FILE

7

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison	)	
Company, The Cleveland Electric Illuminating	)	Case No. 11-126-EL-EEC
Company and The Toledo Edison Company to	)	Case No. 11-127-EL-EEC
Amend Their Energy Efficiency and Peak Demand	)	Case No. 11-128-EL-EEC
Reduction Benchmarks	)	

NUCOR STEEL MARION, INC.'S COMMENTS SUPPORTING APPLICATION AND REQUESTING CLARIFICATION

Owen J. Kopon*
PHV #1055-2011
E-Mail: ojk@bbrslaw.com
Counsel of Record
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
8th Floor, West Tower
Washington, D.C. 20007
(202) 342-0800 (Main Number)
(202) 342-0807 (Facsimile)
*Pending admission *pro hac vice*

Attorney for Nucor Steel Marion, Inc.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison	)	
Company, The Cleveland Electric Illuminating	)	Case No. 11-126-EL-EEC
Company and The Toledo Edison Company to	)	Case No. 11-127-EL-EEC
Amend Their Energy Efficiency and Peak Demand	)	Case No. 11-128-EL-EEC
Reduction Benchmarks	)	

NUCOR STEEL MARION, INC.'S COMMENTS SUPPORTING APPLICATION AND REQUESTING CLARIFICATION

Nucor Steel Marion, Inc. ("Nucor") hereby submits these comments in response to the Application submitted on January 11, 2011 by Ohio Edison Company ("Ohio Edison"), the Cleveland Electric Illuminating Company ("CEI") and the Toledo Edison Company ("Toledo Edison") (collectively "FirstEnergy") in the above-captioned proceedings.

I. The Commission Should Grant FirstEnergy's Request to Amend its EE and PDR Benchmarks

In its Application, FirstEnergy requests that the Commission issue an order amending Ohio Edison's 2010 EE and PDR benchmarks, and CEI's and Toledo Edison's 2010 EE benchmarks to the extent such amendments are necessary. FirstEnergy explains that since the Commission has not yet ruled on FirstEnergy's three-year Energy Efficiency and Peak Reduction Plan ("EE/PDR Portfolio") filed in Case No. 09-1947-EL-POR et al ("EE/PDR Portfolio Case"),[1] FirstEnergy has been unable to launch many of the programs included in the proposed portfolio

[1] *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*, Case No. 09-1947-EL-POR *et al.*

that were intended to help FirstEnergy meet its benchmarks. Further, FirstEnergy explains that it is unclear even what the 2010 EE requirements would be for each operating company, since the Commission, in ruling on a similar application to amend the 2009 EE and PDR benchmarks last year, said the 2010 EE benchmarks would be modified in the EE/PDR Portfolio Case to ensure that FirstEnergy meets the cumulative energy savings mandated by the statute.[2]

Nucor supports FirstEnergy's Application. Section 4928.66(A)(2)(b) of the Revised Code authorizes the Commission to amend the EE or PDR benchmarks of an electric distribution utility if "the commission determines that the amendment is necessary because the utility cannot reasonably achieve the benchmarks due to regulatory, economic, or technological reasons beyond its reasonable control." As FirstEnergy explains, FirstEnergy planned to meet a portion of its EE and PDR benchmarks through the programs included in the EE/PDR Portfolio, which is still pending before the Commission. Customers certainly should not have to pay for EE or PDR programs that have not been approved by the Commission, so FirstEnergy's decision not to implement the programs in the EE/PDR Portfolio until the programs themselves and the related cost-recovery mechanisms have been ruled on by the Commission is reasonable. At the same time, as FirstEnergy explains, there are numerous outstanding mercantile customer applications that are still pending which would provide additional EE savings. Under these circumstances, amendment of the 2010 EE/PDR benchmarks to the level actually achieved by the three operating companies, as FirstEnergy requests, is appropriate.

[2] *In re Application to Amend Energy Efficiency Benchmarks*, Case No. 09-1004-EL-EEC *et al.*, Finding and Order at 4 (January 7, 2010).

II. The Appropriate Level of PDR Achieved Through Rider ELR Has Been Litigated in the EE/PDR Portfolio Case, and the Commission Should Clarify That it is Not Ruling on That Issue in This Case

FirstEnergy's Application states that the utilities have been able to achieve some PDR savings through Riders ELR and OLR. These interruptible rates were approved in the proceeding establishing the current FirstEnergy electric security plan ("ESP"), and were also approved in modified form in the proceeding approving FirstEnergy's successor ESP.[3] These rates, therefore, will be in effect at least until June 1, 2014.

According to FirstEnergy, during 2010, Riders ELR and OLR provided PDR of 66 MWs, 48 MWs, and 144 MWs respectively for Ohio Edison, CEI, and Toledo Edison.[4] These PDR values are identical to the claimed PDR savings from the interruptible riders that FirstEnergy claimed in the EE/PDR Portfolio Case.[5] In that case, Nucor disagreed with FirstEnergy's calculation of PDR benefits for FirstEnergy's interruptible riders, and proposed an alternate methodology.[6] Nucor

---

[3] *See* Case No. 08-935-EL-SSO *et al., 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); *see also* 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 (August 25, 2010).

