BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Delivery Capital Recovery Rider Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.	)))))	Case No. 12-2855-EL-RDR

COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Public Utilities Commission of Ohio ("PUCO" or "Commission") should order a supplemental audit of FirstEnergy's[1] 2012 Delivery Capital Recovery Rider ("Rider DCR") to determine if the rate customers will be charged for capital costs should be reduced by any cost savings or increased revenues resulting from the new utility plant. In approving FirstEnergy's application to establish a standard service offer, the PUCO, *inter alia*, gave FirstEnergy the benefit of faster collection of costs for certain taxes and a return on and of plant in service.[2] The Commission originally approved Rider DCR

[1] Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively referred to as "FirstEnergy").

[2] *In the Matter 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*, Case No. 10-388-EL-SSO, Opinion and Order at 11 (August 25, 2010).

through May 31, 2014,[3] but later extended the life of Rider DCR until May 31, 2016.[4] In extending Rider DCR into 2016, FirstEnergy also agreed to an annual audit review of Rider DCR, which was also approved by the Commission.[5] Given that the Rider is a ratemaking benefit for FirstEnergy, customers should be given the reciprocal benefit of rate reductions related to costs savings or additional revenues resulting from their payment for plant costs.

Accordingly, Blue Ridge Consulting Services ("Blue Ridge Auditor" or "Auditor") was selected to conduct the annual audit of Rider DCR. Blue Ridge conducted the audit and filed the 2012 Compliance Audit of the Delivery Capital Recovery (DCR) Rider ("Blue Ridge Audit Report") with the Commission on March 25, 2013. Ultimately, Blue Ridge recommended a $470,614 reduction to Rider DCR's revenue requirement.[6]

The Auditor also recommended that FirstEnergy submit more detailed information regarding savings and efficiencies gained due to its merger.[7] This additional information, Blue Ridge recommended FirstEnergy submit, should be provided to Blue

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[3] *In the Matter 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*, Case No. 10-388-EL-SSO, Opinion and Order at 11 (August 25, 2010).

[4] *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, Opinion and Order at 10, 34 (July 18, 2012).

[5] *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, Opinion and Order at 34, 44 (July 18, 2012).

[6] Compliance Audit of the 2012 Delivery Capital Recovery (DCR) Riders of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("Blue Ridge Audit Report") at 18 (filed March 25, 2013).

[7] Blue Ridge Audit Report at 48 (March 25, 2013).

Ridge and reviewed as part of a supplemental audit. But FirstEnergy has not provided the information, and Blue Ridge has not been ordered by the Commission to examine the additional information requested and determine whether it impacts the revenue requirement for Rider DCR. But a supplemental review and audit are warranted.

It is FirstEnergy's customers who pay the DCR Rider. FirstEnergy's customers should receive the benefit of any savings and efficiencies gained as a result of the investment in plant in service that they pay for through Rider DCR. Any other element impacted, such as increased revenue, should also be recognized in the calculation of the revenue requirement for Rider DCR. Such savings and incremental revenue should be offset against the revenue requirement associated with the investments FirstEnergy included for collection from customers through Rider DCR in 2012, as well as, in future years. The comments of the Office of the Ohio Consumers' Counsel ("OCC") are as follows.

II. COMMENTS

The Blue Ridge Auditor recognized that certain projects related to Rider DCR, "will increase the efficiency and promote savings **with no indication on how the benefits will be given back to ratepayers**."[8] Accordingly, the Blue Ridge Auditor "recommend[ed] that FirstEnergy include quantification of any increase in efficiency and savings within its project justifications."[9] OCC supports this Auditor recommendation. The Commission should now order FirstEnergy to provide the information to the Auditor.

[8] Blue Ridge Audit Report at 48 (March 25, 2013).

[9] Blue Ridge Audit Report at 48 (March 25, 2013).

