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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 Approval of Ohio Site Deployment of the Smart Grid Modernization Initiative and Timely Recovery of Associated Costs.	)	Case No. 09-1820-EL-ATA Case No. 09-1821-EL-GRD Case No. 09-1822-EL-EEC Case No. 09-1823-EL-AAM

COMMENTS IN RESPONSE TO THE OFFICE OF THE OHIO CONSUMERS' COUNSEL COMMENTS ON FIRSTENERGY'S APPLICATION RELATED TO A PILOT PROGRAM FOR DEPLOYMENT OF SMART GRID, SMART METERS AND PEAK-TIME REBATE PRICING AND COLLECTION OF COSTS FROM CUSTOMERS

I. INTRODUCTION

On December 10, 2009, the Office of the Ohio Consumers' Counsel ("OCC") filed comments to the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the "Companies") for Approval of Ohio Site Deployment of the Smart Grid Modernization Initiative and Timely Recovery of Associated Costs (the "Application")[1]. The OCC styled its filing as "Comments on FirstEnergy's Application Related to a Pilot Program for Deployment of Smart Grid, Smart Meters and Peak-Time Rebate Pricing and Collection of Costs from

[1] The Companies' Application came before the Commission as a result of the Smart Grid Investment Grant Program (Funding Opportunity Number: DE-FOA- 0000058), offered by the Department of Energy ("DOE") pursuant to the American Recovery and Reinvestment Act, for projects to receive federal financial assistance for up to 50% of eligible projects costs. On August 6, 2009, FirstEnergy Service Company filed an application, which included the Ohio Site Deployment (hereinafter referred to as the "DOE Smart Grid Filing") with DOE on behalf of three of its electric distribution utility affiliates, including CEI, for economic stimulus funding pursuant to the *Stimulus* Act. On October 27, 2009, FirstEnergy Service Company received notification that its DOE Smart Grid Filing was selected for award negotiations.

Customers". In its filing, OCC petitions the Public Utilities Commission of Ohio ("Commission") not to approve the Companies' Application until after the Commission provides due process opportunities to interested parties regarding the application. OCC states: "[t]he Company filed its application on November 18, 2009, and asked that the Commission approve the application by December 9, 2009." Presumably referring to the November 18th through December 9th timeline, the OCC continues, "the Company requests a time period for review that is too short to provide an opportunity for discovery and a hearing and therefore the Commission should reject the proposed timing."[2]

OCC's timeline is grossly inaccurate and opportunistically fails to disclose meetings and communications the Companies have had with OCC regarding the Companies' DOE Smart Grid Filing.[3] OCC cannot credibly claim that it was not provided ample time and opportunity to review and understand the Companies' Ohio Site Deployment, which was first filed with the Commission (in final form and un-redacted) on August 14, 2009. Further, OCC's allegations that the Companies' Application is "very summary and rudimental" and includes costs higher than industry average are unfounded, unsubstantiated, and grossly inaccurate. In fact, it appears that OCC has confused the Companies' DOE Smart Grid Filing with the filing of another utility.[4]

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[2] OCC Comments at p. 1.

[3] Such meetings and communications include: 1) the Companies providing OCC on July 6, 2009 a draft copy of the DOE Smart Grid Filing; 2) the Companies providing OCC on August 14, 2009 a final copy of the DOE Smart Grid Filing; 3) the Companies conducting an initial meeting on August 31, 2009 at the OCC offices to review the Ohio Site Deployment; 4) the Companies conducting a second meeting on September 21, 2009 at the OCC offices to provide a technical discussion on the Ohio Site Deployment; 5) the Companies conducting a third meeting on November 12, 2009 at the OCC offices to discuss revisions made to the pricing program to incorporate OCC feedback; and 6) the Companies responding to a number of informal discovery requests from the OCC.

[4] OCC states "An application to establish a new rate or to increase rates under R.C. 4909.18 requires that the Applicant demonstrate that the new rate or the rate increase is just and reasonable. *Duke* has not done this in this application." (emphasis added) OCC Comments at p. 2-3.