[4] Application at 8 and Exhibit B.

[5] *See* Case No. 09-1947-EL-POR *et al.*, Rebuttal Testimony of Katherine M. Kettlewell at 2-4. Ms. Kettlewell testified that the PDR value FirstEnergy initially assigned to Rider ELR (147 MWs across all three operating companies) was understated, and proposed a different methodology whereby the amount of Rider ELR interruptible load that FirstEnergy currently registers as load modifying resource ("LMR") capacity in Midwest ISO should establish the PDR value of Rider ELR interruptible load. *Id.* at 2-3. Using this method results in the operating company-specific PDR values that FirstEnergy claims in the Application in this proceeding (258 MWs in total). *Id.* at 4. At the time of the EE/PDR Portfolio Case, all of FirstEnergy's claimed interruptible demand savings came from Rider ELR.

[6] *See* Case No. 09-1947-EL-POR *et al.*, Initial Brief Submitted by Nucor Steel Marion, Inc. at 18-26 (March 29, 2010). Nucor maintained that both FirstEnergy's initial calculation of the PDR level, as well as the new method using the Midwest ISO LMR capacity level associated with Rider ELR interruptible load, understated the PDR benefit of Rider ELR. Nucor recommended an alternate method of calculating the PDR value using the Curtailable Load measurement prescribed in Rider ELR. *Id.* at 20.

maintained that the alternate methodology would better reflect the benefits interruptible load under Rider ELR actually provide, and likely would result in greater PDR savings from Rider ELR than the methodology used by FirstEnergy.[7]

The correct measurement of PDR savings from Rider ELR has been fully litigated in the EE/PDR Portfolio Case, and the issue is pending a Commission determination. Although, as discussed above, Nucor supports FirstEnergy's request for an amendment of FirstEnergy's 2010 EE and PDR benchmarks, Nucor requests that, should the Commission approve FirstEnergy's Application in this proceeding before it issues a ruling in the EE/PDR Portfolio Case, the Commission clarify that it is not making a determination that FirstEnergy's methodology for determining PDR savings from Rider ELR is correct.[8] Rather, the Commission should clarify that the proper measurement of PDR savings from Rider ELR interruptible load is an issue that has been addressed and litigated and will be appropriately resolved in the EE/PDR Portfolio Case.

In the alternative, the Commission can defer ruling on this application until after the Commission has ruled on the proper PDR measurement for Rider ELR in the EE/PDR Portfolio Case. If Nucor's methodology for calculating PDR by interruptible load is adopted, there will be substantially more PDR savings from Rider ELR load to offset the required 2010 PDR benchmark, which could possibly obviate the need to amend the benchmark.

[7] *Id.* at 20-26.

[8] If the Commission approves Nucor's proposed PDR measurement, it is possible that the 2010 PDR benchmark for Ohio Edison would be met. Nevertheless, since we do not know what the level of PDR savings would be at this time if calculated using Nucor's approach, and since it is unknown at this time when the Commission will rule in the EE/PDR Portfolio Case, Nucor is supporting FirstEnergy's proposal to amend Ohio Edison's PDR benchmark.

III. Conclusion

For the reasons set forth above, Nucor respectfully requests that the Commission: (i) approve FirstEnergy's request to amend the 2010 EE and PDR benchmarks; and (ii) clarify that the Commission is not ruling on the proper method of determining the PDR value of Rider ELR in this proceeding, or, in the alternative, defer ruling on FirstEnergy's request to amend the 2010 PDR benchmarks until after the Commission has ruled in the EE/PDR Portfolio Case on the proper way to measure PDR benefit provided by Rider ELR interruptible load.

Respectfully submitted,

Owen J. Kopon*
PHV #1055-2011
E-Mail: ojk@bbrslaw.com
Counsel of Record
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
8th Floor, West Tower
Washington, D.C. 20007
(202) 342-0800 (Main Number)
(202) 342-0807 (Facsimile)
* Pending admission *pro hac vice*

Attorney for Nucor Steel Marion, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served via U.S. Mail postage prepaid on the 8th day of February, 2011 upon the following:

Kathy J. Kolich
Carrie Dunn
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
Email: kjkolich@firstenergycorp.com
Email: cdunn@firstenergycorp.com

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45839
Email: cmooney2@columbus.rr.com

William T. Reisinger
Nolan Moser
Trent A. Dougherty
Elizabeth Camille Yancey
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212
Email: will@theoec.org
Email: nolan@theoec.org
Email: trent@theoec.org
Email: camille@theoec.org

Henry W. Eckhart
The Natural Resources Defense Council
50 West Broad Street, #2117
Columbus, Ohio 43215
Email: henryeckhart@aol.com

Owen Kopon / per e-mail
Owen Kopon