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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market	)))	Case No. 12-3151-EL-COI

REPLY COMMENTS OF NUCOR STEEL MARION, INC.

Pursuant to the January 24, 2013 Entry in the above-captioned proceeding, Nucor Steel Marion, Inc. ("Nucor") submits these reply comments responding to initial comments made by various parties.

I. INTRODUCTION AND SUMMARY

On March 1, 2013, Nucor filed comments responding to the market design questions contained in the Commission's December 12, 2012 Entry ("December 12 Entry") in this proceeding. In our comments, we endorsed the Commission's decision to open this proceeding to reassess the functioning of the Ohio retail electric markets, and noted our support for the Commission's efforts to identify and remove barriers to customers' ability to choose electricity products and services tailored to their individual needs. While it is important to allow customers to choose their electric supplier in Ohio, and to ensure that competitive retail electric service ("CRES") providers have reasonable access to the retail market, Nucor also stressed the importance of continuing to make available strong standard service offer ("SSO") rate plans provided by electric distribution utilities ("EDUs"), consistent with Section 4928.141 of the Ohio Revised Code. We noted that there appears to be robust competition in Ohio,

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which supports the conclusion that there are no significant structural problems in the current standard offer structure that are inhibiting competition, and therefore no changes to the current standard service offer model are necessary. Finally, we offered suggestions for how EDUs can improve energy prices and lower capacity costs by continuing to offer and improve rate design mechanisms such as interruptible and time-of-use rates.

Nucor's comments were offered from the perspective of a single, large industrial customer of FirstEnergy. Many of the principal positions in our comments, nevertheless, are shared by a number of other parties representing a broad cross-section of stakeholders. For example, many parties who filed initial comments, including utilities, governmental aggregators, and groups representing residential, commercial, and industrial customers, support the continuation of the current SSO model.[1] Many parties also agree that competition is robust in Ohio and that, for the most part, there are no significant barriers to customers being able to choose their electric supplier.[2] Given this widespread support, dramatic changes (regulatory, legislative or otherwise) to the current default service model would be ill-advised at this time.

Although there is common ground between Nucor and other parties that filed comments on many of the important questions raised in the December 12 Entry, some parties advocate positions that, in our view, would lead to disruptive and unnecessary changes to the

[1] *See, e.g.*, Comments by the Office of the Ohio Consumers' Counsel ("OCC") at 8-11; Initial Comments of the Northeast Ohio Public Energy Council ("NOPEC") at 4-6; Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("FirstEnergy") at 9-11; Comments of AARP at 9-10; Comments of the Ohio Energy Group ("OEG") at 2; Comments of Duke Energy Ohio, Inc. ("Duke") at 5; Initial Comments of the Dayton Power and Light Company ("DP&L") at 3-4; Comments of the Ohio Poverty Law Center *et al.* at 4; Comments of the OMA Energy Group at 4.

[2] See, e.g., Duke Comments at 2; AARP Comments at 5-6; DP&L Comments at 3-4; OEG Comments at 2; OCC Comments at 11; FirstEnergy Comments at 6-7; NOPEC Comments at 7.

S.B. 221 standard service offer model, or that could lead to increased costs or risk to consumers. As we explained in our initial comments, the level of shopping in Ohio today, along with the fact that most Ohio EDUs are currently (or will be) acquiring generation to serve their standard service offer customers through competitive processes, is strong evidence that the current standard service offer model does not impede, and, in fact, facilitates competition and access to markets. Given the state of competition in Ohio today, there is simply no justification for substantial modifications, much less dismantling the current standard service offer model. If and when impediments to competition arise in particular circumstances, the Commission should fashion a remedy tailored to the particular problem and circumstances, rather than focusing on high-level changes to the current model that could negatively affect all EDUs and customers. From the perspective of business, reasonable certainty as to electric supply is key to economic development and retention. Absent compelling reasons, substantial changes to the current SSO model in Ohio can only lead to more cost and more uncertainty – a situation to be avoided if at all possible.

