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 APPROVAL OF THEIR ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAM PORTFOLIO PLANS FOR 2017 THROUGH 2019.	:	Case No. 16-743-EL-POR

COMMENTS OF THE OHIO ENERGY GROUP

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INTRODUCTION AND SUMMARY

On February 24, 2021, in response to an Application for Rehearing filed by the Office of the Ohio Consumers' Counsel ("OCC"), the Public Utilities Commission of Ohio ("Commission" or "PUCO") issued a Fifth Entry on Rehearing requesting comments on "*whether, in consideration of the history, purpose and nature of Rider ELR, Rider ELR is an energy efficiency program established pursuant to the mandates contained in R.C. 4928.66 which should be terminated pursuant to R.C. 4928.66(G).*"[2]

[1] The members of the Ohio Energy Group ("OEG") who take service from Toledo Edison Company, Ohio Edison Company, and Cleveland Electric Illuminating Company (collectively, "FirstEnergy") are: Air Products and Chemicals, Inc., AK Steel Corporation, Cleveland Cliffs Steel LLC (formerly ArcelorMittal USA LLC), BP-Husky Refining, LLC, Cargill, Incorporated, Charter Steel, Elyria Foundry, Fiat Chrysler Automobile US LLC, Ford Motor Company, General Motors LLC, Greif, Inc., Howmet Aerospace Inc. (formerly Arconic), Johns Manville, Linde LLC (formerly Praxair), Martin Marietta Magnesia Specialties, LLC, Materion Brush Inc., Messer, LLC, Nature Fresh Farms USA LLC, North Star BlueScope Steel, LLC, POET Biorefining, PTC Alliance Holding Corporation, TimkenSteel Corporation and Worthington Industries.

[2] Fifth Entry on Rehearing at 3-4.

The short answer is "*no*." Rider ELR (the "Economic Load Response Program Rider") was not established pursuant to the energy efficiency/peak demand reduction ("EE/PDR") mandates contained in R.C. 4928.66 and therefore should not be terminated pursuant to R.C. 4928.66(G). Instead, Rider ELR was established to serve reliability and economic development functions through the Electric Security Plan ("ESP") process pursuant to R.C. 4928.143.

This important distinction is understood by examining the way that R.C. 4928.66 EE/PDR portfolio plan costs were recovered while the mandates were in effect. During that period, FirstEnergy recovered all of its portfolio plan costs through the DSE2 charge of the Demand Side Management and Energy Efficiency ("DSE") Rider.[3] Accordingly, the DSE2 charge is the only cost recovery mechanism that must be terminated pursuant to R.C. 4928.66(G).

Conversely, FirstEnergy recovers the costs associated with Rider ELR through both the DSE1 charge and its EDR (the "Economic Development Rider").[4] Neither of these ESP-established cost recovery mechanisms are impacted by R.C. 4928.66(G) nor any other provision of H.B. 6.

Treating Rider ELR as an EE/PDR program established pursuant to R.C. 4928.66 would run counter to long-standing Commission precedent. Rider ELR was first approved in FirstEnergy's initial ESP case pursuant to R.C. 4928.143.[5] Rider ELR was then reapproved in

[3] Attachment 1. (DSE Rider of Ohio Edison, which is identical to the DSE Riders of Toledo Edison and CEI).

[4] Attachment 2. (EDR Rider of Ohio Edison, which is identical to the EDR Riders of Toledo Edison and CEI).

[5] *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*, Case No. 08-935-EL-SSO, Second Opinion and Order (March 25, 2009) ("**2009 ESP Order, ESP I**").

each of FirstEnergy's subsequent three ESPs.[6] This long-standing treatment of Rider ELR as an ESP mechanism is consistent with the Commission's authority under R.C. 4928.143 to approve ESP provisions related to economic development, job retention, energy efficiency, and distribution system reliability.

The Commission has also repeatedly treated Rider ELR as distinct from EE/PDR portfolio programs by: 1) rejecting arguments that the merits of Rider ELR should be addressed in the EE/PDR portfolio cases; 2) including Rider ELR as part of its analysis of whether the ESPs were "*more favorable in the aggregate*" than a Market Rate Offer ("MRO"); and 3) holding that ELR customers could opt out of their utility's EE/PDR portfolio plan costs and benefits pursuant to R.C. 4928.6611 and R.C. 4928.6613.

Rider ELR serves two primary functions and one secondary function. The first primary function is to support system reliability by giving the utility, transmission operator, or PJM the ability to curtail load on short notice during system emergencies. The other primary function is to promote economic development by providing competitive electric rates to energy-intensive industrial customers that can interrupt their operations. As a secondary function, the interruptible attributes of Rider ELR have been permitted to count for purposes of compliance with the peak demand reduction ("PDR") benchmarks under R.C. 4928.66. This secondary function does not alter the fact that Rider ELR was approved as an ESP mechanism. It was not

[6] *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*, Case No. 10-388-EL-SSO, Opinion and Order (August 25, 2010) ("**2010 ESP Order, ESP II**"); *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*, Case No. 12-1230-EL-SSO, Opinion and Order (July 18, 2012) ("**2012 ESP Order, ESP III**"); *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*, Case No. 14-1297-EL-SSO, Opinion and Order (March 31, 2016) ("**2016 ESP Order, ESP IV**").

established as part of FirstEnergy's EE/PDR portfolio plan. Thus, R.C. 4928.66(G) does not apply to Rider ELR.

Below is a summary of the many legal and practical differences between Rider ELR and the legislatively mandated EE/PDR portfolio plans:

	Rider ELR	**EE/PDR Portfolio Plans**
Statutory basis?	R.C. 4928.143	R.C. 4928.66
Established in ESP?	Yes (ESPs I, II, III, & IV)	No
Established in EE/PDR case?	No	Yes
Cost recovery mechanism(s)?	DSE1 and EDR	DSE2
Included in ESP/MRO test?	Yes	No
Legislatively mandated?	No	Yes
Commission Discretionary?	Yes	No
Financial penalty to participants?	Yes	No
Financial penalty to EDU?	No	Yes
Can participants opt-out of EE/PDR charges?	Yes	No
Used during emergencies for reliability?	Yes	No
Furthers economic development objectives?	Yes	No
Helped achieve PDR benchmarks?	Yes	Yes

LEGAL BACKGROUND

In 2008, the Ohio Legislature enacted R.C. 4928.66 through Senate Bill 221. That statute required all electric distribution utilities ("EDUs") to reduce their energy sales to retail customers by prescribed annual percentages measured against an historic baseline.[7] The new law also required all EDUs to implement PDR programs designed to reduce their average peak demands over the prior three years by prescribed annual percentages.[8] Together, these provisions constituted the mandated EE/PDR benchmarks.

Throughout the existence of the mandated EE/PDR benchmarks, the Commission authorized utility compliance in triennial portfolio plan cases.[9] The Commission was also required to assess a forfeiture penalty on any EDU for unexcused undercompliance or noncompliance with the benchmarks in amounts set forth in the statute.[10]

The EE/PDR benchmarks were reduced by Senate Bill 310 in 2014. The EE/PDR opt out provisions were also added in 2014. Specifically, under R.C. 4928.6611, large customers were permitted to "*opt out of the opportunity and ability to obtain direct benefits from the utility's portfolio plan.*" And under R.C. 4928.6613, an opt out customer was not "*subject to any cost recovery mechanism under section 4928.66 of the Revised Code or eligible to participate in, or directly benefit from, programs arising from electric distribution utility portfolio plans approved by the public utilities commission.*"

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[7] R.C. 4928.66(A)(1)(a).

