

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Ohio Edison	)	
Company, The Cleveland Electric Illuminating	)	Case No. 07-0551-EL-AIR
Company, and The Toledo Edison Company for	)	Case No. 07-0552-EL-ATA
Authority to Increase Rates for Distribution	)	Case No. 07-0553-EL-AAM
Service, Modify Certain Accounting Practices	)	Case No. 07-0554-EL-UNC
and for Tariff Approvals.	)	

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**OBJECTIONS SUBMITTED BY NUCOR STEEL MARION, INC.  
TO THE STAFF REPORT OF INVESTIGATION**

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Pursuant to Section 4909.19, Ohio Revised Code, and Rule 4901-1-28, Ohio Administrative Code, Nucor Steel Marion, Inc. ("Nucor") hereby respectfully submits its objections to the Staff Report of Investigation pertaining to Ohio Edison filed in this docket on December 4, 2007. In this proceeding, the Ohio Edison Company ("Ohio Edison"), the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively "FirstEnergy") propose to eliminate existing bundled retail rates (including generation, transmission, and distribution components) and request approval of new distribution rates. On December 4, 2007, the Public Utilities Commission of Ohio Staff submitted three separate reports pertaining to each FirstEnergy operating company. Since Nucor is only a customer of Ohio Edison, Nucor's objections address only the Rates and Tariffs section (pages 18-54) of the Staff Report pertaining to Ohio Edison (hereinafter "Staff Report").

In addition, Nucor reserves the right to respond to the objections and address any issues (either in support or in opposition) raised by other parties or in the Staff Report.

**I. INTRODUCTION**

Nucor is an electric arc furnace steel maker and is one of Ohio Edison's largest industrial customers. Nucor is also a significant employer in the Marion, Ohio region, providing many well-paying manufacturing jobs. Nucor uses an electric arc furnace to melt scrap steel, which is then recycled into new steel products. Electric arc furnace steel making is far more energy

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efficient than traditional fully-integrated steel making, but electric arc furnace steel making still requires massive amounts of electric energy. Accordingly, Nucor has a strong interest in ensuring that Ohio Edison provides reliable power supply at reasonable rates.

Nucor currently takes service under Rate 28 (General Service – High Use Manufacturing – Distribution Primary and Transmission Voltages), Rate 29 (General Service – Interruptible Arc Furnace Rate), and Rider 73 (General Service – Interruptible Rider – General Service Large and High Use Manufacturing). FirstEnergy proposes to eliminate all of these rates, and does not propose any new bundled or interruptible rates in this case.

Nucor's objections to the Staff Report are summarized as follows:

- Bundled rates, both firm and interruptible (and specifically, as to Nucor, Rate 28, Rate 29, and Rider 73), should not be eliminated in this proceeding before comparable replacement rates are established.
- The Commission should explicitly recognize the importance of interruptible rates in this proceeding and require FirstEnergy to establish comparable or better replacement interruptible rates before the current interruptible rates (specifically as to Nucor, Rate 29 and Rider 73) are eliminated.
- With regard to determining the billing demand for General Service customers:
  - a customer's actual demand should be measured in increments of an hour rather than a half hour, consistent with demand/energy measurement periods in wholesale markets;
  - where there is time-of-use metering available, a customer's demand should be measured only during a limited summer on-peak period designed to capture contributions to summer coincident peaks to better reflect cost causation; and
  - the contract demand provision included in FirstEnergy's proposed General Service rates is unnecessary and should be eliminated.

## II. OBJECTIONS

### Objection Number 1:

#### FirstEnergy's Bundled Rates Should Not Be Eliminated Before Comparable Utility-Provided Rates Are In Place.

FirstEnergy proposes to eliminate its current bundled retail rate schedules and replace them with distribution-only rate schedules available to customers based on their service voltage. FirstEnergy's proposed rates are distribution-only rates, and are not comparable to the existing bundled rates proposed for elimination that include distribution, transmission, and generation components. Since the Staff Report takes no issue with FirstEnergy's proposal to eliminate its bundled retail rates without proposing comparable replacement rates, Nucor objects to the Staff Report as unreasonable and unlawful in that regard.

Rather than addressing all components of its rates in a single proceeding, FirstEnergy has instead proposed new distribution-only rates in this proceeding and a market-based Standard Service Offer ("SSO") in Case Nos. 07-796-EL-ATA and 07-797-EL-AAM. If FirstEnergy's existing bundled rates are eliminated in this proceeding and replaced with distribution-only rates, FirstEnergy's customers will be left facing considerable uncertainty with respect to their generation and transmission supply.