The Commission should authorize the Auditor to modify its recommendations (adjustments in Rider DCR) in the Blue Ridge Audit Report based upon its findings of the supplemental audit of merger savings, operation and maintenance savings and increased Utility revenues. In the alternative, OCC requests that the Commission require an investigation of the aforementioned issues in the next scheduled audit of FirstEnergy's Rider DCR.

A. The Commission Should Order a Supplemental Audit of Merger-Related Costs and Savings as Recommended by the Blue Ridge Auditor.

While admitting that some parts of the audit were "**challenging** due to recent mergers,"[10] the Blue Ridge Auditor noted the possibility that some merger costs either exceeded expectations or should result in savings.[11] In fact, one of the two significant projects that the Auditor determined "would increase efficiency and promote savings"[12] included the $20,178,564 worker order #ITS-SC-M00009-1 entitled "Merger, Consolidate Network Operations."[13] Significant departures from budget projections, which justifies a more in-depth audit of Rider DCR to determine how both the costs and the savings associated with the merger affect the revenue requirement for Rider DCR.[14] For these reasons, OCC requests that the Commission follow the Blue Ridge Auditor's

[10] Blue Ridge Audit Report at 25 (March 25, 2013) (emphasis added).

[11] Blue Ridge Audit Report at 48 (March 25, 2013) (stating "Six of the 11 IT work orders selected for testing were over budget by 15% or more . . . FirstEnergy explained that four of the project overruns were related to merger projects").

[12] Blue Ridge Audit Report at 48 (March 25, 2013).

[13] Blue Ridge Audit Report at 48 (March 25, 2013).

[14] *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376, Entry at 9 (March 7, 2012). This is consistent with prior decisions by this Commission, which directed that "savings, costs and benefits of the merger be reviewed as part of an audit to be conducted by Staff or an independent auditor . . . At a minimum the audit shall review merger costs, the effects of reducing barriers to the deployment of new technologies and to research and development projects and any savings associated with the merger."

recommendation and require FirstEnergy to provide the information requested by the Auditor and order a supplemental review of the costs and savings associated with the merger. Any savings identified for 2012 should be flowed back to customers through Rider DCR.

B. The Commission Should Order a Supplemental Audit to Ensure that FirstEnergy's Customers Receive the Benefits of the Operations and Maintenance Cost Savings That Result From The Investment in Distribution Facilities.

Rider DCR is designed to allow "investments in the Companies' distribution infrastructure."[15] It stands to reason, therefore, that investing in new distribution system facilities will significantly reduce FirstEnergy's costs of operating and maintaining its aging infrastructure. FirstEnergy's Operations and Maintenance ("O&M") costs that are imbedded in base rates and are paid by customers so that FirstEnergy can operate and maintain the older distribution system. However, as aging infrastructure is replaced by new facilities, such cost reductions are likely to include costs for repairing transformers, circuits, insulators and poles as well as improved line losses due to the replacement of older wires. By investing in a new and updated infrastructure through Rider DCRs, FirstEnergy should have reduced, and will continue to further reduce, many of the O&M costs imbedded in existing base rates associated with an older distribution system. However, the Auditor did not conduct, and was not instructed to conduct, a review of any possible O&M savings that may have resulted (and will result) from Rider DCR.

[15] *In the Matter 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*, Case No. 10-388-EL-SSO, Opinion and Order at 25 (August 25, 2010).

The natural gas industry has implemented programs where the aging pipeline systems are being replaced on an accelerated basis.[16] In each of those cases, one of the touted benefits by the gas utilities was that there would be a reduction to the maintenance costs associated with repairing pipeline leaks. In each of those cases, the maintenance savings are captured, and passed back to customers as part of the annual rider calculation.