While Nucor does not recommend that changes be made to the overall standard service offer model, the specific standard service offer rate plans developed by EDUs could always be improved. The goal certainly should not be to make utility-provided standard service offers weaker in order to push customers out into the market. Instead, utility default service rate plans should be improved and strengthened, by, for example, continuing and building upon successful rate design elements contained in current SSO rate plans such as interruptible and time-of-use rates. In fact, strong SSO rate plans force CRES providers to better compete and improve their service. In the end, all consumers should be able to choose between a strong

standard service offer rate plan and the competing plans offered by competitive suppliers in the market to pick which plan best serves their individual needs.

Following is a summary of Nucor's reply comments:

- EDUs, not CRES suppliers, should continue to have responsibility for providing default service. Shifting this responsibility to CRES suppliers basically would entail the scrapping of the current standard service offer model, and such a drastic change has not been shown to be necessary. The complexity and uncertainty involved with such a change could negatively impact the cost and quality of electric service for customers and harm economic development and retention.

- Standard service offer rate plans should not be limited to "plain vanilla" products. The ESP model is specifically designed to address aspects of electric service aside from simply the provision of generation. Even in the case of an MRO, the Commission has appropriately rejected utility attempts to make the standard service offer a bare-bones rate plan lacking any features intended to reflect cost-causation or to lower electricity costs for consumers.

- Ohio EDUs should be required to continue to provide reasonable and attractive interruptible and time-of-use rates as part of their SSO rate plans. The Commission has recognized that SSO interruptible and time-of-use rates provide benefits to all customers. The parties who claim that interruptible rates are somehow "subsidized" ignore Commission decisions to the contrary, fail to recognize the proper pricing of such products based on the long-run avoided cost of capacity, and overlook the fact that the interruptible products offered by utilities are substantially more valuable in design and purpose than demand response participating only in the PJM capacity markets.

- There is no need or basis for EDUs to earn a return on standard service offer generation supply acquired through a competitive process. At least in the case of FirstEnergy, there appears to be no basis for adding a return component to the SSO generation charge, since under FirstEnergy's ESP rate plan, all generation costs are passed directly through to and recovered from customers. Including a return component under these circumstances would result in unjust and unreasonable rates and do little more than increase costs for consumers.

- EDUs should provide no customer-specific load data to competitive suppliers without the customer's authorization. Many customers consider this information to be competitively-sensitive and proprietary, so it should be presumed confidential.

II. REPLY COMMENTS

A. EDUs, Not CRES Suppliers, Should Continue to Have Responsibility for Providing Default Service

In their initial comments, some competitive suppliers argue that responsibility for providing default service should be shifted away from EDUs, and that this responsibility should be handed over to CRES suppliers.[3] This would be a drastic change that would entail a complete re-write of S.B. 221's standard service offer provisions.

To begin with, the supporters of this proposal have not demonstrated why it is necessary. Even among the competitive suppliers that support an overhaul of the current standard service offer model, several of those parties acknowledge that the competitive market in Ohio has made great strides over the past several years.[4] The fact is, even though the utility provides a standard service offer rate plan, many customers (in fact, most customers for all EDUs except AEP according to the Commission's most recent report on switch rates) take service from a competitive supplier instead of their EDU. Moreover, for most EDUs, competitive suppliers already have the opportunity to compete in the wholesale competitive bidding processes to serve SSO load. The competitive suppliers that support this proposal have not shown that it would increase customer shopping, or that it necessarily would lead to more competitive markets.

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[3] *See, e.g.*, Initial Comments of Dominion Retail, Inc. d/b/a Dominion Energy Solutions at 5; Initial Comments of the Retail Energy Supply Association ("RESA") at 16.