Had the distribution rates proposed in this proceeding been intended to apply only to those customers taking generation service from a competitive supplier beginning January 1, 2009, then Nucor would have no objection to the proposal to develop new rates. In fact, Nucor supports a distribution-only rate for customers that wish to obtain generation supply through a competitive supplier, and Nucor does not object here to the general distribution rate design proposed in this proceeding. However, for retail customers who desire to take bundled supply (including generation and transmission) from FirstEnergy, FirstEnergy's proposal to eliminate its bundled retail rates and replace them with distribution-only rates leaves customers with bundled service no reasonably assured option at this time, given the uncertainty surrounding FirstEnergy's SSO proposal.

The market-based SSO as proposed by FirstEnergy in Case No. 07-796-EL-ATA *et al.* appears unlikely to come to fruition. FirstEnergy's proposal has been met with objections from a

broad array of stakeholders concerning many aspects of the proposed SSO mechanism. In addition, Commission Staff urged the Commission to reject the proposal outright due to the lack of competitive wholesale or retail markets (Case No. 07-796-EL-ATA *et al.*, Staff Comments on the FirstEnergy Companies' Proposed Competitive Bid Process (September 21, 2007)), and several parties expressed support for Staff's position. Many of the deadlines proposed by FirstEnergy have not been met. To date, the Commission has taken no action on FirstEnergy's SSO proposal.

Adding to the uncertainty surrounding FirstEnergy's SSO proposal is S.B. 221, energy legislation currently working its way through the General Assembly. FirstEnergy's SSO proposal assumes that the deregulation scheme put in place when S.B. 3 became law will continue, and that power supply rates will become fully competitive starting on January 1, 2009. S.B. 221, however, would significantly alter the statutory framework embodied in S.B. 3. Under S.B. 221, utilities will be allowed to offer regulated standard service offers, known as "electric security plans." Further, utilities that wish to establish a market-based standard service offer will face much stricter explicit requirements than are currently provided under the existing statute, including a requirement that the utility must demonstrate that a competitive generation market actually exists (while Nucor believes that this must also be demonstrated under existing law, the requirement is far more explicit in S.B. 221). If S.B. 221 becomes law, it is even more unlikely that FirstEnergy's competitive SSO proposed in Case No. 07-796-EL-ATA *et al.* could be approved in its current form.

If FirstEnergy is allowed to eliminate a broad swath of bundled rate schedules in this proceeding, and FirstEnergy's competitive SSO proposal is withdrawn or rejected, customers that currently take generation service through FirstEnergy would be left without a utility provided SSO. While it is possible that some other approach might be implemented prior to 2009, such a result is not guaranteed. In other words, if FirstEnergy's proposal to delete its bundled rates is adopted here, there is a reasonable possibility that FirstEnergy's new distribution rates would go into effect in 2009 without comparable rates for the other components of electric supply – namely generation and transmission – being in place for customers taking generation service from FirstEnergy.

This is not an argument for rejecting FirstEnergy's proposed distribution rates and rate design outright. Rather, it is an argument in favor of proceeding with caution when it comes to the elimination of numerous existing bundled rate schedules without adequate replacement rates to supplant them. Nucor submits that the best course is to retain the existing bundled rates pending the approval of new bundled rates by the Commission in this docket or some other docket (thereby rejecting FirstEnergy's proposal to eliminate the existing bundled rates) while moving forward with approval of a new distribution rate structure, applicable to customers who seek competitive market supply, and available as a component for future bundled rate options.

**Objection Number 2:**

**Ohio Edison's Existing Interruptible Rates Should Be Retained Until Replaced By Comparable and Improved Interruptible Rates.**

Among the rate schedules FirstEnergy proposes to eliminate are the current interruptible service rates, including Rate 29 (General Service – Interruptible Electric Arc Furnace Rate), Rider 73 (General Service – Interruptible Rider – General Service Large and High Use Manufacturing), Rider 74 (General Service – Interruptible Rider – Metal Melting Load) and Rider 75 (General Service – Interruptible Rider – Incremental Interruptible Service). While elimination of the interruptible rates is a subset of the problem of eliminating the existing bundled rates discussed above, Nucor believes that the proposed elimination of interruptible rates is sufficiently critical to deserve a separate discussion. Nucor recommends that all existing interruptible rates remain in place and customers continue to have the right take service under such rates until such time as comparable new (and ideally improved) interruptible rates are approved and effective.

The importance of interruptible load to a utility's system cannot and should not be ignored. The Ohio Edison system has enjoyed the benefits of interruptible programs for many years. Interruptible load provides a unique blend of reliability and economic benefits that are shared by all customers on the utility's system. By reducing peak demand growth, interruptible load helps avert the need for utilities to build more power plants, power lines and other capacity-driven infrastructure or to buy new capacity and energy from other suppliers. U.S. Department of Energy, *Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them* at 77 (2006). Interruptible load also reduces strain on a utility's transmission

and distribution system at times of peak demand or during system emergencies and can be used to meet requirements for ancillary services such as spinning reserves and operating reserves. Interruptible load (and other demand response programs) can produce environmental benefits by reducing emissions from fossil fuel generators at times of peak demand (usually the hottest summer days) thereby reducing the level of green house gas emissions from such generators and improving air quality. *See* Federal Energy Regulatory Commission, Docket No. AD06-2-000, *Assessment of Demand Response and Advanced Metering* at 12 (2006).

