergency. Interruptible load can be a vital resource for helping to mitigate the impact of extreme weather events such as those recently seen in Texas and other parts of the country. Rider ELR has been characterized as “a significant tool in the reliability toolbox and assures that Rider ELR customers will be interrupted in advance of firm service customers.”[[16]](#footnote-16) During the PJM region’s own encounter with extreme winter weather during the 2014 Polar Vortex, Rider ELR customers were asked to curtail load in order to help preserve system reliability.[[17]](#footnote-17) Also, the fact that a FirstEnergy distribution utility and/or ATSI, and not just PJM, may call an interruption under Rider ELR makes the rider a resource for addressing more localized reliability issues.

In addition to the primary economic development and reliability benefits Rider ELR provides, additional benefits that Rider ELR provides have been addressed in FirstEnergy’s ESP cases. For example, FirstEnergy has bid Rider ELR interruptible load into the PJM capacity markets, thereby displacing higher priced capacity resources in the auctions.[[18]](#footnote-18) Revenue received from the capacity market is flowed back to customers through Rider DSE to offset some of the cost of the credit.[[19]](#footnote-19) In addition to reducing capacity costs, stable, long-term interruptible rates such as Rider ELR can also avoid or reduce costs associated with generation reserves and transmission losses.[[20]](#footnote-20) Also, as an interruptible rate, Rider ELR produced peak demand reduction, which has been counted toward meeting the peak demand benchmarks under Section 4928.66.[[21]](#footnote-21)

**C. Rider ELR is an Interruptible Rate Approved as Part of the ESP Rate Plans**

As demonstrated by the history of Commission consideration and approvals of Rider ELR, Rider ELR is not, and never has been, an energy efficiency program approved as part of FirstEnergy’s EE/PDR portfolio plans. Instead, Rider ELR is an interruptible rate approved as part of every FirstEnergy electric security plan dating back to the first ESP in 2009. While peak demand reduction resulting from Rider ELR has been counted toward meeting the peak demand reduction benchmarks under Section 4928.66, meeting the benchmarks has never been the sole or even the primary purpose of the rider.

Throughout the history of FirstEnergy’s standard service offer proposals, the Commission has recognized that interruptible rates like Rider ELR are valuable and provide several benefits. Following the passage of SB 221, FirstEnergy simultaneously submitted separate market rate option (“MRO”) and ESP proposals. FirstEnergy did not propose an interruptible rate as part of its MRO proposal considered by the Commission in Case No. 08-936-EL-SSO. The Commission rejected the MRO, and in so doing cited shortcomings in FirstEnergy’s proposed rate design, including the omission of interruptible rates.[[22]](#footnote-22) The Commission stated that “the record demonstrates that interruptible rates can be used to reduce generation and transmission capacity needs” and that FirstEnergy failed to demonstrate that interruptible rates are impractical or cannot be implemented as part of a competitive bidding process.[[23]](#footnote-23)

Rider ELR was first proposed as a part of the initial ESP in Case No. 08-935-EL-SSO. As initially proposed, Rider ELR was made available to customers on FirstEnergy’s existing interruptible tariffs or a special contract containing interruptible provisions which was approved before July 31, 2008, and the terms and conditions of the rider were modeled on Ohio Edison’s existing interruptible tariffs.[[24]](#footnote-24) This demonstrates that, from its inception, Rider ELR was an extension of historical interruptible rates that existed long before SB 221’s EE/PDR benchmarks and portfolio requirements. The Commission initially approved and modified the proposed ESP, and while FirstEnergy then withdrew its ESP, the Commission subsequently approved a stipulation implementing the ESP.[[25]](#footnote-25) Rider ELR was included as part of the stipulation. Most parties in the case (including OCC) signed the stipulation.[[26]](#footnote-26)

While Rider ELR was characterized in the stipulation as a “demand response program under Section 4928.66, Revised Code,”[[27]](#footnote-27) it is clear that Rider ELR was not developed through or approved under FirstEnergy’s portfolio plan. The EE/PDR portfolio did not even exist when the first ESP was approved – in fact, the process for developing the EE/PDR program portfolio was established as part of the same stipulation.[[28]](#footnote-28)