[8] R.C. 4928.66(A)(1)(b).

[9] *See e.g. 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 2009 through 2011,* Case Nos. 09-1947-EL-POR *et. al.* ("2010-2012 EE/PDR Portfolio Case").

[10] R.C. 4928.66(C).

In H.B. 6 (passed in 2019), the Legislature began the process of terminating all EE/PDR "*portfolio plans*" and EE/PDR "*cost recovery mechanisms*." H.B. 6 directs that "[a]*ll portfolio plans shall terminate*" on December 31, 2020 and all EDU "*cost recovery mechanisms authorized for compliance with*" R.C. 4928.66 "*shall terminate*" once "*full compliance*" (17.5% state-wide cumulative energy savings) was achieved.[11] The Commission recently addressed these requirements, stating:

> *R.C. 4928.66(G), effective October 22, 2019, terminates Ohio's annual energy efficiency savings requirements on December 31, 2020, and reduces the total cumulative savings requirement to a statewide collective benchmark of 17.5 percent.*
>
> *Pursuant to R.C. 4928.66(G), on February 26, 2020, the Commission determined that the termination of all EE/PDR portfolio plans must occur no later than December 31, 2020, and ordered a wind-down of the statutorily required EE/PDR programs to commence on September 30, 2020.*
>
> ***
>
> *Accordingly, given that the statewide collective benchmark of 17.5 percent has been met and December 31, 2020 has since passed, we direct that the EDUs' EE/PDR cost recovery riders terminate.*[12]

It is also important to recognize what H.B. 6 did not do. H.B. 6 did not modify or amend the ESP statute. Such a change was not necessary because the EE/PDR mandates functioned independent of the ESP process and were required whether the utility operated under an ESP or under an MRO. And except as to legacy generation resource ("OVEC") cost recovery (*see* R.C. 4928.148), H.B. 6 did not modify or amend any ESP orders previously issued by the Commission.

[11] R.C. 4928.66(F) and (G).

[12] *In the Matter of the Application of Ohio Power Company for Approval of Its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2020*, Case Nos. 16-574-EL-POR *et. al.* Order (February 24, 2021) at 2 and 4.

DESCRIPTION OF RIDER ELR

The terms and conditions of Rider ELR are contained in a detailed six-page tariff that was approved and modified in ESPs I, II, III and IV.[13]

Rider ELR is available to customers served at primary voltages or higher that meet seven conditions: 1) the customer took service under Rider ELR as of May 2016 or was eligible to do so; 2) the customer can reduce its load to a Firm Load level within two hours; 3) the customer executes the standard ELR contract; 4) the customer is taking generation service from the Company or a CRES using consolidated billing; 5) the customer is not allowed to participate in any PJM demand response program; 6) the customer commits its demand response capability to the Company for compliance with R.C. 4928.66; and 7) the Commission finds that the demand response capabilities of Rider ELR customers count toward the PDR benchmarks of R.C. 4928.66.

Rider ELR customers were not precluded from opting out of EE/PDR portfolio plan cost recovery mechanisms. Rider ELR specifically provides that *"[n]othing herein shall preclude a customer from requesting and receiving an exemption from any mechanism designed to recover the cost of energy efficiency and peak demand reduction programs to the extent the exemption is requested to reasonably encourage the commitment of the customer-sited capabilities to the Company."* In other words, the tariff allows ELR customers to opt out of the utility's EE/PDR portfolio plan cost recovery mechanism, provided those customers commit the attributes of their interruptible load toward meeting the PDR mandates. That commitment is the sixth and seventh condition of qualifying for Rider ELR.

[13] Attachment 3. (Rider ELR of Ohio Edison, which is identical to the ELR Riders of Toledo Edison and CEI).

Rider ELR customers must reduce their usage to their Firm Load level during an emergency. If an Emergency Curtailment Event is called by the utility or transmission operator (e.g. "ATSI"), then the ELR customer will be given no less than two hours' notice. Such emergency events can occur anytime during the year with no restrictions on the number of events or the duration of an event. An Emergency Curtailment Event can also be called by PJM, in which case notice will be between 30 and 120 minutes and PJM duration and timing conditions control.

If at any time during an Emergency Curtailment Event the customer's load exceeds its contract Firm Load, then the utility is authorized to disconnect the customer from the transmission system. In addition to disconnection, if at any time during an Emergency Curtailment Event the customer's load exceeds 110% of its Firm Load, then four penalties shall apply: 1) the Program Credit for the month shall be forfeited; 2) the customer will pay 300% of the prevailing PJM energy price for usage above the Firm Load level; 3) the customer will repay all Program Credits received over the prior twelve months; and 4) in the utility's sole discretion the customer may be removed from the Program for at least one year.

ARGUMENT

A. R.C. 4928.66(G) Only Terminated FirstEnergy's DSE2 Portfolio Plan Cost Recovery Mechanism.

In 2019, the Legislature terminated the EE/PDR "*portfolio plans*" of all EDUs no later than December 31, 2020.[14] Consistent with that repeal, once a statewide collective energy savings benchmark of 17.5% was met, the Commission was required to terminate the cost

[14] R.C. 4928.66(F).

recovery mechanisms authorized for compliance with R.C. 4928.66. R.C. 4928.66(G) provides that upon full compliance with the mandated EE/PDR benchmarks, "*any electric distribution utility cost recovery mechanisms authorized by the commission for compliance with this section shall terminate...*"

FirstEnergy's tariffs *explicitly* provide that the DSE2 charge was the only recovery mechanism for R.C. 4928.66 EE/PDR portfolio plan costs, stating:

> *The **DSE2 charges set forth in this Rider recover costs** incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the energy efficiency and peak demand reduction requirements in **Section 4928.66, Revised Code** through demand response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs.*[15]

Consequently, R.C. 4928.66(G) directs that the DSE2 charge must be terminated. DSE2 is the only FirstEnergy cost recovery mechanism impacted by R.C. 4928.66(G).

The costs of Rider ELR were never recovered in the now-terminated DSE2 charge. Instead, half of Rider ELR costs are recovered in the DSE1 charge:

> *The **DSE1 charges set forth in this Rider** recover costs incurred by the Company associated with customers taking service under **Economic Load Response Rider (ELR)**.*[16]

And the other half of Rider ELR costs is recovered in FirstEnergy's EDR:

> *b. Interruptible Credit Provision. Applicable to all customers taking service under the Company's **Economic Load Response Program Rider (ELR)**.*[17]

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[15] Toledo Edison, Ohio Edison, and CEI Sheet 115, 26th Revised Page 1 of 3. (emphasis added).

[16] Toledo Edison, Ohio Edison, and CEI Sheet 115, 26th Revised Page 1 of 3. (emphasis added).

[17] Toledo Edison, Ohio Edison, and CEI Sheet 116, 2nd Revised Page 1 of 5.

Neither the DSE1 charge nor the EDR charge were used for recovery of the R.C. 4928.66 EE/PDR portfolio plan costs. Rather, both of those recovery mechanisms were adopted in the Companies' ESPs to recover reliability and economic development costs. R.C. 4928.66(G) does not require termination of Commission approved cost recovery mechanisms for rates established in ESPs.

