

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of Chapter 4901:1-35 of the Ohio) Case No. 18-1188-EL-ORD
Administrative Code)

**JOINT REPLY COMMENTS OF
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY AND THE TOLEDO EDISON COMPANY AND OHIO POWER
COMPANY**

/s/ Robert M. Endris
Robert M. Endris (#0089886)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
(330) 384-5728
(330) 384-3875 (fax)
rendris@firstenergycorp.com

*Attorney for Ohio Edison Company, The Cleveland
Electric Illuminating Company and The Toledo Edison
Company*

/s/ Steven T. Nourse
Steven T. Nourse (0046705)
Counsel of Record
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215

Attorney for Ohio Power Company

I. INTRODUCTION

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company and Ohio Power Company (“Companies”) Reply to the Comments of the Office of the Ohio Consumers’ Counsel (“OCC”). OCC’s Comments challenge the use of electric security plans (“ESPs”) and recommend changes to the requirements for ESP applications in Rule 4901:1-35-03, Ohio Admin. Code. As explained below, OCC’s attacks on ESPs are based on false premises and incorrectly target Commission rules, rather than the statutes the rules implement. Further, most of OCC’s recommended rule changes would burden ESP applications with unnecessary and impractical requirements. The Commission should reject these recommendations.

II. REPLIES TO COMMENTS

A. ESPs Give Customers the Benefit of Competitive Market Pricing for Electric Generation Service and Are Only Approved if Better for Customers than an MRO

OCC’s Comments challenge the use of ESPs with arguments outside the scope of this rule review. For instance, OCC mistakenly asserts that ESPs do not give customers the benefit of competitive market pricing.¹ To the contrary, ESPs have historically used competitive bid processes to procure generation for EDUs’ standard service offer. These ESPs provide competitive market pricing for generation, no differently than a market rate offer (“MRO”). OCC also criticizes the availability of riders under an ESP.² This criticism, however, is misplaced in this rule review. Riders are available by virtue of the ESP statute, not the Commission’s rules.

¹ See OCC Comments at p. 1 (contending that under ESPs, customers “have *never* been given the benefit of a market rate offer with its competitive pricing of electricity” and that under an ESP, “competitive market pricing is foregone....”).

² OCC Comments at p. 1.

Moreover, the ESP statute requires that ESPs be more favorable in the aggregate than an MRO.³ This means that no ESP is approved unless the Commission has determined that the ESP will benefit customers more than an MRO. Because OCC's criticisms of ESPs are based on mistaken premises and out of place in this rule review, they should be rejected.

B. OCC's Recommended Requirements for SSO Applications Are Unnecessary, Impractical or Redundant

OCC recommends several changes to the requirements for SSO applications in Rule 4901:1-35-03. Most of these changes are unnecessary, impractical or redundant. For instance, OCC recommends requiring an SSO application to project rate impacts of placeholder riders with initial zero-dollar rates.⁴ If a placeholder rider has an initial zero-dollar rate, that is because the rate impacts are incapable of being estimated. Also, OCC recommends adding to the standard filing requirements an evaluation of the proposed ESP under the ESP vs. MRO test.⁵ This recommendation, however, is redundant. The ESP statute already requires evaluation of a proposed ESP under the ESP vs. MRO test.⁶ Therefore, these recommendations should be rejected.

In addition, OCC recommends that the rules require an SSO application to include a schedule detailing line-item expenses to process and litigate the ESP, such as external legal and consulting fees, identified by law firm or consultant; a comparison of projected expenses to the actual and projected expenses in the most recent ESP; and current and prior write-offs of ESP expenses to operating income.⁷ Including these details in the SSO filing is unnecessary and impractical. Some of this information, if relevant, may be obtained through discovery. Some

³ R.C. 4928.143(C)(1).

⁴ OCC Comments at p. 6.

⁵ OCC Comments at p. 7.

⁶ R.C. 4928.143(C)(1).

⁷ See OCC Comments at p. 8.

information, such as law firm and consultant fees, may be competitively sensitive. And other information, such as projected expenses in the most recent ESP, likely does not exist. Further, OCC articulates no purpose that this information would serve in an ESP proceeding. Accordingly, these recommendations should also be rejected.

C. The Commission Should Reject Rule Modifications That Would Frustrate Ohio's Policy of Distribution Grid Modernization

OCC recommends additions to the filing requirements for a distribution modernization plan under Rule 4901:1-35-03(B)(9)(g), Ohio Admin. Code. Including these details in the SSO filing is unnecessary and impractical. Some of this information, if relevant, may be obtained through discovery. Also, some of OCC's recommended filing requirements would frustrate Ohio's policy in support of distribution grid modernization. Among other things, OCC recommends that prudence reviews should be completed before costs are charged to consumers.⁸ If the Commission is to promote Ohio's policy of distribution grid modernization, it is important that these rules enable timely recovery of an EDU's approved grid modernization investments. While cost recovery may be subject to appropriate prudence reviews, cost recovery should not be delayed until prudence reviews have been completed. OCC's recommended filing requirements also include a description of how a plan's performance and outcomes will be measured to verify that all projected benefits for customers are actually achieved.⁹ Again, the rules must not create risk that an EDU, after receiving Commission approval to move forward with grid modernization investments, has recovery of costs disallowed because of an after-the-fact determination that projected benefits were not achieved. Any such rule modifications would chill the development and implementation of distribution modernization projects and should be rejected.

⁸ OCC Comments at p. 4.

⁹ OCC Comments at p. 5 (proposing changes to Rule 4901:1-35-03(B)(9)(g)(ii)).

III. CONCLUSION

ESPs have served Ohioans well by providing for distribution modernization and competitive market-based default generation service. OCC's recommended modifications to the SSO rules are unnecessary for Commission's review of individual ESP applications, and also thwart the General Assembly's intent to support distribution infrastructure investment and modernization. The Companies respectfully request the Commission reject OCC's recommendations, and adopt the modifications proposed in the Companies' initial Comments that reflect the practical logistics of such voluminous filings.

Respectfully submitted,

/s/ Robert M. Endris
Robert M. Endris (#0089886)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
(330) 384-5728
(330) 384-3875 (fax)
rendris@firstenergycorp.com

*Attorney for Ohio Edison Company, The Cleveland
Electric Illuminating Company and The Toledo Edison
Company*

/s/ Steven T. Nourse (per email authorization)
Steven T. Nourse (0046705)
Counsel of Record
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215

Attorney for Ohio Power Company

CERTIFICATE OF SERVICE

On September 6, 2019, the foregoing document was filed with the Public Utilities Commission of Ohio's Docketing Information System. The PUCO's e-filing system will electronically serve notice of the filing of this document.

/s/ Robert M. Endris
*One of the Attorneys for Ohio Edison
Company, The Cleveland Electric Illuminating
Company and The Toledo Edison Company*

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/6/2019 12:21:58 PM

in

Case No(s). 18-1188-EL-ORD

Summary: Comments Reply Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, and Ohio Power Company electronically filed by Mr Robert M Endris on behalf of Ohio Edison Company and The Toledo Edison Company and The Cleveland Electric Illuminating Company and Ohio Power Company