[4] *See, e.g.*, Initial Comments of Constellation NewEnergy, Inc. and Exelon Generation Company, LLC ("Constellation") at 2 ("Since the passage of Senate Bill 221 in particular, Ohio has made tremendous strides towards reaping the full benefits of competitive wholesale markets and implementing policies to develop and improve electric retail competition."); Initial Comments of Hess Corporation ("Hess") at 2 (noting that, according to the 2012 Annual Baseline Assessment of Choice in Canada and the United States ("ABACCUS") Report, with the exception of AEP, as of June 2012, the percentage of commercial and industrial load taking service from CRES providers ranged from 72% to 93%).

Taking default service responsibility away from EDUs and giving it to CRES suppliers would also be fraught with complexity and uncertainty for customers and the Commission. There are scores of certified CRES suppliers in Ohio today.[5] Would all of these suppliers be entitled to a share of default service load? If not, how would the suppliers be selected? How would the Commission decide which customer gets assigned to which supplier? How much more difficult would it be for the Commission to regulate the default service by numerous suppliers? If all suppliers were not supplying default service, would this give some a competitive advantage over others? Since EDUs would no longer be providing default service, what changes would have to be made to the ESP and MRO rate plan structures as defined in Sections 4928.142 and 4928.143 of the Revised Code, if those structures could survive intact at all? All of these issues would have to be addressed in new legislation, new regulations, and new ESP/MRO plans coming only a short time after the Commission and stakeholders have invested significant time, effort, and cost in rulemaking proceedings and in individual standard service offer proceedings figuring out how to implement S.B. 221.

Moreover, assigning competitive suppliers and marketers responsibility for standard service offer load would be risky for customers. Competitive suppliers, in general, may very well be more susceptible than EDUs to credit risk, bankruptcy, or other types of financial difficulty that may impair their ability to provide service. Moreover, their lack of experience in the regulated sphere is unlikely to lead to good SSO plans and peformance. RESA recognizes this elevated level of risk in its proposal to restructure the current default service model to

[5] *See* RESA Comments at 34; Hess Comments at 2. RESA notes that there are currently more than 36 certified CRES providers in Ohio. Hess cites the 2012 ABACCUS Report, which puts the number of licensed CRES suppliers serving non-residential customers at a "robust 67."

include a new "Provider of Last Resort Service that would be structured as an emergency service which would be provided in instances where a customer's CRES provider is unable to fulfill its contracts due to financial stress or operational failures."[6] EDUs, by their very nature as capital-intensive, regulated industries, are inherently less risky than competitive suppliers and are better suited to provide a regulated SSO supply. This is not intended to be a criticism of CRES providers, many of whom are strong, low-risk companies that are able to compete for customers in Ohio and serve their customers well and at competitive rates. The only point is that the EDU is better positioned to provide the regulated standard service offer product, and that ultimately it should be up to the customer to decide whether to take service from a competitive supplier.

B. Standard Service Offer Rate Plans Should Not be Limited to "Plain Vanilla" Products

Several parties argue that default service should be a "plain vanilla" product limited to generation service and any other service necessary to establish electric service, without any "optional" components.[7] In the words of RESA, such a "plain vanilla" product would exclude rate offerings contained in current SSO rate plans, such as "[s]pecial economic development rates, subsidized low-income rates, special rates for certain types of heating technology, utility-offered time-of-use or peak period pricing options, and other similar utility offerings."[8]

The point of this recommendation seems to be to make the standard service offer an unattractive, stripped-down generation service option, and therefore to make the specialized

[6] RESA Comments at 18.

[7] Hess Comments at 4; RESA Comments at 20; Constellation Comments at 8.