In H.B. 6, the Legislature could have modified the ESP cost recovery mechanisms for Rider ELR, as it did with respect to the ESP cost recovery mechanism for OVEC.[18] But it did not. Instead, as relevant here, H.B. 6 focused on eliminating the EE/PDR portfolio plan costs and reducing the costs of the R.C. 4928.64 renewable portfolio standards.[19] Nowhere in H.B. 6 is there any indication that the Legislature was concerned with the recovery of interruptible rate credits such as Rider ELR. Statutory interpretation is important. The Commission has correctly recognized that "[*i]n construing a statute, our paramount concern is legislative intent. In determining legislative intent, the Commission first looks to the plain language in the statute and the purpose to be accomplished. If the meaning of the statute is unambiguous and definite, it must be applied as written, and no further interpretation is necessary.*"[20] Applying that standard to this case leads to the conclusion that the ESP cost recovery mechanisms for Rider ELR were not terminated by H.B. 6.

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[18] R.C. 4928.148.

[19] *In the Matter of the Application of Ohio Power Company for Approval of Its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2020*, Case Nos. 16-574-EL-POR *et. al.* Order (February 26, 2020) at 18 ("*The amendments in H.B. 6 to both the renewable portfolio standards (RPS) and the energy efficiency provisions demonstrate the intent of the General Assembly to reduce the costs of these provisions to customers in order to facilitate the state's effectiveness in the global economy.")*

[20] Id.

B. Rider ELR Was Established Pursuant to R.C. 4928.143 To Enhance System Reliability And Promote Economic Development, Not As Part Of The EE/PDR Portfolio Plans.

Rider ELR was approved in the Companies' first ESP in 2009 and was reapproved in the Companies' ESPs II, III and IV, as the Commission's previous ESP orders reflect:

- **2009 ESP Order, ESP I at 10:** *"The Economic Load Response Program Rider (Rider ELR) and the Optional Load Response Program Rider (Rider OLR), as proposed in the Companies' ESP and as modified in attachment B to the stipulation, shall be approved."*
- **2010 ESP Order, ESP II at 45:** *"The Commission notes that continuation of Riders ELR and OLR has been one objective of several parties in this proceeding since the filing of the MRO Case. The recommendation to continue Riders ELR and OLR was the result of good faith negotiations between those parties and the other signatory parties to the Combined Stipulation."*
- **2012 ESP Order, ESP III at 37: "***The Commission agrees...that OCC/CP have failed to support their recommendations that the costs related to Riders ELR and OLR should not be collected from all customers, and no reason is apparent in light of the fact that all customer classes benefit from the rates related to ELR and OLR."*
- **2014 ESP Fifth Entry on Rehearing, ESP IV at 113:** *"In the interests of gradualism and because ELR is an economic development program, we believe that the recovery of the costs of the incremental increase in available credits under the Stipulation should be recovered from all customers, who all benefit from the economic development spurred by the ELR programs rather than through Rider EDR(e)."*

In contrast, FirstEnergy's initial R.C. 4928.66 EE/PDR portfolio plan was approved in 2011[21] - two years after the Companies' first ESP.[22] The historical timing is important. As shown on Attachment 4, recovery of ELR costs through DSE1 began June 1, 2009 pursuant to the ESP I Order. However, recovery of EE/PDR costs through DSE2 began two years later on May 18, 2011 pursuant to the first portfolio plan Order. This timing demonstrates that Rider ELR and the associated costs recovery was established and continued through ESPs.

[21] 2010-2012 EE/PDR Portfolio Case, Opinion and Order (March 23, 2011).

[22] Id.

Rider ELR serves two primary functions: 1) increasing distribution system reliability by giving the EDU, transmission operator, or PJM the ability to shed a large amount of load on 30-120 minutes notice during an Emergency Curtailment Event; and 2) promoting economic development by providing competitive electric rates to the large, energy-intensive industrial customers that have the ability and willingness to shed load during these system emergencies.

In addition to these two primary functions, Rider ELR has a secondary function. The interruptible attributes of Rider ELR have been permitted to count for purposes of compliance with the PDR benchmarks mandated under R.C. 4928.66.[23] However, Rider ELR was not established as part of the utility's EE/PDR portfolio plan which terminated on December 31, 2020. Indeed, Rider ELR was approved in ESP IV through May 31, 2024.[24] Nor were Rider ELR costs included in the EE/PDR DSE2 cost recovery mechanism, which has also terminated.

Using the already existing and already paid for Rider ELR interruptible attributes to help meet the PDR benchmarks was prudent since it saved customers money. But this secondary function was not the legal basis upon which Rider ELR was established. Rider ELR was used for, but was not established in, portfolio plans. Rider ELR was established as an ESP mechanism pursuant to R.C. 4928.143.

The Commission's approval and reapproval of Rider ELR for economic development and reliability purposes in ESPs I, II, III and IV was consistent with its legal authority. Under R.C. 4928.143(b)(2)(i) the Commission is authorized to implement "*economic development, job*

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[23] Opinion and Order (March 23, 2011) ("2011 EE/PDR Portfolio Case") at 12 ("[P}*ursuant to the combined stipulation, the demand response capabilities of customers taking services under Riders ELR and OLR will count towards the Companies' compliance with the peak demand reduction benchmarks...*").

[24] *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*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing (October 12, 2016) ("Fifth Entry on Rehearing, ESP IV").

retention, and energy efficiency programs." Additionally, in ESP proceedings, the Commission is required to ensure that each utility is "*placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system…*"[25]

Nothing in R.C. 4928.66 addresses economic development or system reliability. Economic development and system reliability are ESP matters. Because Rider ELR was established pursuant to the Commission's ESP authority, not as part of the EE/PDR mandates, R.C. 4928.66(G) does not apply.

C. The Commission Repeatedly Treated Rider ELR As Distinct From The EE/PDR Portfolio Plans.

Commission precedent reflects that Rider ELR has always been treated as distinct from the EE/PDR portfolio plans. In 2012, intervenors to the pending FirstEnergy ESP proceeding argued that the merits of Rider ELR should be addressed in an EE/PDR proceeding. The Commission rejected this argument, finding that those intervenors "*…have set forth no persuasive reason why Riders ELR and OLR would be more appropriately addressed in another proceeding.*[26] Additionally, the Commission cited the ELR as one reason why the 2012 ESP was more favorable in the aggregate than the expected results of an MRO.[27]

In the 2014 ESP Case, the Commission approved Rider ELR from 2016 through May 31, 2024, a period extending much longer than any triennial EE/PDR portfolio plan.[28] That case also addressed legal changes resulting from Senate Bill 310, including new provisions that

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[25] R.C. 4928.143(b)(2)(h) provides that "*the commission shall examine the reliability of the electric distribution utility's distribution system and ensure that customers' and the electric distributions utility's expectations are aligned and that the electric distribution utility is placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system.*"

[26] 2012 ESP Order at 37.

[27] 2012 ESP Order at 56.