Contrary to OCC's unsupported opinions regarding the Companies' DOE Smart Grid Filing, DOE competitively selected the Companies' application from a large number of other qualified applicants based upon pre-established selection criteria. Applicants were evaluated based on the following criteria: 1) adequacy of technical approach for enabling smart grid functions (40%); 2) adequacy of the plan for project tasks, schedule, management, qualifications, and risks (25%); 3) adequacy of the technical approach of addressing interoperability and cyber security (20%); 4) adequacy of the plan for data collection and analysis of project costs and benefits (15%). In selecting the Companies' smart grid application, the DOE determined that the Companies' DOE Smart Grid Filing was qualified to receive $57 million of taxpayer money (approximately $36 million dedicated to the Ohio Site Deployment). The Companies' filing was far from summary or rudimental.

OCC next claims that the Companies requested summary approval from the Commission based upon a statement that DOE may elect to withhold some or all of the grant funds until regulatory approval is obtained.[5] That is not correct. The Companies requested approval on or before December 9, 2009 based on the following: 1) the Companies filed a draft of their DOE Smart Grid Filing with the Commission on July 1, 2009[6]; 2) the Companies filed a final copy of their DOE Smart Grid Filing with the Commission on August 14, 2009; 3) the Companies met with Commission Staff on numerous occasions including June 15, June 25, July 30, and on November 10 to gain

[5] OCC Comments at p. 2.

[6] On July 1, 2009, the Companies informed the Commission of its intent to submit an application for approval to recover the costs, not funded by the federal stimulus portion, associated with their DOE application and the implementation of their smart grid project.

Staff input, provide a technical review, and ensure that Commission Staff was well familiar with the Companies' Ohio Site Deployment; 4) DOE selected the Companies as a proposed award recipient; and 5) – yes – DOE will not be able to award the Companies grant funds without the Companies having regulatory approval to commence the project. Further, the Companies have consistently stated that they will not accept any stimulus grant money absent Commission approval of their Application. It is unclear what additional substantiation OCC seeks.

II. REPLY COMMENTS

a. *The Companies' estimated meter costs are reasonable and in align with industry pricing information.*

OCC claims that the Companies' cost per meter is three times the industry average. OCC states very matter-of-fact "The industry average of the all-in cost of AMI meters is $250 per meter." OCC derives this "industry average" from studies cited in the Direct Testimony of Steven W. Pullins in the Dayton Power & Light Electric Security Plan, Case No. 09-1094-EL-SSO et al.[7] However, OCC is not making an apples-to-apples comparison.

First, the Companies' proposal is not simply an AMI deployment, but rather it is comprised of a Demand Response program that includes, in addition to meter technology, the installation of in-home displays, thermostats, power switches, and certain software to enable such devices. The installation of the in-home devices requires significant interaction with the customer, including an initial service visit for installation and training. A critical piece of the program is that the customer must be educated on how to

[7] OCC Comments at p. 3-4.

use the technology. The Companies believe that this technology has the potential to create a paradigm shift in a customer's behavior, and that a successful introduction to this opportunity and technology is critical to the success of customer based Demand Response. The Demand Response component adds significant benefits, but it also adds additional costs. The costs of the non-meter technology component of the Demand Response program accounts for approximately 40% of the total costs. And, second, the Companies' program is not similar in size to the programs cited by Mr. Pullins and therefore does not reflect the economies of scale that may reduce the overall unit price. A much larger project is likely to have a lower per meter cost, but such a project would also have an overall higher cost to customers.

b. ***The Companies proposed feeder costs are reasonable and an apples-to-apples comparison cannot be drawn with other utilities.***

OCC attempts to compare the Companies' project costs with the project costs of DP&L.[8] However, the comparison between the two projects is invalid, for the following reasons: 1) the Companies are installing more devices per circuit than DP&L; 2) approximately 50% of the capacitor banks the Companies are installing are new capacitor banks (required to provide additional capacitance to the distribution circuits), whereas DP&L is able to utilize existing capacitor banks with new controls (as indicated in Case No. 08-1094, Revised Filing, Work paper WPI-1.1); 3) the Companies' estimate includes software costs, whereas OCC's estimate of DP&L costs does not include this amount (distribution automation capital only); 4) the Companies' proposed Distribution Automation system includes the capability to isolate single phase faults without de-