[8] RESA Comments at 15.

products offered by CRES providers more attractive by comparison. Like the recommendation discussed above to give responsibility to CRES providers to provide default service, the "plain vanilla" recommendation is directly at odds with the current statutory model in Ohio. The ESP rate offering is clearly designed *not* to be a plain vanilla generation product, but is rather designed to allow all components of electric service to be addressed in a single rate plan. Even in the case of an MRO, the Commission has recognized the importance of including the very types of rate design features that certain parties in this proceeding would like to see excluded from the standard service offer. For example, in FirstEnergy's first SSO proceeding under S.B. 221, the Commission rejected FirstEnergy's position that time-of-use and interruptible rates were not required for an MRO:

> The Commission notes that the policy of the state, as codified in Section 4928.02, Revised Code, requires the Commission to ensure the availability of unbundled and comparable retail electric service that provides customers with the supplier, term, price, conditions, and quality options they elect to meet their respective needs. Further, SB 221 amended Section 4928.02, Revised Code, to specifically include the promotion of time-differentiated pricing as a policy goal of this state. FirstEnergy has not demonstrated how its proposed rate design advances these policy goals. In fact, the record clearly indicates that FirstEnergy could have proposed a rate design which would advance these goals. The Commission agrees with Kroger that time-of-day rates would recognize that some customers have a higher proportion of usage in lower-cost, off-peak periods. Likewise, the record demonstrates that interruptible rates can be used to reduce generation and transmission capacity needs. Moreover, the Commission notes that FirstEnergy has not demonstrated that time-of-day rates or interruptible rates are impractical or cannot be implemented as part of a competitive bidding process. In fact, the record in this proceeding demonstrates that FirstEnergy included both time-of-day rates and interruptible rates in its prior request, in Case No. 07-796-EL-ATA, for a competitive bidding process. Therefore, because the Commission finds that FirstEnergy has not demonstrated that its proposed rate design advances the state policies enumerated in Section

4928.02, Revised Code, the proposed rate design should not be adopted and approved by the Commission.[9]

As this fundamental assessment by the Commission illustrates, key state policies such as ensuring the availability to consumers of reasonably priced electric service, the promotion of time-differentiated rates, and the promotion of economic development must be addressed through EDU standard service offers, and should not just be left to competitive suppliers. Under Ohio law, all customers – whether they take service under an SSO rate plan or from a competitive supplier – have a right to reliable electric service at reasonable rates. Put a different way, increased competition should be viewed as a means to an end (*i.e.*, rate options tailored to provide customers electric service to best meet their needs at the lowest possible price), not an end in itself. Accordingly, there is no good reason why EDUs should be prohibited from incorporating rate design components and other features into their SSO rate plans that lead to lower rates, advance the policies of the state of Ohio, or otherwise benefit customers, just so competitive suppliers can have an easier time attracting customers.

A variant on the argument that EDUs should only provide a "plain vanilla" standard service offer product is put forward by Hess, who argues that hourly-priced default service should be required for commercial and industrial ("C&I") customers.[10] Hess explains that, in its experience, the vast majority of customers with a peak load of 100 kW or higher "are sophisticated enough to warrant consideration of their inclusion in the hourly pricing model for

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[9] *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, Case No. 08-936-EL-SSO, Opinion and Order, at 24 (November 25, 2008) (internal citations omitted).

[10] Hess Comments at 6-7.

default service."[11] Nucor strongly opposes singling out C&I customers to be assigned to hourly-priced default service. Large customers are indeed sophisticated purchasers of energy, but at least some such customers may see a benefit to a longer-term, stable rate available under SSO rate options. Hourly pricing options likely are available now in the market for customers who are interested in this type of service and, as Nucor explained in our initial comments, we also support including hourly pricing options in SSO rate plans. However, mandating hourly default pricing for C&I customers is just another way of limiting the attractiveness of SSO rate plans for this class of customers in order to encourage such customers to take service from a competitive supplier.

C. Ohio Utilities Should Continue to Provide Reasonable and Attractive Interruptible Rates as Part of Their SSO Rate Plans

Nucor has taken interruptible service from FirstEnergy (specifically, Ohio Edison) since long before S.B. 221. Since FirstEnergy's initial ESP went into effect in 2009, Nucor has taken interruptible service under FirstEnergy's economic load response rider, Rider ELR. Rider ELR has been continued in FirstEnergy's two subsequent ESP plans, and we hope and expect that it will continue, with improvements, for the foreseeable future. The ELR rider is an extremely important component of Nucor's power supply, and helps Nucor to manage its costs and remain competitive in the international steel markets.