Evidence of the importance of demand response such as interruptible load to properly functioning wholesale and retail markets continues to mount even as policy makers and regulators, at both the federal and state levels, seek ways to increase the level of demand response participation. For example, the Midwest ISO experienced a decline of \$100-\$200/MWh in market clearing prices on a peak demand day in August 2006 when 2,650 MW responded to a call for demand reductions in response to a Maximum Generation Warning. Federal Energy Regulatory Commission Staff Report, *2007 Assessment of Demand Response and Advanced Metering* at 6-7 (September 2007). Recognizing that interruptible load can help reduce prices and price volatility, flatten a region's load profile, and help reduce rates for all customers in the region, the Federal Energy Regulatory Commission has issued an advanced notice of proposed rulemaking to look at ways to increase the level of demand response participation in the wholesale markets. Federal Energy Regulatory Commission, Docket Nos. RM07-19-000 and AD07-7-000, *Advance Notice of Proposed Rulemaking on Wholesale Competition in Regions with Organized Wholesale Markets* at 25-26 (2007).

At the state level, several states have recently enacted laws aimed at increasing the level and variety of demand response programs offered by utilities. *See, e.g.*, General Assembly of North Carolina, Session Law 2007-397, Section 4(a) (requiring electric power suppliers to "implement demand-side management and energy efficiency measures and use supply-side resources to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers.") In Texas, where the levels of interruptible load dropped off significantly after the introduction of retail competition, the Public Utility Commission of Texas ("PUCT") established a new rule directing the Electric Reliability Commission of Texas ("ERCOT") to establish an emergency interruptible load service intended to bolster the level of interruptible load available; the rule was recently updated and improved to encourage more

interruptible load. *See* Public Utility Commission of Texas, Substantive Rule 25.507 (in Texas all industrial loads are served by competitive suppliers and the RTO, ERCOT, is regulated by the PUCT; as a result, the new interruptible program is administered by ERCOT rather than individual utilities).

It is important to note that Midwest ISO's wholesale-level demand response programs are still in their infancy. *See* Federal Energy Regulatory Commission Docket No. ER07-1372, Initial Filing of Midwest ISO (September 14, 2007) (proposing modifications to Midwest ISO's ancillary services markets, including the establishment of a platform for enhanced participation by demand response resources in Midwest ISO's markets). Even if Midwest ISO's demand response programs were well-developed and robust, however, there would still be a crucial need for traditional retail-level demand response programs such as interruptible rates. A recent report by the Lawrence Berkeley National Laboratory found that utility representatives had more confidence in "more traditional programs such as [interruptible and curtailable] rates . . . to provide load reductions that could compete with (and supplant) supply-side peaking resources" than in "economic" demand response programs typically found in RTO markets. Nicole Hopper, Charles Goldman, Ranjit Bhavirkar and Dan Engel, Lawrence Berkeley National Laboratory, *The Summer of 2006: A Milestone in the Ongoing Maturation of Demand Response* at 11 (May 2007). The proven reliability and economic benefits of interruptible rates in FirstEnergy's Ohio service territory could be lost if interruptible rates are ignored in this proceeding.

The elimination of interruptible rates in this proceeding without comparable replacement interruptible rates being in place also would cause severe economic harm for many customers currently relying on these rates. As noted above, FirstEnergy proposes to eliminate the interruptible rates Nucor is currently charged, and FirstEnergy does not propose any replacement interruptible rates in this proceeding. If Nucor does not have an interruptible component to its rate similar to the one in its current rates, Nucor's overall delivered price of power will dramatically increase, making it far less competitive than similarly situated steel makers with access to interruptible rates.

The effects of FirstEnergy's proposal to eliminate interruptible rates would not be limited to Nucor. Customers relying on interruptible rates are typically large manufacturers for whom an interruptible component to their rates is absolutely necessary in order for those companies to

stay in business. For example, electric arc furnace steel makers throughout the country are generally served on interruptible rates. All of these steel makers would likely prefer to be firm customers rather than being subject to utility-directed curtailments that disrupt their production processes, however being on an interruptible rate is preferable to being charged a rate that would make it impossible to compete. Interruptible rates have in the past and should continue to play an important role in Ohio's economic development and job retention efforts.