[8] OCC Comments at p. 4.

energizing adjacent phases [9], DP&L's does not. This maintains service to single-phase customers served by unaffected phases, and could provide greater reliability than a three phase tripping strategy; and 5) the DP&L project is larger, and thus costs such as engineering and project management are spread over a larger number of circuits. In addition, the Companies' DOE Smart Grid Filing sets forth cost estimates; actual expenses will be subject to review by the DOE.

c. ***The Companies' Application sufficiently addresses whether any operational benefits exist that could be netted against the costs of the smart grid implementation.***

OCC criticizes the Companies' application stating that it is particularly "limited" in its discussion of operational benefits.[10] OCC also expresses concern stating that the Companies' application does not explicitly state that the operational benefits will be netted against the costs the Companies' seek to collect from customers. OCC asserts that the Companies have an incentive to "ignore" benefits.[11] OCC's criticism and concern are without merit.

First, the Companies' provided a detailed description of the operational benefits in Sections 1.6.1-1.6.3 of their project plan.[12] Second, the Companies plan to consider any tangible operational benefits when determining amounts to be collected under Revised Rider AMI. And, third, counter to OCC's claim, there is no incentive or any opportunity for the Companies to ignore operational benefits. The Companies will be closely monitored by the DOE and will be required to report all data required to measure

[9] To gain this additional improvement the Companies will replace the substation breakers and much of the relaying on the distribution side of the substation, an expense that will not be incurred by DP&L.

[10] OCC Comments at p. 5.

[11] *Id.*

[12] *See* DOE Smart Grid Filing at p. 32 - 37.

progress towards achieving project and overall program objectives, as stated in the DOE Smart Grid Investment Grant Program Funding Opportunity Announcement Number DE-FOA – 0000058 ("FOA"), p.8:

> The ability to measure the impacts of awarded projects, estimate costs and benefits, and determine progress toward achievement of the SGIG purpose, goals, and metrics is paramount to overall success. Implementing a process for evaluating project impacts, costs, and benefits is an essential aspect of DOE's management responsibilities for the SGIG program and is an important part of this FOA. DOE expects the full cooperation and participation of grant recipients in cost-benefit analysis that includes the collection and analysis of consistent and comparable data from across the projects and the application of standard cost-benefit and statistical analysis methodologies.[13]

d. *The Companies' Application indicates the number of meters that are associated with the $21 Million in costs.*

OCC correctly states that the Companies' application makes reference to installing 5,000 meters, and the application also makes reference to the possible installation of a total 44,000 meters.[14] OCC claims that the Companies application is not clear as to the number of meters that represents the total $21 million meter costs. The Companies' Application is clear. The budget of $21 million is for the 44,000 meters. This includes the cost of the in-home technology (thermostat, power switch and in-home display).

e. *The Companies' Application demonstrates that customers of each of the Companies will benefit from the smart grid deployment, and thus the Companies' proposed allocation is appropriate, just and reasonable.*

OCC recommends that the Commission examine all public policy ramifications of the Companies' proposed cost allocation.[15] That is unnecessary. The Ohio Site

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[13] The reference to "SGIG" refers to Smart Grid Investment Grant.
[14] OCC Comments at p. 6.
[15] OCC Comments at p. 6.