Rider ELR was included as part of the stipulation and approved again in the second ESP case, Case No. 10-388-EL-SSO. The Commission rejected arguments that Rider ELR should be terminated since other demand response opportunities are available through RTO programs.[[29]](#footnote-29) The Commission also observed that the recommendation to continue Rider ELR was the result of good faith negotiations between the signatories to the ESP stipulation and that termination of the rate would harm large industrial customers in the state.[[30]](#footnote-30)

Rider ELR was included as part of the ESP approved in the third ESP case, Case No. 12-1230-EL-SSO.[[31]](#footnote-31) In that case, the Commission found that Rider ELR tends to “lower SSO generation prices as well as promote both economic development and compliance with the peak demand reduction provisions of Section 4928.66, Revised Code.”[[32]](#footnote-32)

Finally, Rider ELR was approved as part of the fourth and current ESP in Case No. 14-1297-EL-SSO, where the Commission recognized that Rider ELR provides reliability and economic development benefits to customers.[[33]](#footnote-33) The Commission counted Rider ELR as among a number of the provisions in the stipulation “intended to promote the state’s effectiveness in the global economy,” and recognized that the rider was approved by the Commission as part of the first ESP and has continued in place since then.[[34]](#footnote-34)

**D. The Commission Has Recognized that Rider ELR is Not Established Under or Funded Through FirstEnergy’s EE/PDR Portfolio**

FirstEnergy submitted its initial EE/PDR portfolio plan in December of 2009, well after the first ESP plan including Rider ELR was approved and in place.[[35]](#footnote-35) In that case, FirstEnergy did not seek review or approval of Rider ELR, nor did it seek review of whether the rider should be continued. With regard to Rider ELR, FirstEnergy clarified that it was only seeking approval in the portfolio proceeding to include the results of Rider ELR for purposes of compliance with the Section 4928.66(A) benchmarks.[[36]](#footnote-36) The Commission agreed that approval of Rider ELR occurred outside the portfolio case, finding that “pursuant to our approval of the combined stipulation, as modified, in the 2010 ESP Case, FirstEnergy will continue Riders ELR and OLR through May 31, 2014.”[[37]](#footnote-37)

Despite this finding, in subsequent ESP cases some parties put forth arguments effectively seeking to treat Rider ELR as a portfolio program. The Commission has consistently rejected these arguments. In so doing, the Commission has recognized that while Rider ELR provided peak demand reduction benefits that may be counted toward meeting the statutory benchmarks, Rider ELR is unique, provides a number of other benefits, and therefore falls outside the Section 4928.66 portfolio plan framework.

For example, in Case No. 12-1230-EL-SSO, OCC argued that since Rider ELR was used to help meet the peak demand reduction requirements, FirstEnergy’s EE/PDR portfolio proceeding – not the ESP proceeding – was the appropriate venue to address Rider ELR.[[38]](#footnote-38) Nucor objected to this argument, explaining that unlike energy efficiency programs included in the EE/PDR portfolio, Rider ELR is a rate approved under the standards for rates as part of the first two ESP plans, and noting that OCC pointed to no statute or regulation that required interruptible rates to be considered in EE/PDR portfolio proceedings.[[39]](#footnote-39) The Commission agreed with Nucor in approving the ESP III plan, noting that OCC set forth no persuasive reason for why Rider ELR would be more appropriately addressed in the portfolio proceeding.[[40]](#footnote-40)

OCC also argued that the costs of Rider ELR should be recovered from the non-residential customer classes only, in the same manner that the cost of energy efficiency programs under the EE/PDR portfolio were assigned only to the customer classes targeted by the programs.[[41]](#footnote-41) The Commission rejected this argument as well, ruling that recovering the cost of Rider ELR from all customers was appropriate because Rider ELR provides benefits shared by all customers.[[42]](#footnote-42)

Similarly, in Case No. 14-1297-EL-SSO, the Commission rejected an argument that effectively would have treated Rider ELR as any other portfolio program. The ESP IV stipulation provides that nothing precludes Rider ELR customers from opting out of FirstEnergy’s EE/PDR portfolio plan as permitted under Section 4928.6611, Revised Code.[[43]](#footnote-43) Some parties argued that this provision violated Section 4928.6613, Revised Code, which states that if a customer opts out of paying for a utility’s energy efficiency and peak demand reduction programs as permitted by Section 4928.6611, Revised Code, the customer is no longer “eligible to participate in, or directly benefit from, programs arising from” the utility’s EE/PDR portfolio plan.[[44]](#footnote-44) According to this argument, since Rider ELR customers are receiving a credit, a portion of the cost of which is recovered through Rider DSE1, such customers may not exercise their right to opt out without violating Section 4928.6613.[[45]](#footnote-45)