[28] 2016 ESP Order.

allowed certain large customers to "*opt out of the opportunity and ability to obtain direct benefits from the utility's [EE/PDR] portfolio plan*."[29] Under the new R.C. 4928.6613, an eligible customer that elected to opt out of a utility's EE/PDR portfolio plan could not "*participate in, or directly benefit from, programs arising from electric distribution utility portfolio plans approved by the public utilities commission*." Some parties argued that ELR customers could not opt out of EE/PDR because Rider ELR was in fact part of the portfolio plan. The Commission rejected that argument and emphasized the distinction between Rider ELR and the legislatively mandated EE/PDR portfolio plans:

> *…the Commission will clarify that customers participating in the ELR program retain their statutory right to opt out of the energy efficiency programs.* ***The ELR programs existed long before the statutory energy efficiency and peak demand reduction mandates.*** *Further, the Commission has long held that* ***ELR has an economic development component*** *and ELR is funded, in part, through the economic development rider, which is paid by all customers, including those who opt out of the energy efficiency programs.*[30]

The Commission *again* emphasized this distinction in its subsequent rehearing entry, explaining:

> *…we clarified that customers participating in the ELR program retain their statutory right to opt out of the energy efficiency programs, noting that* ***the ELR programs existed long before the statutory energy efficiency and peak demand reduction mandates****, as stated by the Companies. Additionally, the Commission explained that* ***our long-standing precedent has held that ELR has an economic development component*** *and ELR is funded, in part, through the economic development rider, which is paid by all customers, including those who opt out of the energy efficiency programs.*[31]

[29] R.C. 4928.6611.

[30] Fifth Entry on Rehearing, ESP IV at 146 (emphasis added).

[31] *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*, Case No. 14-1297-EL-SSO, Eighth Entry on Rehearing (August 16, 2017) at 69-70 (emphasis added).

By finding that Rider ELR participants can opt out of the EE/PDR program costs and benefits, the Commission has already ruled that Rider ELR is not part of a portfolio plan established pursuant to R.C. 4928.66. Nothing in the plain language or legislative intent of H.B. 6 disturbs that precedent.

D. Rider ELR Is A Valuable Resource During System Emergencies.

During the "*Polar Vortex*" in January 2014, PJM experienced major reliability issues. Outages and other weather-related reliability problems caused PJM to lose roughly 40,000 MW, or 20 percent, of its generating capacity during the coldest, highest load periods. However, interruptible load resources were available during that period and helped PJM meet firm load and maintain a reliable grid,[32] with FirstEnergy requiring 33 ELR customers representing 200 MW of load to curtail their usage during the weather emergency.[33] These 33 ELR customers and their 200 MW of load performed exactly as planned during the 2014 Polar Vortex emergency.

To prove their value, Rider ELR customers must demonstrate the ability to curtail service on 30-120 minutes notice. And if they do not curtail to their Firm Load levels when called upon, ELR customers are subject to stringent penalties,[34] including disconnection from the transmission system, a 300% energy penalty, repayment of the current and prior twelve months program credits, and removal from the program. Because of the continual possibility of curtailment and penalties for non-performance, customers must accept significant financial risks and a lower quality of service in order to participate in ELR.

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[32] Direct Testimony of Stephen Baron, ESP IV, Ex. SJB-2.
[33] ESP IV, OCC Int. 2-31.
[34] Rider ELR Tariff at 5 of 6.

Conversely, customers that participated in EE/PDR portfolio plans did not receive a lower quality of service or risk significant financial penalties. Instead, it was the utilities that were subject to penalties and forfeiture for unexcused undercompliance or noncompliance with the now terminated EE/PDR mandates.

The R.C. 4928.66 PDR mandates were aimed at reducing the average system peak demand over the prior three years, not at responding to emergency events. While Rider ELR was prudently and cost-effectively used to help meet the R.C. 4928.66 PDR mandates, average peak demand reduction was not the basis for approval of Rider ELR.

E. Interruptible Rates Existed Decades Prior To The EE/PDR Mandates And Differ Substantially Among Each EDU.

As the Commission correctly recognized in FirstEnergy's most recent ESP case, "*ELR programs existed long before the statutory energy efficiency and peak demand reduction mandates.*"[35] Indeed, as far back as the 1970s, the Commission approved interruptible rates through special contracts authorized under R.C. 4905.31.[36] By the mid-1990s, in order to reduce the number of special contracts needed in the Ohio utility service territories, interruptible rates were incorporated into the tariffs of Ohio utilities, including FirstEnergy.[37]

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[35] Id.

[36] *See e.g. In the Matter of the Application of The Cleveland Electric Illuminating Company for Authority to Amend and to Increase Its Filed Schedules for Fixing Rates and Charges for Electric Service,* Case No. 71-634-Y (November 28, 1973) at 66-67; In *the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of Amendment No. 4 of an Interruptible Power Agreement (with LTV Steel Company, Inc.) et al,* Case No. 87-1079-EL-AEC, Finding & Order (October 6, 1987).

[37] *In the Matter of Interruptible Electric Service Guidelines, Pursuant to the Agreement by Participants in the Commission Roundtable on Competition in the Electric Industry,* Case No. 95-866-EL-UNC, Opinion (February 15, 1996) Opinion (April 11, 1996); *In the Matter of Interruptible Electric Service Guidelines and the Application of the Ohio Edison Company for Approval of an Interruptible Electric Service Tariff,* Case No. 95-866-EL-UNC, Finding and Order (October 17, 1996).

Consistent with this history, it is understandable that the current interruptible programs available in Ohio differ vastly from one utility to another. Since before and after the EE/PDR mandates became effective, each EDU has had the legal option to provide interruptible rate offerings that fit the makeup of the large industrial customers located in its service territory.

FirstEnergy has numerous steel manufacturers in its service territory (NorthStar Blue Scope Steel, Charter Steel, AK Steel, Arcelor Mittal, U.S. Steel, and Nucor Steel). These steel companies and their tens of thousands of direct and indirect jobs are critical to the economy of Northern Ohio. Such customers are ideal interruptible resources because they can power down energy-intensive equipment like electric arc furnaces in order to quickly shed a large amount of load during emergency events. As a result, FirstEnergy currently offers interruptible rates through Rider ELR to eligible steelmakers within its service territory.

Similarly, Ohio Power Company ("AEP Ohio") tailored its interruptible offerings to fit the different circumstances of the industrial customers in its service territory. As approved by the Commission in Case No. 16-1852-EL-SSO, AEP Ohio offers a "Legacy Customers IRP" to grandfathered interruptible customers, an "Expanded IRP" to existing non-legacy customers, and a "New Industry IRP" to new customers.[38] Each offering is subject to different terms and conditions reflecting historical rate treatment, economic development, and market considerations.

Duke Energy Ohio ("Duke") and The Dayton Power & Light Company ("DP&L") have different industrial profiles in their service territories. And neither has an interruptible rate tariff. Duke terminated its Large Customer Interruptible Load Program in 2018 but continues

[38] *In the Matter of the Application of Ohio Power 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. 16-1852-EL-SSO *et al.*, Order (April 25, 2018) at 32-36.

to offer interruptible rates to at least one customer through a reasonable arrangement.[39] DP&L does not have any customers that take interruptible service.

The vastly different interruptible rate offerings across Ohio is in stark contrast to the now terminated EE/PDR mandates. By law, all of the EDUs were required to reduce their retail energy sales and their average peak demands by the same prescribed annual percentages. This was accomplished through triennial EE/PDR portfolio plan cases, not ESPs or reasonable arrangements. This analysis sheds a practical light on why it is incorrect to assert that Rider ELR was established in FirstEnergy's now terminated EE/PDR portfolio plan.