To its credit, FirstEnergy has proposed an interruptible program in its market-based SSO filing in Case No. 07-796-EL-ATA *et al.* Nucor supports FirstEnergy's proposal to continue such rates, and has submitted detailed comments in that docket on important and necessary improvements to FirstEnergy's proposal (Nucor incorporates its initial and reply comments in Case No. 07-796-EL-ATA *et al.* herein by reference). As discussed in Section I.A. above, FirstEnergy's plan appears to be to eliminate interruptible rates in this distribution rate case, and to allow customers to access an interruptible generation rate through a competitive supplier or through FirstEnergy's market-based SSO. This proposal is dependent, however, on the development and implementation of an effective interruptible rate(s) in another docket, which is not guaranteed. As other retail access states have learned, competitive suppliers have little incentive to offer retail customers attractive interruptible supply arrangements, therefore getting an acceptable interruptible rate from the market if FirstEnergy does not provide may not be a viable option.

Given the growing national consensus about the need for robust interruptible programs and other forms of demand response, every effort should be made, at a minimum, to retain the current level of interruptible load in FirstEnergy's service territory. The Commission should *not* abolish interruptible rates in this proceeding and hope that opportunities for interruptible service will materialize elsewhere. Proceeding in this disjointed manner subjects Ohio industrial customers such as Nucor to an unacceptable level of uncertainty and potential economic risk. Instead, FirstEnergy's existing interruptible rates should be retained until comparable or superior interruptible rates are established.



### **Objection Number 3:**

#### **FirstEnergy's Proposed Method of Calculating Billing Demand for General Service Customers Should Be Modified.**

Nucor objects to the Staff Report for failing to address FirstEnergy's proposed method of calculating billing demand for the General Service schedules (GS, GP, GSUB, and GT). If FirstEnergy is to comprehensively design a new distribution rate structure, then FirstEnergy must be required to ensure that all elements of the new distribution rate design are updated and accurately reflect cost-causation principles. To not do so is unreasonable and unlawful.

All of the proposed General Service schedules provide that the monthly billing demand shall be the greater of: (1) actual non-system-coincident peak demand measured on a 30 minute basis; (2) a stated demand (5 kw for Rate GS, 30 kw for Rate GP, 30 kVA for Rate GSU, and 100 kVA for Rate GT); or (3) the Contract Demand, defined as the demand "specified in the Contract for electric service, which shall reflect the customer's expected, typical monthly peak load." A better and more accurate way to measure billing demand is to measure actual billing demand on an hourly basis, ideally on the basis of coincident demands or at least demands occurring during a designated peak period, and to eliminate the contract demand option.

Actual demand should be measured on an hourly basis rather than on a 30 minute basis because the Midwest ISO and other wholesale markets measure demand and energy on an hourly basis, and there will be a mismatch in price signals to customers if retail demand and demand in the wholesale market is measured over different time periods. FirstEnergy has offered no reason for using a 30-minute measurement period. While Nucor recognizes that a 30-minute measurement period is traditional, given the comprehensive nature of the rate redesign proposed, this case presents an excellent opportunity to address this issue. At minimum, demand should be measured on an hourly basis for transmission level customers (Rate GS) since no distribution-level facilities are used to serve such customers. Using the same standard time interval for demand measurement at the retail level and demand measurement at the wholesale level will result in rates that more accurately reflect cost-causation and will provide more accurate price signals to consumers.

Also, some form of peak demand measurement should be utilized, rather than treating off-peak demands the same as on-peak. For example, existing Ohio Edison rate schedules

measure demands for large customers primarily on an on-peak basis. The FirstEnergy cost of service study uses a summer coincident peak concept for cost allocation. Nucor submits that rate design should track cost allocation to the degree reasonably feasible. While Nucor would prefer a coincident peak approach to set demands throughout the year, at a minimum, Nucor recommends a limited on-peak demand measurement period, designed to capture time periods in which summer coincident peaks are likely to occur.

Nucor sees no continuing need or basis for the Contract Demand provision FirstEnergy proposes and recommend its elimination. Customers should pay the demands they incur, not some hypothetical "expected" number in the contract.

### **III. CONCLUSION**

Nucor respectfully urges the Commission to address the objections Nucor has identified above and to adopt Nucor's recommendations on these issues.

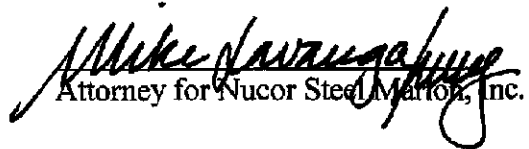
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing *Objections Submitted by Nucor Steel Marion, Inc. to the Staff Report of Investigation* has been served upon the following persons, via regular U.S. mail, postage prepaid, this 3<sup>rd</sup> day of January, 2008.

  
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