Nucor opposed this argument, explaining that:

Rider ELR is not derived from FirstEnergy’s energy efficiency and peak demand reduction portfolio plan. Rider ELR has always led a separate existence as an approved rate under FirstEnergy’s ESP plans. In fact, Rider ELR was in place before FirstEnergy’s first energy efficiency and peak demand reduction portfolio was even filed, much less approved and implemented. Moreover, Rider ELR is an outgrowth of previous interruptible programs that have existed for many years. Although FirstEnergy properly counts the peak demand reduction provided by Rider ELR toward meeting its benchmarks, Rider ELR is not, and never has been, a program developed, funded or approved under FirstEnergy’s portfolio plan.[[46]](#footnote-46)

The Commission ruled that Rider ELR customers could opt out of the portfolio programs without violating Section 4928.6613, recognizing that “[t]he ELR programs existed long before the statutory energy efficiency and peak demand reduction mandates” and confirming that Rider ELR was not an EE/PDR program under the portfolio plan.[[47]](#footnote-47)

OCC’s request for rehearing in the instant proceeding, which prompted the Commission’s invitation for interested parties to file comments, makes an argument basically identical to arguments the Commission has already considered and rejected concerning the relationship between Rider ELR and the EE/PDR portfolio. Specifically, OCC argues that since peak demand reduction from Rider ELR had been counted toward the benchmarks and part of the cost of the Rider ELR credit was recovered through Rider DSE, FirstEnergy should be prohibited from recovering the cost of Rider ELR from customers pursuant to Section 4928.66(G).[[48]](#footnote-48)

As these comments have discussed, a review of the history, purpose, and nature of Rider ELR demonstrates that Rider ELR is not a portfolio program and that helping to meet statutory peak demand reduction benchmarks has never been the primary purpose of the rider, but instead is one of several secondary purposes and benefits of the interruptible rate. Since the Commission has recognized that Rider ELR is not a program arising from the portfolio plan, Rider ELR need not (and should not) be terminated pursuant to Section 4928.66(G).

**E. Section 4928.66(G) Does Not Apply to Rates or Measures that Provide EE/PDR Benefits But are Funded Outside of a Portfolio Plan and Does Not Support Elimination of Rider ELR**

Section 4928.66(G) terminates cost recovery mechanisms associated with certain programs but does not terminate any programs. The programs themselves are terminated under Section 4928.66(F). Consideration of Section 4928.66 as a whole, including Sections 4928.66(F) and 4928.66(G) which were added by House Bill 6, demonstrates that Section 4928.66(G) does not apply to an interruptible rate like Rider ELR, which provides peak demand reduction benefits that are counted toward meeting the peak demand reduction benchmarks, but is not approved as part of the portfolio plan or funded through the portfolio.

Section 4928.66(A)(1)(a) establishes the energy efficiency benchmarks, and Section 4928.66(A)(1)(b) establishes the peak demand reduction benchmarks. The primary means of meeting these benchmarks was the utility’s portfolio plan. Nevertheless, the statute indicates that the effects of programs and initiatives that are not created by or funded through the portfolio plan may also be counted toward meeting the benchmarks. Section 4928.66(A)(2)(d) lists a number of programs and measures that may be counted toward meeting the benchmarks that clearly are not created by or funded through the portfolio plan. These include smart grid investments, transmission and distribution infrastructure improvements that reduce line losses, and EE/PDR savings achieved, in whole or in part, as a result of funding provided from the universal service funded established by Section 4928.51 of the Revised Code to benefit low-income customers. In fact, for example, FirstEnergy has counted the effects of transmission and distribution investments toward meeting the Section 4928.66 benchmarks, even though those investments did not arise from the portfolio plan, were not funded through the portfolio plan, and it is obvious EE/PDR savings are simply a side benefit and not the primary purpose of those projects.[[49]](#footnote-49)