F. Rider ELR Promotes Economic Development And Job Retention Goals.

Rider ELR provides industrial customers served at primary voltages and above the opportunity to reduce their operating costs in exchange for allowing the utility to curtail their operations on short notice when needed during emergencies. Rider ELR therefore allows large customers to secure more competitive electric rates by choosing to take a lower quality of service. The Commission specifically recognized the economic development aspect of interruptible load programs in AEP Ohio's 2011 ESP case, stating: that "[t]*he [interruptible] credit is beneficial in that it provides flexible options for energy intensive customers to choose their quality of service, and is also consistent with state policy under Section 4928.02(N), Revised Code, as it furthers Ohio's effectiveness in the global economy.*"[40]

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[39] *In the Matter of the Application of AK Steel Corporation for Approval of a Reasonable Arrangement with Duke Energy Ohio, Inc.*, Case No. 18-450-EL-AEC, Opinion and Order (June 28, 2018).

[40] *In the Matter of the Application of Columbus Southern Power Company and Ohio Power 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. 11-346-EL-SSO, Opinion and Order (August 8, 2012) at 26.

A full or partial termination of Rider ELR would economically damage the large energy-intensive customers who have taken service under that rate since ESP I and who based major planning and operations decisions on continued participation in Rider ELR.

Over the past 10 years, Wisconsin-based Charter Steel has invested more than $250 million in its Cuyahoga Heights facilities. Those improvements were made possible by a strong workforce, Ohio's positive business climate, and low the energy costs that are achieved through its participation in the ELR program. In 2019, in reliance on continued low-energy costs, Charter Steel constructed a new $150 million Special Bar Quality SBQ mill adjacent to the existing coil mill and steelmaking operations in Cuyahoga Heights. That project represents the largest single investment in the family-owned company's 81-year history.

Cleveland Cliffs, which recently acquired AK Steel and its Mansfield Works, has facilities in multiple states. Like most multi-state manufacturers, the company's production and capital investments are moved to the facilities with the lowest costs that can produce the product. Electric costs make up a relatively large portion of the total costs of production at Mansfield Works because of its two electric arc furnaces, which use a very large amount of power when they are running but can be taken offline relatively quickly when called upon. Should ELR be partially or fully eliminated, Mansfield's costs will increase and production may be moved to Pennsylvania, Northwest Indiana, or other out-of-state facilities in the Cleveland Cliffs footprint.

G. North Star BlueScope Steel's Reasonable Arrangement Independently Authorized Continuation Of Its Interruptible Credit During The Term Of Toledo Edison's ESP.

North Star BlueScope Steel is a steel manufacturer located in Delta, Ohio, which receives interruptible service credits in accordance with Rider ELR and its Reasonable Arrangement approved by the Commission under R.C. 4905.31.[41] Under its Reasonable Arrangement, North Star committed to a substantial investment in Ohio through the construction of its expanded facility at a cost of $700 million. That expanded facility will provide significant economic benefits to Fulton County, Ohio and throughout the Northwest Ohio region, including a total net annual economic impact in Ohio of approximately 700 jobs and $49 million in annual labor income.[42]

In order to financially justify the $700 million expansion, North Star's electric cost projections assumed that the facility would maintain the full ELR credit through at least 2024. The Commission's Reasonable Arrangement approval Order confirmed North Star's ability to serve as an interruptible resource for Toledo Edison through May 31, 2024, expressly holding that "[North Star's] *existing facility can retain existing interruptible credits subject to compliance with existing requirements until the end of Toledo Edison's current ESP.*"[43]

Because North Star's ability to serve as an interruptible resource on the Toledo Edison system was separately authorized by the Commission under R.C. 4905.31, independent of Rider ELR, and well outside of R.C. 4928.66, that ability should not be impacted by this case.

[41] Case No. 1950-EL-AEC, Order (June 5, 2019).
[42] Id. at 5-6.
[43] Id. at 9.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission should hold that Rider ELR is not an energy efficiency program established pursuant to the mandates contained in R.C. 4928.66 and therefore it should not be terminated pursuant to R.C. 4928.66(G).

Respectfully submitted,

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ATTACHMENT 1

RIDER DSE
Demand Side Management and Energy Efficiency Rider

The Company reserves the right to revise such schedule consistent with the Commission's final rules, which may include modification or deletion of all or portions of this schedule.

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The following charges will apply, by rate schedule, effective for service rendered beginning January 1, 2021, for all kWhs per kWh:

RATE:	DSE1	DSE2
RS	0.0377¢	0.0000¢
GS	0.0377¢	0.0000¢
GP	0.0377¢	0.0000¢
GSU	0.0377¢	0.0000¢
GT	0.0377¢	0.0000¢
STL	0.0377¢	0.0000¢
TRF	0.0377¢	0.0000¢
POL	0.0377¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR).

2. The DSE2 charges set forth in this Rider recover costs incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the, energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code through demand-response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all program costs, including but not limited to any customer incentives or rebates paid, applicable carrying costs, all reasonable administrative costs to conduct such programs, lost distribution revenues resulting from the implementation of such programs, and any performance incentives such as shared savings.

RIDER UPDATES:

1. The DSE1 charges set forth in this Rider shall be updated semi-annually. No later than December 1st and June 1st of each year, the Company shall file with the PUCO a request for approval of the Rider charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st and July 1st of each year.

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2. The DSE2 charges set forth in this Rider shall be updated and reconciled semi-annually. No later than December 1st and June 1st of each year, the Company shall file with the PUCO a request for approval of these charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st and July 1st of each year. This Rider is subject to reconciliation, including, but not limited to increases or refunds. Such reconciliation shall be based solely upon the results of audits ordered by the Commission in accordance with the July 18, 2012 Opinion and Order in Case No. 12-1230-EL-SSO, and the March 31, 2016 Opinion and Order in Case No. 14-1297-EL-SSO and upon the Commission's orders in Case No. 18-47-AU-COI. This rider shall be in effect until all costs are fully recovered.

AVOIDABILITY:

1. The DSE1 charges set forth in this Rider are avoidable for (1) those customers taking service under Rider ELR and (2) a customer, as that term is defined in Section 4928.6610, Revised Code, which elects to opt out of the Company's portfolio plan as that term is defined in Section 4928.6610, Revised Code.

2. The DSE2 charges set forth in this Rider are avoidable for (1) a customer, as that term is defined in Section 4928.6610, Revised Code, which elects to opt out of the Company's portfolio plan as that term is defined in Section 4928.6610, Revised Code and (2) Non-Residential customers who are not taking service under a unique arrangement (special contract) and meet the criteria of all of paragraphs a) through f) below.

   Each customer applying to the Company to avoid the DSE2 charges must at a minimum meet all of the criteria set forth below and must submit to the Company verifiable information detailing how the criteria are met, and must provide an affidavit from a company official attesting to the accuracy and truthfulness of the information provided. Qualification and verification on an annual basis is required, subject to the Failure to Comply section of this rider.

a) The customer is a mercantile customer, as that term is defined in Section 4928.01, Revised Code.
b) The customer identifies its capital investments and expenses related to customer-sited demand-response programs, energy efficiency programs or peak demand reduction programs.
c) For consideration of avoidance of this Rider, the customer shall provide sufficient data to illustrate that it has undertaken or will undertake energy efficiency and/or demand reduction programs that have produced or will produce energy savings and/or peak demand reductions equal to or greater than the statutory benchmarks to which the Company is subject. The energy savings and demand reductions resulting from the customer's programs shall be calculated using the same methodology used to calculate the Company's energy savings and demand reductions for purposes of determining compliance with statutory benchmarks, including normalization adjustments to the baseline, where appropriate.
d) The customer commits, in writing, its customer-sited capabilities for integration into the Company's portfolio of programs such that the customer-sited capabilities shall assist the Company in satisfying the requirements in Section 4928.66, Revised Code.
e) The customer demonstrates to the satisfaction of the Company that the avoidance of the DSE2 charges shall reasonably encourage the customer to commit its customer-sited capabilities for integration into the Company's portfolio of programs described above.
f) The customer commits to use its best efforts to cooperate with and assist the Company in conjunction with any reviews conducted by a regulatory authority of the Company's efforts to

RIDER DSE
Demand Side Management and Energy Efficiency Rider

utilize the customer's customer-sited capabilities to satisfy the requirements in Section 4928.66, Revised Code.

