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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Authority to Modify Certain Accounting Practices and for Tariff Approvals	)))))	Case No. 08-124-EL-ATA Case No. 08-125-EL-AAM

INITIAL COMMENTS OF NUCOR STEEL MARION, INC. ON APPLICATION OF FIRSTENERGY

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Nucor Steel Marion, Inc. ("Nucor Marion") submits these comments in response to the February 8, 2008 application ("Application") submitted by the Ohio Edison Company ("Ohio Edison"), the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively "FirstEnergy"). In its Application, FirstEnergy proposes to establish a rider to recover fuel costs deferred during the 2006-2007 time period, as approved in Case Nos. 03-2144-EL-ATA, et seq. and 05-1125-EL-ATA, et seq. FirstEnergy requested that parties submit written comments on its proposal. Although this matter has been set for hearing, Nucor Marion hopes these initial comments will help set the stage for further discussion.

Nucor Marion recommends that the Commission fully investigate in this proceeding whether FirstEnergy's claimed 2006-2007 fuel costs are just, reasonable, and prudent – in short, FirstEnergy should be required to prove the reasonableness of the costs it wants to recover. Second, if the Commission approves deferred cost recovery as proposed by FirstEnergy, we recommend that the Commission not allow FirstEnergy to recover the deferred fuel costs over a time period of more than five years. Finally, if the Commission approves the rider, the rider should go into effect after the completion of the Commission's review of such costs, and in no event earlier than January of 2009.

I. INTRODUCTION

Nucor Marion is an electric arc furnace steel maker, one of Ohio Edison's largest industrial customers, and a significant employer in the Marion, Ohio area. Nucor Marion 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 efficient than traditional, fully-integrated steel making, but the electric arc furnace steel making process still requires massive amounts of electric energy. Reliable and economic power supply is an absolute necessity for Nucor Marion to compete and remain profitable in highly competitive world-wide steel markets. Nucor Marion has an interest in FirstEnergy's deferred fuel cost proposal in this proceeding because it will increase Nucor Marion's rates for electric service.

FirstEnergy filed an application in Case Nos. 07-1003-EL-ATA et seq. proposing two new fuel riders – one rider designed to recover the deferred 2006-2007 fuel costs plus carrying costs, and one rider designed to recover ongoing fuel costs incurred from the time the application was filed until the end of 2008. FirstEnergy proposed to recover all these fuel costs by the end of 2008. On January 9, 2008, the Commission issued a Finding and Order in Case Nos. 07-1003-EL-ATA et seq. ("07-1003 Order") approving, as modified, FirstEnergy's proposed recovery mechanism for eligible fuel costs arising during 2008.[1] The Commission rejected the proposed deferred fuel rider, finding "FirstEnergy's request to collect the 2006-2007 deferred fuel costs plus carrying costs in a single year, 2008, to be unreasonable, as it would cause rates to increase substantially." 07-1003 Order at 3-4. The Commission directed FirstEnergy to file a separate application for an alternative mechanism to recover the 2006-2007 deferred fuel costs and carrying costs within 30 days. *Id.* at 4. The Commission made no determination on the justness and reasonableness of FirstEnergy's claimed 2006-2007 deferred fuel costs in the 07-1003 Order.

The Application in the instant proceeding is FirstEnergy's response to the 07-1003 Order. In the Application, FirstEnergy proposes to establish a separate rider to recover the 2006-2007 deferred fuel costs and carrying costs. FirstEnergy does not specify a particular recovery period over which it proposes to recover these costs, but instead proposes rates that would be in effect for recovery periods of varying lengths (*e.g.*, 5, 10, 15, 20, or 25 years). FirstEnergy leaves it up to the Commission to decide which recovery period to select.

[1] In approving the rider for the 2008 fuel charges, the Commission ruled that it would conduct a review and audit of the 2008 fuel expenditures after the expiration of the rider on December 31, 2008 to determine whether the expenditures are just and reasonable. 07-1003 Order at 4-5.

On February 29, 2008, the Attorney Examiner in this proceeding issued an Entry setting FirstEnergy's application for hearing.[2] The Entry did not specify what issues will be addressed at the hearing.

II. COMMENTS

A. The Commission Should Perform a Review and Audit of FirstEnergy's Claimed 2006-2007 Deferred Fuel Costs to Determine Whether the Costs are Just and Reasonable.