HB 6 amended Section 4928.66 to add parts (F) and (G). Section 4928.66(F) requires that all “portfolio plans” shall terminate on December 31, 2020.[[50]](#footnote-50) Section 4928.66(G) says nothing about terminating programs or measures themselves, but only ending “electric distribution utility *cost recovery mechanisms* authorized by the commission for compliance with this section.”[[51]](#footnote-51) The most reasonable interpretation of the statute is that Section 4928.66(G) ends the funding mechanisms for programs approved as part of and funded through the portfolio, and not the funding associated with programs, measures, or rates that count toward meeting the benchmarks but are not created by or funded through the portfolio plan, like the transmission and distribution projects referenced above and Rider ELR.

The DSE2 charge was the funding mechanism that recovered the cost of FirstEnergy’s portfolio programs and, as such, it was appropriately terminated pursuant to Section 4928.66(G). As discussed above, Rider ELR was never funded through the DSE2 charge,[[52]](#footnote-52) but instead, the Rider ELR credits have always been and continue to be funded through the DSE1 charge and the EDR(d) charge. Accordingly, Section 4928.66(G) does not apply to Rider ELR. This interpretation is consistent with the intent of the statute and with the long line of Commission precedent establishing that Rider ELR is primarily an economic development and reliability rate and is not a program created under or funded through the portfolio plan.

**II. CONCLUSION**

For the reasons set forth above, Rider ELR should not be terminated pursuant to Section 4928.66(G).

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO’s e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 26th day of March, 2021 to the following:

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1. While certain issues in Case No. 14-1297-EL-SSO were appealed and the Rider DMR provisions were overturned on appeal, none of the issues related to Rider ELR were appealed. [↑](#footnote-ref-1)
2. Case No. 16-743-EL-POR, Fifth Entry on Rehearing at 3-4 (February 21, 2021). [↑](#footnote-ref-2)
3. R.C. § 4928.02(N). [↑](#footnote-ref-3)
4. Rider ELR, Sheet 101 at 4. [↑](#footnote-ref-4)
5. *Id*. [↑](#footnote-ref-5)
6. *Id*. [↑](#footnote-ref-6)
7. *Id*. [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. *Id*. [↑](#footnote-ref-11)
12. *Id*. at 2. Curtailable Load is calculated for each customer by subtracting the customer’s contract Firm Load from its monthly highest 30 minute integrated kW load occurring during the non-holiday weekday hours of 11:00 AM to 5:00 PM Eastern Standard Time (equivalent to noon to 6:00 PM Eastern Daylight Time). *Id*. [↑](#footnote-ref-12)
13. Rider EDR, Sheet 116 at 3. [↑](#footnote-ref-13)
14. Rider DSE, Sheet 115 at 1. [↑](#footnote-ref-14)
15. *See* Case No. 08-935-EL-SSO, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Second Opinion and Order (March 25, 2009) (approving stipulation and recommendation that recovered $8.05 of the credit through Rider EDR and $1.95 of the credit through Rider DSE). [↑](#footnote-ref-15)
16. Case No. 14-1297-EL-SSO, *In the Matter of 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 R.C. § 4928.143 in the Form of an Electric Security Plan,* Rebuttal Testimony of Eileen M. Mikkelsen, Company Ex. 146 (“Mikkelsen Rebuttal Testimony”) at 18. [↑](#footnote-ref-16)
17. Case No. 14-1297-EL-SSO, Direct Testimony of Steven E. Strah, Company Ex. 13 at 9-10. [↑](#footnote-ref-17)
18. Case No. 14-1297-EL-SSO, Tr. Vol. XXX at 6133-34, 6170. [↑](#footnote-ref-18)
19. Case No. 14-1297-EL-SSO, Mikkelsen Rebuttal Testimony at 18. [↑](#footnote-ref-19)
20. Case No. 14-1297-EL-SSO, Direct Testimony of Dennis W. Goins, Nucor Ex. 1 at 6, 11; Supplemental Testimony of Stephen J. Baron, OEG Ex. 1 at 9. [↑](#footnote-ref-20)
21. See, *e.g.*, Case No. 12-1230-EL-SSO, *In the Matter of 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*, Second Entry on Rehearing at 14 (January 30, 2013). [↑](#footnote-ref-21)
22. Case No. 08-936-EL-SSO, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, Opinion and Order at 24 (November 25, 2008). [↑](#footnote-ref-22)
23. *Id*. [↑](#footnote-ref-23)
24. Case No. 08-935-EL-SSO, Opinion and Order at 51-52 (December 19, 2008). [↑](#footnote-ref-24)
25. *See* Case No. 08-935-EL-SSO, Second Opinion and Order (March 25, 2009). [↑](#footnote-ref-25)
26. *Id*. at 7. [↑](#footnote-ref-26)
27. *Id*. at 10. [↑](#footnote-ref-27)
28. *Id*. at 13. [↑](#footnote-ref-28)
29. Case No. 10-388-EL-SSO, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Opinion and Order at 30 (August 25, 2010). [↑](#footnote-ref-29)
30. *Id*. at 45-46. [↑](#footnote-ref-30)
31. *See* Case No. 12-1230-EL-SSO, Opinion and Order (July 18, 2012). [↑](#footnote-ref-31)
32. Case No. 12-1230-EL-SSO, Second Entry on Rehearing at 14. [↑](#footnote-ref-32)
33. Case No. 14-1297-EL-SSO, Opinion and Order at 94 (March 31, 2016). [↑](#footnote-ref-33)
34. *Id*. [↑](#footnote-ref-34)
35. Case No. 09-1947-EL-POR et al, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanisms*. [↑](#footnote-ref-35)
36. Case No. 09-1947-EL-POR, Direct Testimony of Dennis W. Goins, Nucor Ex. 1 at Exhibit DWG-1 (FirstEnergy Response to Nucor Set 1 DR-16). [↑](#footnote-ref-36)
37. Case No. 09-1947-EL-POR et al, Opinion and Order at 12 (March 23, 2011). [↑](#footnote-ref-37)
38. Case No. 12-1230-EL-SSO, Corrected Joint Initial Brief by the Office of the Ohio Consumers’ Counsel and Citizen Power (“OCC Brief”) at 38 (June 27, 2012). [↑](#footnote-ref-38)
39. Case No. 12-1230-EL-SSO, Reply Brief of Nucor Steel Marion, Inc. at 17-18 (June 29, 2012). [↑](#footnote-ref-39)
40. Case No. 12-1230-EL-SSO, Opinion and Order at 37. [↑](#footnote-ref-40)
41. Case No. 12-1230-EL-SSO, OCC Brief at 38-39. [↑](#footnote-ref-41)
42. Case No. 12-1230-EL-SSO, Opinion and Order at 37; Second Entry on Rehearing at 14. [↑](#footnote-ref-42)
43. Case No. 14-1297-EL-SSO, Stipulation at 8 (December 22, 2014). [↑](#footnote-ref-43)
44. Case No. 14-1297-EL-SSO, Application for Rehearing by the Environmental Law and Policy Center, Ohio Environmental Council, and Environmental Defense Fund at 23-24 (May 2, 2016). [↑](#footnote-ref-44)
45. *Id*. [↑](#footnote-ref-45)
46. Case No. 14-1297-EL-SSO, Memorandum Contra of Nucor Steel Marion, Inc. to Applications for Rehearing of March 31 Opinion and Order at 6-7 (May 12, 2016) (internal citations omitted). [↑](#footnote-ref-46)
47. Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing at 146 (October 12, 2016). [↑](#footnote-ref-47)
48. Case No. 16-743-EL-POR, Application for Rehearing by Office of the Ohio Consumers’ Counsel, Memorandum in Support at 3-4 (January 29, 2021). [↑](#footnote-ref-48)
49. *See, e.g.*, Case No. 15-372-EL-EEC et al, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company to Include Transmission and Distribution Projects in Their Energy Efficiency and Peak-Demand Reduction Program Portfolio*, Finding and Order (August 9, 2017) (approving FirstEnergy’s request to include certain transmission and distribution projects toward meeting the EE/PDR benchmarks). [↑](#footnote-ref-49)
50. R.C. § 4928.66(F)(2). [↑](#footnote-ref-50)
51. R.C. § 4928.66(G)(3)(emphasis added). [↑](#footnote-ref-51)
52. *See* supra fn.14 and accompanying text (providing definitions of DSE1 and DSE2 charges). [↑](#footnote-ref-52)