The customer must complete a standard application form in order to be considered for qualification to avoid charges under this Rider. The Company shall provide a standard application form upon request by the customer. Customers applying to avoid the DSE2 charges must successfully demonstrate that they have completed an energy efficiency project within the past three calendar years without financial support from the Company. The burden of proof to successfully demonstrate compliance with the standard application form lies with the customer.

Upon the Commission's approval of the customer's completed standard application form, the DSE2 charges shall be avoidable by the customer as long as, on an annual basis, the customer makes a filing with the Commission demonstrating that it remains eligible for the exemption under the criteria set forth herein.

REPORTING REQUIREMENTS:

Customers served under this Rider must submit an annual report to the Company (Director, Ohio Rates and Regulatory Affairs), no later than April 30th of each year. The format of that report shall be identical to the Standard Application Form such that a determination of the compliance with the eligibility criteria can be determined.

The burden of proof to demonstrate on-going compliance with this Rider lies with the customer.

CONFIDENTIALITY:

Customer information provided to demonstrate eligibility under this Rider, which has been identified as confidential, shall be treated as confidential by the Company. The name and address of customers eligible for the schedules, including eligible to avoid the DSE2 charges, shall be public information. The Public Utilities Commission of Ohio and its Staff shall have access to all customer and Company information related to service provided pursuant to this Rider for periodic and random audits.

FAILURE TO COMPLY:

If the customer being provided with service pursuant to this Rider fails to comply with any of the criteria for eligibility to avoid charges under this Rider, the Company will provide reasonable notice to the customer that the customer will pay all charges under this Rider. Furthermore, the Company shall charge the customer for the sum of all of the customer's avoided charges realized under this Rider, which the customer shall thus be obligated to pay.

ATTACHMENT 2

RIDER EDR
Economic Development Rider

a. Residential Non-Standard Credit Provision

APPLICABILITY:
Applicable to residential customers taking service under the Company's rate schedule RS to which the Company's Residential Distribution Credit Rider (RDC) applies. This Residential Non-Standard Credit Provision is not applied to customers during the period the customer takes electric generation service from a certified supplier.

RATE:
The following Residential Non-Standard credits are effective for service rendered beginning September 1, 2009, for all kWhs per kWh in excess of 500 kWhs per month which are consumed by the customer during the winter billing periods as defined in the Electric Service Regulations:

Customer rate schedule as of December 31, 2008	
"Special Provisions" of Residential Standard Rate Schedule (Original Sheet No. 10)	(0.0000)¢
Residential Space Heating Rate (Original Sheet No. 11)	(1.9000)¢
Residential Optional Time-of-Day (Original Sheet No. 12)	(1.9000)¢
Residential Optional Controlled Service Rider (Original Sheet No. 14)	(1.9000)¢
Residential Load Management Rate (Original Sheet No. 17)	(1.9000)¢
Residential Water Heating Service (Original Sheet No. 18)	(0.0000)¢
Residential Optional Electrically Heated Apartment Rate (Original Sheet No. 19)	(1.9000)¢

b. Interruptible Credit Provision

APPLICABILITY:
Applicable to all customers taking service under the Company's Economic Load Response Program Rider (ELR).

RATE:
The following interruptible credits will apply, by rate schedule, effective for service rendered beginning June 1, 2016 by unit of Curtailable Load, as defined in Rider ELR:

GP (per kW)	$ (5.000)
GSU (per kW)	$ (5.000)
GT (per kW)	$ (5.000)

RIDER EDR
Economic Development Rider

c. **Non Residential Credit Provision**

APPLICABILITY:
Applicable to any customer taking General Service - Transmission (GT), Street Lighting (STL) and Traffic Lighting (TRF) service under the Company's rate schedules. This Non-Residential Credit Provision is not applied during the period a customer takes electric generation service from a certified supplier.

RATE:
The following credits will apply, by rate schedule, effective for service rendered beginning January 1, 2021, for all kWhs, per kWh:

GT	(0.0000)¢
STL	(0.0000)¢
TRF	(0.0000)¢
POL	(0.0000)¢

d. **General Service - Transmission (Rate GT) Provision**

APPLICABILITY:
Applicable to any customer taking service under the Company's General Service – Transmission (Rate GT). This provision is not avoidable for customers who take electric generation service from a certified supplier.

RATE:
The following charge will apply, effective for service rendered beginning January 1, 2021:

GT (per kVA of billing demand)	$ 0.000

The following credit will apply, effective for service rendered beginning January 1, 2021:

GT (all kWhs, per kWh)	(0.0000)¢

ADDITIONAL PROVISION:
The charges provided for by Section (d) of this Rider shall be applied to the greater of (i) the measured monthly on-peak demand, or (ii) 25% of the measured monthly off-peak demand. Monthly on-peak demand is defined as the highest thirty (30) minute integrated kVA between the hours of 6:00 a.m. to 10:00 p.m. EST (equivalent to 7:00 a.m. to 11:00 p.m. EDT), Monday through Friday, excluding holidays. Holidays are defined as New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Monthly off-peak demand is defined as the highest thirty (30) minute integrated kVA for all other hours. This provision of Rider EDR is reconciled within this subpart (d) quarterly and is revenue neutral to the Companies.

RIDER EDR
Economic Development Rider

e. Standard Charge Provision

APPLICABILITY:
Applicable to any customer that takes electric service under the Company's rate schedules. This Standard Charge Provision is not avoidable for customers who take electric generation service from a certified supplier.

PURPOSE:
The charges provided for by Section (e) of this Rider recover the difference in revenues resulting from the application of rates in the otherwise applicable rate schedule, and the application of credits in sections (a), (b), and (c) of this Rider.

RATE:
The following total charges will apply, by rate schedule for all kWhs per kWh:

	Provision 1	Provision 2	Total
RS	0.0000¢	0.0108¢	0.0108¢
GS	0.2716¢	0.0088¢	0.2804¢
GP	0.2658¢	0.0034¢	0.2692¢
GSU	0.0000¢	0.0013¢	0.0013¢
GT	0.0000¢	0.0004¢	0.0004¢
STL	0.0000¢	0.0302¢	0.0302¢
TRF	0.0000¢	0.0078¢	0.0078¢
POL	0.0000¢	0.0386¢	0.0386¢

f. Provision expired

RIDER EDR
Economic Development Rider

g. **Provision expired**

h. **Automaker Credit Provision**

APPLICABILITY:
Applicable to domestic automaker facilities with more than 45 million kilowatt-hours of consumption for the 12 monthly billing periods ended December 31, 2009 at a single site. This Automaker Credit Provision is available for customers who take electric generation service from a certified supplier.

RATE:
All credits included in Section (h) of this Rider are applied only to usage that exceeds the average of the customer's twelve (12) billing periods ended December 31, 2009 ("Baseline Usage").