FirstEnergy claims that it is entitled to recover $226,276,210 in 2006-2007 deferred fuel costs and carrying costs across all three operating companies. Application, Attachment 1. Taking Ohio Edison as an example, FirstEnergy seeks $104,714,533 in deferred fuel costs and $9,614,308 in carrying costs. *Id.* These are not insignificant amounts of money. Yet FirstEnergy provides no support in its Application to show that the claimed costs are accurate, how the costs were incurred, nor any justification for why the costs are just, reasonable, and prudent.

FirstEnergy should not be allowed to implement its deferred fuel rider until it has presented the necessary evidence and the Commission has investigated whether the claimed 2006-2007 fuel costs and carrying costs are just, reasonable and prudent. FirstEnergy has not satisfied its burden of proof to show that its proposal is just and reasonable because FirstEnergy has provided no support for the costs it seeks to recover. The Commission established a review process for the 2008 fuel costs in the 07-1003 Order. *See* 07-1003 Order at 4-5. For similar reasons, the deferred 2006-2007 fuel costs and associated carrying costs should also be carefully reviewed.

B. The Commission Should Not Approve a Recovery Period Beyond Five Years.

Nucor does not take a position at this time as to whether FirstEnergy is entitled to recover these deferred costs with interest/carrying costs on the unrecovered balance. However, if the Commission approves recovery pursuant to FirstEnergy's proposed deferred fuel cost recovery rider, including carrying costs on the unrecovered balance, in our view, the Commission should not establish a recovery period longer than five years, considering the specific circumstances in this case. A shorter recovery period would be consistent with the time frame in which such costs

[2] An Entry *Nunc Pro Tunc* was issued on March 3, 2008 amending the February 29 Entry to accurately reflect the fuel costs that will be recovered through the fuel cost recovery rider approved by the Commission in the 07-1003 Order.

were incurred (two years) and keep the overall carrying costs at a more reasonable level and lower than if the recovery period were stretched out over a longer period of time. Also, the numbers proposed by FirstEnergy show diminishing benefits from stretching the recovery beyond five years and certainly beyond ten years (the proposed Ohio Edison charge is 0.10760 cents/kWh for five years, 0.06307 cents/kWh for ten years, and 0.04823 cents/kWh for fifteen years). Finally, given the relatively small magnitude of the charges over five years, it would make sense to limit recovery to a shorter period.

In addition, a shorter recovery period can be supported based on inter-generational fairness and equity. The longer the recovery period, the larger the share of the deferred fuel costs that will be shouldered by new customers to the system who did not cause the costs in the first place. While in some cases, there may good reasons to spread previously incurred costs over future sales for a long period of time, we do not believe that the circumstances in this case justify such an approach. Nucor Marion was a customer during 2006-2007, and if such costs are appropriately recovered from customers, Nucor Marion is willing to shoulder its share. A shorter recovery period would ensure that a larger share of the 2006-2007 deferred fuel costs and carrying costs are paid for by the customers that caused them.

C. Charges Associated with the Deferred Fuel Cost Rider Should Not Commence Until January 1, 2009 at the Earliest.

In its Application, FirstEnergy requests that the deferred fuel cost recovery rider go into effect in June 2008, but in no event later than January 2009. If the Commission approves FirstEnergy's proposed rider, the Commission should not allow the rider to go into effect before January of 2009. Customers already have seen a new 0.34017 cents/kWh charge to recover ongoing 2008 fuel costs as a result of the 07-1003 Order. Layering a new deferred fuel charge on top of the 2008 fuel cost recovery rider could cause economic hardship for some customers, as the Commission already recognized in the 07-1003 Order. Also, having the rider go into effect no earlier than January 2009 means that the deferred fuel cost rider will be implemented just as the 2008 fuel rider is winding down. In a sense, the deferred fuel rider would step into the place of the 2008 fuel rider, which would provide more continuity. Finally, by not permitting the rider to take effect prior to January 2009, the Commission would be providing for time to perform an investigation of FirstEnergy's claimed 2006-2007 deferred fuel costs and carrying costs prior to the time the rider actually goes into effect. If the investigation is not completed by

January 2009, then implementation of the rider should be delayed until the investigation is complete.

III. CONCLUSION

For the reasons discussed above, Nucor Marion respectfully recommends that:

(1) FirstEnergy be required to prove that its claimed 2006-2007 deferred fuel costs and associated carrying costs are just, reasonable, and prudent in order to recover them;

(2) the recovery period for the deferred fuel costs and carrying costs not exceed more than five years; and

(3) any deferred fuel cost recovery rider not become effective before January of 2009 or the end of the investigation of such costs, whichever occurs later.

Respectfully submitted,

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ND: 4818-7588-0450, v. 1

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following parties of record or as a courtesy, via U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on March 13, 2008.

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ND: 4844-7667-6610, v. 1