Nucor believes that it is vital that SSO interruptible rates such as Rider ELR be continued, and hopefully further improved. In their initial comments, however, OCC and EnerNOC argue that these rates are "subsidized rates," and recommend that they essentially be gutted, or

[11] *Id.* at 7.

discontinued altogether.[12] OCC's and EnerNOC's argument that SSO interruptible rates are "subsidized" rates has been rejected by this Commission in the past and is based on a flawed premise. Interruptible customers pay a discounted rate, but they also accept an inferior product (non-firm service) compared to other utility customers. Interruptible customers provide economic and reliability benefits to other customers and the entire system and, in doing so, interruptible customers incur additional operational burdens and costs.

In supporting their "subsidized" rate arguments, both OCC and EnerNOC compare the credits received under Rider ELR to the market price of capacity in the PJM wholesale markets. But this is an apples-to-oranges comparison – although Rider ELR certainly provides capacity benefits, the Rider ELR product provides additional system benefits (and places additional burdens on Rider ELR customers) as compared to a customer participating only in the PJM capacity markets, either by itself or through a CSP. For example, in addition to allowing for unlimited emergency interruptions, Rider ELR allows FirstEnergy to call economic interruptions when wholesale market prices get high. In this case, ELR customers have the option to curtail their load or "buy through" the interruption at the market price, which will be at least 1.5 times higher the standard SSO generation rate. Evidence in FirstEnergy's ESP cases demonstrates that this economic interruption component of Rider ELR may lead to lower SSO generation prices, since bidders into the SSO auctions will know they will not have to serve the very large industrial customers on Rider ELR at the SSO price when market prices get high.[13]

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[12] OCC Comments at 20-21; EnerNOC Comments at 3-4.

[13] *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Reply Brief of Nucor Marion, Inc. at 6 (June 29, 2012).

Another feature of Rider ELR that is different from the PJM capacity product is that not just PJM may identify the need for and call an emergency interruption. Rider ELR provides that a FirstEnergy utility may call an emergency interruption when either an RTO, the utility, or ATSI determines, in its sole discretion, that an emergency situation exists. This makes the Rider ELR product more flexible and provides a greater reliability benefit than the PJM capacity product, since Rider ELR can be used to address local reliability issues. During the FirstEnergy ESP III proceeding, a FirstEnergy witness testified that a FirstEnergy utility (Ohio Edison) had, in fact, called an interruption under Rider ELR.[14]

Another key difference between Rider ELR and the PJM capacity product is that Rider ELR provides a knowable, stable credit from year to year. By contrast, a customer participating in the PJM capacity markets will receive a credit that varies from year to year, sometimes by a significant degree. Having a credit that fluctuates so wildly from year to year makes it difficult for many large industrial customers to invest the necessary resources to provide demand response, as well as forecast their energy costs and plan their budgets. As a result, the lack of a stable credit option would likely result in less demand response overall. At the same time, the Rider ELR customer takes the risk that the ELR payment is less than what the customer could have obtained on average from a more volatile market approach. The same would be the case for a utility-run competitive bid process for interruptible load. In FirstEnergy's 2009 MRO case, FirstEnergy proposed to replace Rider ELR with an annual competitive bid process to acquire demand response, and OCC reintroduces this concept in its comments in this proceeding.[15] As

[14] Case No. 12-1230-EL-SSO, Tr. Vol. I at 76-77.

[15] OCC Comments at 21.

Nucor explained in the MRO case, an interruptible credit based on the short-run, variable capacity market prices would make it difficult to attract and retain a stable, long-term supply of reliable interruptible load.[16] While a competitive bid process for demand response might be useful to acquire additional interruptible load as needed from those customers who may be willing to sacrifice stability for the potential of higher demand response compensation, such a process should not take the place of stable, long-term interruptible rates.