All kWhs over Baseline Usage, per kWh (1.0000) ¢

RIDER EDR
Economic Development Rider

i. Automaker Charge Provision

APPLICABILITY:
Applicable to any customer that takes electric service under the Company's rate schedules with the exception of General Service - Transmission (GT), Street Lighting (STL), Traffic Lighting (TRF), and Private Outdoor Lighting (POL). This Automaker Charge Provision is not avoidable for customers who take electric generation service from a certified supplier.

PURPOSE:
The charges provided for by Section (i) of this Rider recover costs associated with implementation of the Automaker Credit Provision.

RATE:
The following charge will apply effective for service rendered beginning January 1, 2021, for all kWhs per kWh:

Automaker Charge	0.0056¢

RIDER UPDATES:

The charges contained in this Rider shall be updated and reconciled on a quarterly basis. No later than December 1st, March 1st, June 1st and September 1st of each year, the Company will file with the PUCO a request for approval of the Rider charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st, April 1st, July 1st and October 1st of each year. After May 31, 2024, all provisions of this Rider shall be used for reconciliation purposes only. This Rider is subject to reconciliation, including, but not limited to increases or refunds. Such reconciliation shall be based solely upon the results of audits ordered by the Commission in accordance with the July 18, 2012 Opinion and Order in Case No. 12-1230-EL-SSO, and the March 31, 2016 Opinion and Order in Case No. 14-1297-EL-SSO.

ATTACHMENT 3

RIDER ELR
Economic Load Response Program Rider

APPLICABILITY:

This Economic Load Response Program Rider ("Program") is available to customers taking service from the Company at primary voltages or higher voltages provided that all of the following seven conditions are met at the time of initiation of service to the customer under this Rider and on a continuing basis thereafter: (i) the customer took service under the Program as of May 31, 2016 or the customer was historically eligible for Rider ELR and provided written notice of intent to participate in the Program on or before May 31, 2015 for up to an additional 136,250 kW of Curtailable Load effective on or after June 1, 2016; (ii) the customer can successfully demonstrate to the Company that it can reduce its measured load to a pre-established contract Firm Load (as defined under Other Provisions, paragraph A., below) within two hours of notification provided by the Company without the need of a generator (A customer may intend to use a generator to reduce its usage to below its Firm Load, but if the generator does not operate, the customer must still reduce its usage to or below its Firm Load. Failure of a customer to reduce its usage to or below its Firm Load shall result in the consequences listed in the Emergency Curtailment Event Section herein.); (iii) the customer executes the Company's standard Program contract; (iv) the customer is taking generation service from the Company or a Competitive Retail Electric Service ("CRES") provider using consolidated billing; (v) the customer is not participating in any other load curtailment or demand response program, including without limitation a demand response program offered by PJM Interconnection, L.L.C. ("PJM") or any other independent system operator; (vi) the customer commits its demand response capability to Company for integration into Company's R.C. § 4928.66 compliance programs; and, (vii) the Commission finds that the demand response capabilities of customers electing service under this rider shall count towards the Company's compliance with the peak demand reduction benchmarks set forth in R.C. § 4928.66 as applied by the Commission's applicable rules and regulations and shall be considered incremental to interruptible load on the Company's system that existed in 2008. Nothing herein shall preclude a customer from requesting and receiving an exemption from any mechanism designed to recover the cost of energy efficiency and peak demand reduction programs to the extent the exemption is requested to reasonably encourage the commitment of customer-sited capabilities to the Company.

RATES:

In addition to any other charges under any other rate schedules applicable to customer's service, customers participating in the Program shall also pay the charges and receive the credit set forth below:

Charges:

Program Administrative Charge: $150.00 per month

ECE Charge:

During an Emergency Curtailment Event (as defined under Other Provisions, paragraph D., below), the portion of the customer's actual measured load that exceeds its pre-established contract Firm Load for any and all hours during such event shall be assessed an ECE Charge which is calculated for each hour of the event as follows. Revenue collected by the Company as a result of any ECE Charge less amounts associated with the Commercial Activity Tax ("CAT") (as defined below) shall be credited towards costs to be collected through the DSE1 charge of Rider DSE:

RIDER ELR
Economic Load Response Program Rider

ECE Charge = (AL x PJM LMP x 300%) x (1 + LAF) x ([1/(1-CAT)])

Where:

AL = the customer's actual hourly load during an Emergency Curtailment Event that exceeds the customer's pre-established contract Firm Load.

PJM LMP = the final Real-Time Locational Marginal Price as defined and specified by PJM at the appropriate pricing node during the applicable hour(s).

CAT = the Commercial Activity Tax rate as established in Section 5751.03 of the Ohio Revised Code.

LAF = Loss Adjustment Factor
3.0% for primary voltages
0.1% for subtransmission voltages
0.0% for transmission voltages

Program Credit ("PC"):

Customers taking service under this Rider shall receive a monthly Program Credit which shall be calculated as follows:

PC = CL x ($5.00) /kW/month

Where:

CL is the Curtailable Load, which shall be calculated by the Company for each customer by subtracting the customer's contract Firm Load from its monthly highest thirty (30) minute integrated kW load occurring during the non-holiday weekday hours of 11 a.m. to 5 p.m. Eastern Standard Time (equivalent to noon to 6 p.m. EDT). In no circumstance can the CL be negative nor can the CL be in excess of a contract amount determined based upon the customers 12 month history as of February 1, 2008. Holidays are defined as New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

RIDER ELR
Economic Load Response Program Rider

Minimum Bill:

The application of the Program Credit shall not produce a total monthly bill for any customer, after including the effects of all rate schedules, riders, and if applicable, the CRES consolidated billing, that results in an average price per kWh less than two (2) cents per kWh.

OTHER PROVISIONS:

A. Firm Load

For purposes of this Rider, "Firm Load" shall be that portion of a customer's electric load that is not subject to curtailment. A customer may request a reduction to its contract Firm Load no more than once in any twelve month period. The Firm Load may be reduced to the extent that such reduction is consistent with other terms and conditions set forth in this Rider. Any such change in Firm Load shall be applied beginning with the customer's January bill immediately following the year in which the change has been approved by the Company, provided that advance written request is provided to the Company no less than thirty (30) days prior to the effective billing month of the change. The Company may increase the Firm Load at any time if the Company, at its sole discretion, determines the Firm Load is at a level that the customer fails to demonstrate that they can reach. The Company shall promptly notify the customer of any such change.

B. Load Response Program Contract

Customers taking service under this optional Rider shall execute the Company's standard Program contract which, among other things, will establish the Customer's Firm Load and commit the Customer's demand response capability to Company for purposes of Company's compliance with the peak demand reduction benchmarks set forth in R.C. § 4928.66 as applied by the Commission's applicable rules and regulations.

C. Metering

The customer must arrange for interval metering consistent with the Company's Miscellaneous Charges, Tariff Sheet 75.

RIDER ELR
Economic Load Response Program Rider

D. Emergency Curtailment Event

Upon advance notification provided by the Company, a customer taking service under this Rider must curtail all load above its Firm Load during an Emergency Curtailment Event consistent with the Company's instructions. For purposes of this Rider, an Emergency Curtailment Event shall be one in which the Company, a regional transmission organization and/or a transmission operator determines, in its respective sole discretion, that an emergency situation exists that may jeopardize the integrity of either the distribution or transmission system in the area. PJM, which is the regional transmission organization of which the Company is a member, may also initiate an Emergency Curtailment Event upon their sole determination that a pre-emergency situation exists.