For example, Dominion East Ohio ("Dominion") first raised the issue of savings, in the Company's 08-169-GA-ATA Application. Dominion cited to the $8.5 million in O&M savings that Duke's customers had realized at that point and stated, "Dominion also anticipates *significant benefits from a reduced incidence of leak repair expenses*, and like Duke will credit savings in avoided O&M costs to customers."[17] Because of the implementation of the Pipeline Infrastructure Replacement ("PIR") Program, the Commission's 2009 PIR Case Order recognized that commitment by Dominion.[18]

The Commission should similarly recognize the importance of identifying the O&M cost savings that are likely to be realized by FirstEnergy from the DCR investments. If such benefits are being realized by FirstEnergy as part of the DCR program, then such benefits should be identified and passed back to customers. This would ensure that FirstEnergy's shareholders are not unjustly enriched at the expense of customers through the retention of savings. Therefore, the Commission should order a supplemental audit of the 2012 DCR to include the identification of O&M savings, and

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[16] *In re Implementation of Duke Energy Ohio, Inc. Accelerated Main Replacement Program,* Case No. 01-1228-GA-AIR, et al., I*n re Implementation of Dominion East Ohio Pipeline Infrastructure Replacement Program,* Case No. 08-169-GA-ALT., *In re Implementation of Vectren Energy Delivery of Ohio, Inc. Distribution Replacement Rider,* Case No. 07-1028-GA-AIR, et al, *In re Implementation of Columbia Gas of Ohio, Inc. Infrastructure Replacement Program, Case No. 08-72-GA-AIR, et al.*

[17] *In re Implementation of Dominion East Ohio Pipeline Infrastructure Replacement Program,* Case No. 08-169-GA-ALT, Application at Paragraph 6, page 3 (February 22, 2008). (Emphasis added.)

[18] *In re Dominion 2009 PIR Case*, Case No. 09-458-GA-RDR, Order at 11 (December 16, 2009) ("**Because immediate customer savings were articulated as a goal of the PIR program**, * * *") (Emphasis added).

provide for an adjustment in the annual Rider DCR calculation that incorporates the flow back to customers of any O&M savings that occur as a result of the DCR investments. Alternatively, the Commission should request that the Auditor review O&M savings in future audits of Rider DCR.

C. The Commission Should Order a Supplemental Audit to Ensure that FirstEnergy's Customers Receive the Benefits of any Increased Revenues, Created by Additional Investment in Distribution Facilities.

The DCR Rider, creating an investment in the distribution infrastructure, may also be used to install facilities to serve new customers. The investment in facilities to serve new customers results in FirstEnergy generating new revenues. However, the Blue Ridge Auditor did not take into account the extent to which the new infrastructure has resulted in new customer growth and additional revenues for FirstEnergy as the assets are (and will continue to be) put into service pursuant to the DCR program. Like the Auditor's recommendation regarding efficiency savings, FirstEnergy should be required to quantify any additional revenues that will be generated by the investments paid for through Rider DCR.[19] Otherwise, customers have paid and will continue to pay for the costs of the newly installed assets through Rider DCR rates, but receive none of the benefit FirstEnergy enjoys through the generation of additional revenues. Therefore, OCC recommends that there be a supplemental audit in order to determine and quantify whether FirstEnergy has recognized any additional revenues, and if so, ensure those additional revenues are accounted for in the Rider DCR revenue requirement calculation and the benefits of the additional revenues have been passed back to customers (and are

[19] Blue Ridge Audit Report at 48 (March 25, 2013).

not being enjoyed by the Utility's shareholders). Alternatively, the Commission should request that the Auditor review increased revenues in future audits of the DCR Riders.

III. CONCLUSION

For the reasons more fully explained above, this Commission should order FirstEnergy to submit the information requested by Blue Ridge as well as any financial information reflecting O&M savings or increased revenues achieved as a result of FirstEnergy's 2012 DCR investments. The Commission should authorize the Auditor to modify its recommendations (adjustments in Rider DCR) in the Blue Ridge Audit Report based upon its findings of the supplemental audit, or in the alternative expand future audits to review the aforementioned financial information. Finally, OCC further requests the Commission to order that any cost savings and increased revenues flow back to the customers that pay for future distribution investment through the Rider DCR.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was served on the persons stated below via electronic transmission, this 17th day of July 2013.

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