Aside from these important differences, there are several other features that make Rider ELR very different from the PJM capacity product.[17] Even if all the differences between Rider ELR and the PJM capacity product and the additional benefits from Rider ELR were not taken into account, however, OCC's and EnerNOC's comparisons of the ELR credit and PJM capacity prices should carry no weight because they are flawed and misleading. EnerNOC cites the 2013/2014 PJM capacity price, and OCC cites the PJM capacity prices for 2013 through 2016 to try to make the ELR credit look excessive by comparison. However, the capacity price resulting from the auction for the ATSI zone in the 2015-2016 capacity year was $357/MW/day, which is equivalent to $10.86/kW/month (($357/MW/Day * 365 days)/12 months), a price in excess of the credit under Rider ELR.[18] OCC relegates this bit of important information to a

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[16] *See In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, Case No. 09-906-EL-SSO, Initial Brief Submitted by Nucor Steel Marion, Inc. at 21-23 (January 8, 2010).

[17] *See 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 R.C. § 4928.143 in the Form of an Electric Security Plan*, Case No. 10-388-EL-SSO, Post-Hearing Brief in Support of ESP Submitted by Nucor Steel, Marion, Inc. at 14-15 (April 30, 2010) (listing 13 differences between Rider ELR and the PJM capacity product).

[18] Case No. 12-1230-EL-SSO, Reply Brief of Nucor Marion, Inc. at 7. Note that this value is much higher once avoided reserves and other relevant factors are included.

footnote in its comments, and EnerNOC ignores it altogether. The fact is, come the 2015/2016 capacity year, Rider ELR customers will be receiving a credit *lower* than the PJM market price for capacity. The level of future PJM capacity market payments are uncertain, although the PJM economic valuation of the avoided cost of capacity embodied in the PJM Cost of New Entry ("CONE") also produces a value higher than the current ELR credit.

Rather than eliminating SSO interruptible rates, or replacing them with an annual auction mechanism to acquire demand response as OCC recommends, the Commission should continue to approve reasonable, cost-based interruptible rates as part of utility SSO rate plans. Rather than being based on the short-run marginal costs of capacity as reflected in annual PJM capacity auctions, the starting point for developing the credit under interruptible rates should be the long-run marginal cost of capacity,[19] and ideally the credit should also reflect the other benefits such as avoided reserves and losses, and avoided energy costs resulting from the economic interruption component.[20]

The Commission has recognized the benefits interruptible rates provide in SSO plans as recently as last year, when the Commission approved FirstEnergy's ESP III. In that case, EnerNOC made similar arguments as it made in its initial comments in this proceeding opposing Rider ELR. The Commission rejected EnerNOC's arguments and approved Rider ELR, stating that interruptible rates "tend to lower SSO generation prices as well as promote both economic development and compliance with the peak demand reduction provisions of Section 4928.66,

[19] Nucor has recommended that for utilities in PJM such as FirstEnergy, the CONE as determined under the PJM reliability pricing model should serve as the proxy for long-run marginal cost. *See* Case No. 09-906-EL-SSO, Initial Brief Submitted by Nucor Steel Marion, Inc. at 18-21.

[20] *Id.* at 19-21.

Revised Code."[21] Continuing to provide for robust interruptible rates in SSO rate plans will ensure that utilities are able to retain a stable, long-term supply of reliable interruptible load that will provide reliability benefits, economic development benefits, and that utilities can use to meet their statutory peak demand reduction targets.