Deployment was designed to explore the implementation of smart grid technology in the Companies' Ohio service territories, and the Companies expect the results of the research to benefit all customers. The concentrated deployment within a precise geographic area (CEI's service territory) was a requirement of the DOE funding; lessons learned from the project will be applicable across the system.[16] As stated in the Companies' Application, customers across all three Companies will benefit from this research and development through either the more effective deployment across all three service territories or through the avoided cost of technology that is not successful, as determined through the Ohio Site Deployment, or both.

f. ***The application provides detailed dollar costs and benefits by beneficiary and thus provides sufficient evidence for collecting costs from customers.***

OCC's arguments are confusing at best. OCC begins by acknowledging that the Companies' application includes a cost/benefit section, which identifies projected costs.[17] But then claims that no detail is provided.[18] This is not true. The Companies provided detailed cost estimates and benefit assessments in their application filed with the DOE on August 6, 2009, and first filed with the Commission on August 14, 2009.[19] Such detailed cost estimates and benefit assessments were reasonable, aligned with industry standards, and resulted in the Companies being selected to receive federal stimulus funds. In addition, the Companies will assess the information and outcomes gained from the

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[16] The project includes multiple studies that will utilize data from the AMI Meter Data Management System. One example is that this information may be used by each of the Companies to audit the engineering assumptions that existing engineering design guidance is based on, such as customer load factors, load profiles, and power factors; and how multiple customers aggregate together when attached to one transformer, a primary lateral tap, and on a whole circuit basis.
[17] OCC Comments at p. 7.
[18] *Id.*
[19] *See* DOE Smart Grid Filing at p. 32 -37.

initiative, and based on that assessment and the success of the initial meter deployment, will determine whether to proceed with the installation of approximately 39,000 additional smart meters.

Next, OCC argues that the Companies' application:

> does not provide the type of evidence needed to show that the resulting rates are just and reasonable and are required for cost recovery approval under R.C. 4909.18. Nor does the application provide the type of evidence needed to show that the resulting rates are the result of adequate, efficient or proper management policies and practices as required for cost recovery approval under R.C. 4909.154.[20]

OCC's arguments are without merit. As stated above, the Companies' application was part of a competitive process, which included over 400 applicants. The DOE utilized subject-matter experts to review the Companies' application and it was selected on its merits to receive federal tax dollars. It does not follow that the costs incurred for the implementation of the Ohio Site Deployment could be deemed just and reasonable for federal funding but not for ratepayer funding.

g. *The Application provides a clear and consistent breakout of Ohio costs.*

OCC claims that the Companies application provided little itemization of costs.[21] OCC's misstates the facts. As stated above, the Companies have provided detailed cost estimates in the application filed with the DOE on August 6, 2009, and first filed with the Commission on August 14, 2009. The levels of costs and detail were deemed appropriate by the DOE in their determination of award on October 27, 2009. Also, regarding the allocation of project management, cyber security and data collection costs to Ohio, the

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[20] OCC Comments at p. 7.

[21] OCC Comments at p. 7.

OCC's method of allocating equal shares among the three states is wrong. A proper allocation is 63% to Ohio, given the portion of total project costs estimated for Ohio relative to the other states. With this allocation factor the total Ohio project costs are estimated to be $72.2 million

III. CONCLUSION

As stated above, OCC was provided ample time and opportunity for discovery and to provide input regarding the Companies' Application. Such opportunities included: 1) the Companies providing OCC on July 6, 2009 a draft copy of the DOE Smart Grid Filing; 2) the Companies providing OCC on August 14, 2009 a final copy of the DOE Smart Grid Filing; 3) the Companies conducting an initial meeting on August 31, 2009 at the OCC offices to review the Ohio Site Deployment; 4) the Companies conducting a second meeting on September 21, 2009 at the OCC offices to provide a technical disussion on the Ohio Site Deployment; 5) the Companies conducting a third meeting on November 12, 2009 at the OCC offices to discuss revisions made to the pricing program to incorporate OCC feedback; and 6) the Companies responding to a number of informal discovery requests from the OCC. The OCC was provided ample opportunity to comment on the Companies' Application, and the Companies incorporated certain OCC comments. The Companies respectfully request the Commission to deny OCC's request for hearing and issue its Order that adopts and approves the Companies' Application.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Comments in Response to the Office of the Ohio Consumers' Counsel Comments on FirstEnergy's Application Related to a Pilot Program for Deployment of Smart Grid, Smart Meters and Peak-Time Rebate Pricing and Collection of Costs from Customers was served by first-class mail, postage prepaid, to the following parties of record this 21st of December, 2009.

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