

**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 Provide)	Case No. 12-1230-EL-SSO
for a Standard Service Offer Pursuant to)	
R.C. § 4928.143 in the Form of an Electric)	
Security Plan.)	

**REPLY BRIEF OF
INDUSTRIAL ENERGY USERS-OHIO**

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OHIO**

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On April 13, 2012, Ohio Edison Company ("OE"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("TE") (collectively, "FirstEnergy") filed an Application to establish a standard service offer ("SSO") in the form of an electric security plan ("ESP"). Concurrently with the filing of the Application, FirstEnergy and several signatory parties filed a Stipulation and Recommendation ("Stipulation")¹ recommending the Public Utilities Commission of Ohio ("Commission") approve the proposed ESP (the "ESP III"). The ESP III would in large measure contain minimal change to FirstEnergy's current ESP (the "ESP II") and was intended to, in part, facilitate the bidding of demand response resources into PJM Interconnection, LLC's ("PJM") base residual auction ("BRA") for the 2015/2016 delivery period if the Commission approved ESP III by no later than May 2, 2012.² If the Commission was unable to approve ESP III by May 2, 2012 to facilitate demand resource participation in the PJM 2015/2016 BRA, the Commission was alternatively requested to approve ESP

¹ The Stipulation was admitted into the record as Company Ex.1.

² Company Ex. 1, Stipulation at 2.

III by no later than June 20, 2012 in order to allow sufficient time to modify the bidding schedule for the October 2012 SSO auction.³

The Industrial Energy Users-Ohio (“IEU-Ohio”) files this Reply Brief to respond to an argument raised in the Post-Hearing Brief submitted by EnerNoc, Inc. (“EnerNoc”). The failure of IEU-Ohio to address arguments raised by other parties in their initial briefs should not be construed as acceptance of those arguments. As noted by IEU-Ohio in its Post-Hearing Brief, the use of a competitive bidding process (“CBP”) to establish FirstEnergy’s SSO generation rates will occur as a matter of law until and unless a new ESP is put in place as a successor to ESP II.⁴ Thus, the Stipulation provides the Commission with the opportunity to take some of the guesswork out of future SSO customer rates, and warrants approval.

Rather than using the Stipulation as a tool to provide predictable customer outcomes, EnerNoc, a non-opposing signatory party to the Stipulation, who now nevertheless recommends approval of the Stipulation,⁵ urges the Commission to interpret the Stipulation in a manner contrary to its intent and in a way that will increase rates for SSO customers. EnerNoc argues that the Stipulation requires FirstEnergy (and the Commission) to foreclose customers from continuing to receive service pursuant to the Economic Load Response tariff (“Rider ELR”) if customers did not execute contract addendums by May 3, 2012.⁶

³ *Id.* at 3.

⁴ IEU-Ohio Post-Hearing Brief at 2.

⁵ EnerNoc Post-Hearing Brief at 7.

⁶ *Id.* at 7.

As discussed above, one of the goals of the Stipulation was “enabling the Companies to bid demand response resources and PJM-qualifying energy efficiency resources into the PJM 2015-2016 Base Residual Auction.”⁷ But in order to translate this goal into reality, the Commission was requested to approve the Stipulation by May 2, 2012 because bidding into the 2015/2016 BRA began on May 7, 2012.⁸ When this did not occur, the second actionable step (the customer's execution of a contract addendum by May 3, 2012) necessary for FirstEnergy to actually offer demand response bids into the 2015/2016 BRA became moot.

Notwithstanding whether demand response resources were bid into the 2015/2016 BRA, the need for customers to commit to service pursuant to Rider ELR has not diminished. As Ohio electric distribution utilities, OE, CEI and TE have statutory obligations pursuant to Amended Substitute Senate Bill 221 to achieve peak demand reductions.⁹ FirstEnergy intends to rely upon customers electing service pursuant to Rider ELR as one option to meet its statutorily required peak demand reduction.¹⁰ Therefore, as FirstEnergy witness William Ridmann testified, FirstEnergy will inform the relevant customers of the new required date to execute addendums to elect to continue service pursuant to Rider ELR following the issuance of an Order in this proceeding.¹¹ EnerNOC claims that if the May 3, 2012 date to elect service under Rider ELR is not

⁷ Stipulation at 2. The ELR also assists FirstEnergy in satisfying its statutory requirements under Section 4928.66, Revised Code, and the ELR promotes reliability by lowering peak demand. Tr. Vol. I at 65-66.

⁸ Stipulation at 3.

⁹ Section 4928.66(A)(1)(b), Revised Code

¹⁰ Tr. Vol. I at 311.

¹¹ Company Ex. 4 at 6.

required, this will result in a negative impact on [capacity] prices in the ATSI zone.¹² EnerNOC's claims are flawed and unsupported by any evidence. EnerNOC claims that extending the availability of Rider ELR for the term of ESP III will preclude interruptible load from offering into the PJM BRA for 2016/2017 and 2017/2018 delivery years.¹³ That assertion is simply incorrect. Because the proposed term of ESP III terminates on May 31, 2016, there is no obligation for customers to continue service under Rider ELR after May 31, 2016 and customers with the capability to curtail usage as a PJM capacity resource are freely able to participate in PJM's BRA for 2016/2017 and 2017/2018 delivery years. In fact, the risk and uncertainty associated with whether customers served under Rider ELR will be bid into future BRAs can be remedied by extending the term of Rider ELR, rather than foreclosing customers to elect service under Rider ELR.¹⁴

For these reasons and for the reasons set forth in its Post-Hearing Brief, IEU-Ohio urges the Commission to approve the Stipulation.

¹² EnerNoc Post-Hearing Brief at 8.

¹³ *Id.* at 9.

¹⁴ Tr. Vol. I at 311.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Brief of Industrial Energy Users-Ohio*, was served upon the following parties of record this 29th day of June 2012, via hand-delivery, electronic transmission, or first class mail, U.S. postage prepaid.

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