D. Utilities Should Not Earn a Return on Standard Service Offer Generation Acquired Through a Competitive Process

FirstEnergy argues that the current default service model could be enhanced by including a return component in SSO pricing for EDUs.[22] FirstEnergy justifies this proposal, in part, based on the risks assumed by "those EDUs that are conducting competitive bid processes to establish SSO default pricing for all non-shopping customers, to which further discounts may apply, and that are no longer receiving financial integrity support in the form of a nonbypassable generation related rider."[23] While we can see why an EDU would like an additional return from providing SSO service, there is simply no investment on which to provide a return and, at least in the case of FirstEnergy, a return is not required to compensate FirstEnergy for any risk they assume as an SSO provider. FirstEnergy does not own generation, and it acquires generation to serve SSO load through a competitive process. All of the cost of generation is recovered from customers through a number of riders, including Rider GEN, the Generation Cost Reconciliation Rider ("Rider GCR"), and the Generation Service Uncollectible Rider. In the case of Rider GCR, the rider is generally avoidable for shopping customers, although FirstEnergy may recover costs from shopping customers under this rider if the allowed

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[21] Case No. 12-1230-EL-SSO, Second Entry on Rehearing at 14 (January 30, 2013).

[22] FirstEnergy Comments at 14-15.

[23] *Id.* at 14.

balance of Rider GCR reaches 5% of the generation expense in two consecutive quarters, providing FirstEnergy with an extra measure of protection. FirstEnergy, therefore, bears no real risk in its role as a default service provider. Instead, the risk is borne by the winning suppliers in the SSO auctions and by customers. The EDU also has the benefit of earning a return through other components of its rates on its investments in facilities to provide service. No additional return is necessary or justified.

FirstEnergy also describes this proposal as one that would enhance the competitive posture of CRES providers by creating the necessary margin or headroom required so that CRES suppliers could more successfully compete with SSO service on a sustainable basis.[24] From a customer's perspective, this theory stands the whole purpose of a system that includes an SSO option and retail competitive supplier options on its head. The purpose of the current SSO model is to allow a customer to choose what electric supply arrangement (whether SSO or CRES) is in the best interest of and produces the lowest cost and best service for the specific customer, not to artificially preserve specific CRES options that are more expensive or otherwise unappealing by artificially boosting the price for SSO service. Said another way, it makes no sense to increase SSO rates to compensate EDUs for non-existent (or very low) risk simply for purposes of increasing the competitive position of CRES suppliers. This would be a case of subsidizing CRES options for their own sake rather than for purposes of ensuring that customers have access to electric supply at the lowest possible price. The Commission should reject FirstEnergy's proposal.

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[24] *Id.* at 15.

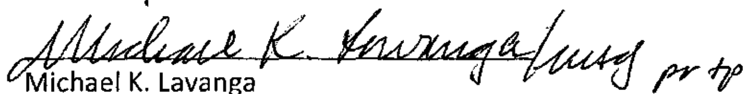
E. EDUs Should Provide No Customer-Specific Load Data to Competitive Suppliers Without the Customer's Authorization

The National Energy Marketers Association ("NEMA") recommends that, in order to help facilitate competitive entry, EDUs be required to provide historical load profile information and customer lists to competitive suppliers.[25] NEMA does not specify whether this load profile information would be aggregated or customer-specific. The Commission should reject any requirement for EDUs to share customer-specific load profile or other usage information with competitive suppliers without specific authorization by the customer. Many customers, particularly commercial and industrial customers, consider this information to be competitively-sensitive and proprietary. Such information should be presumed confidential, and it should be up to the customer to decide whether it should be shared with a competitive supplier.

III. CONCLUSION

Nucor respectfully requests that the Commission consider the positions discussed in these comments and in Nucor's initial comments as it continues its investigation on the state of the Ohio retail electric service market in this proceeding.

Respectfully submitted,



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[25] NEMA Comments at 9.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following parties of record as a courtesy, via U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission on April 5, 2013.

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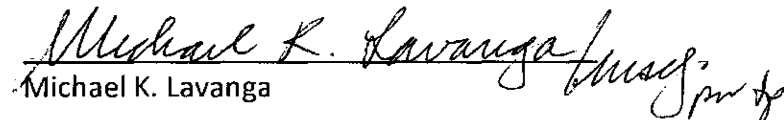

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