If an Emergency Curtailment Event is requested solely by the Company or a transmission operator, a customer will be given no less two hours advance notification to curtail all load above its Firm Load during the Emergency Curtailment Event. An Emergency Curtailment Event requested solely by the Company or a transmission operator may occur anytime during the year with no restrictions on the number of events or the duration of an event.

If the Emergency Curtailment Event is requested by PJM, a customer will be notified by the Company of the start time of the Emergency Curtailment Event as determined by PJM. The start time of the Emergency Curtailment Event will be approximately thirty (30) minutes from the time the Company receives notification from PJM of the Emergency Curtailment Event. However, PJM at its sole discretion may grant a customer an exception to the thirty (30) minute advance notification time of either sixty (60) minutes or one hundred and twenty (120) minutes based on the customer's physical capability to provide load reduction. A customer wishing to seek such exception must submit to the Company a completed request form that the Company will then submit to PJM. If PJM approves the customer request for an exception for sixty (60) minutes, then the start time of any PJM-called Emergency Curtailment Events for that customer will be approximately sixty (60) minutes from the time the Company receives notification from PJM of the Emergency Curtailment Event. If PJM approves the customer request for an exception for one hundred and twenty (120) minutes, then the start time of any PJM-called Emergency Curtailment Events for that customer will be approximately one hundred and twenty (120) minutes from the time the Company receives notification from PJM of the Emergency Curtailment Event. The maximum duration that load must be curtailed when an Emergency Curtailment Event is called by PJM during the months of May through October will be twelve (12) hours and will only occur between 10:00 AM to 10:00 PM (Eastern Prevailing Time). For the months of November through April, the maximum duration that load must be curtailed when an Emergency Curtailment Event is called by PJM will be fifteen (15) hours and will only occur between 6:00 AM to 9:00 PM (Eastern Prevailing Time). An Emergency Curtailment Event requested solely by PJM may occur any day during the year with no restrictions on the number of events that could occur.

RIDER ELR
Economic Load Response Program Rider

During the entire period of an Emergency Curtailment Event, the customer's actual measured load must remain at or below its Firm Load with such load being measured every clock half hour. A customer's actual measured load shall be determined using the greater of the customer's highest lagging kVA or highest kW during the Emergency Curtailment Event.

If at any time during the Emergency Curtailment Event a customer's actual measured load exceeds its contract Firm Load, the Company may disconnect the customer from the transmission system for the duration of the Emergency Curtailment Event, at the customer's expense. The Company shall not be liable for any direct or indirect costs, losses, expenses, or other damages, special or otherwise, including, without limitation, lost profits that arise from such disconnection.

If at any time during the Emergency Curtailment Event a customer's actual measured load exceeds 110% of its Firm Load, the customer shall be subject to all four (4) of the following: (i) forfeit its Program Credit for the month in which the Emergency Curtailment Event occurred; (ii) pay the ECE Charge set forth in the Rates section of this Rider; (iii) pay the sum of all Program Credits received by the customer under the Program during the immediately preceding twelve billing months which shall include credits from this Rider and the Economic Development Rider; and (iv) the Company's right, at its sole discretion, to remove the customer from the Program for a minimum of 12 months.

If at any time during the Emergency Curtailment Event a customer's actual measured load is greater than 100% and less than or equal to 110% of its Firm Load during the Emergency Curtailment Event, the customer shall forfeit its Program Credit for the month in which the Emergency Curtailment Event occurred and shall pay the ECE Charge set forth in the Rates section of this Rider.

In no event shall the penalties for non-performance listed above be less than PJM's non-performance penalties plus ECE charge for a non-performing customer during the Emergency Curtailment Event.

In a PJM delivery year (June 1st – May 31st) when an Emergency Curtailment Event has not been requested of customers by PJM on this Rider between June 1 and May 7, the Company shall simultaneously interrupt all customers on this Rider by May 31 in order to meet the Company's PJM test obligations for Load Management Resources. The duration of this test will be one hour. The Company will schedule the test and Customers shall receive advance notification of the test. All provisions of this Rider shall apply to this test.

In the event of any conflict between the terms and conditions set forth in this Rider and other service reliability requirements and/or obligations of the Company, the latter shall prevail.

RIDER ELR
Economic Load Response Program Rider

E. Notification

Emergency Curtailment Event notifications called by PJM will be stated such that customers must curtail their actual measured load to Firm Load prior to the start time of the Emergency Curtailment Event set forth in the PJM notification to the Company. Emergency Curtailment Event notifications called for either by the Company or a transmission operator will be stated such that customers must curtail actual measured load to Firm Load within two hours of the time the Company sends such notification to the customer. The Company will provide customers a notification of when Emergency Curtailment Events have ended. Receipt of notifications set out in this paragraph shall be the sole responsibility of the customer.

Notification of an Emergency Curtailment Event consists of an electronic message issued by the Company to a device or devices such as telephone, facsimile, pager or email, selected and provided by the customer and approved by the Company. Two-way information capability shall be incorporated by the Company and the customer in order to provide confirmation of receipt of notification messages. Operation, maintenance and functionality of such communication devices selected by the customer shall be the sole responsibility of the customer.

F. Term

This Rider shall become effective for service rendered beginning June 1, 2016, and shall expire with service rendered through May 31, 2024.

A customer may terminate its participation in the Program consistent with other terms and conditions to be effective June 1st, so long as the customer provides written notice to the Company no less than 38 months prior to the requested June 1st date upon which the requested termination would become effective. Except as otherwise provided in this Rider, a qualifying customer may return to the Program after a hiatus from the Program of at least one (1) year on the first day of the customer's billing cycle upon at least thirty days prior written notice of the customer's intent to return.

G. Conditions

Payment by the customer of all charges herein is a condition of service under this Economic Load Response Program Rider.

ATTACHMENT 4

RIDER DSE
Demand Side Management and Energy Efficiency Rider

The Company reserves the right to revise such schedule consistent with the Commission's final rules, which may include modification or deletion of all or portions of this schedule.

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's Rate Schedules. The following charges will apply, by rate schedule, effective for service rendered beginning June 1, 2009, for all kWhs per kWh:

RATE:	DSE1	DSE2
RS	0.0345¢	0.0000¢
GS	0.0345¢	0.0000¢
GP	0.0345¢	0.0000¢
GSU	0.0345¢	0.0000¢
GT	0.0345¢	0.0000¢
STL	0.0345¢	0.0000¢
TRF	0.0345¢	0.0000¢
POL	0.0345¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

2. The DSE2 charges set forth in this Rider recover costs incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the, energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code through demand-response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all program costs, including but not limited to any customer incentives or rebates paid, applicable carrying costs, all reasonable administrative costs to conduct such programs, and lost distribution revenues resulting from the implementation of such programs.

RIDER UPDATES:

1. The DSE1 charges set forth in this Rider shall be updated semi-annually. No later than December 1st and June 1st of each year, the Company shall file with the PUCO a request for approval of the these charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st and July 1st of each year, beginning with the January 1, 2010 effective date.

RIDER DSE
Demand Side Management and Energy Efficiency Rider

The Company reserves the right to revise such schedule consistent with the Commission's final rules, which may include modification or deletion of all or portions of this schedule.

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The following charges will apply, by rate schedule, effective for service rendered beginning January 1, 2010, for all kWhs per kWh:

RATE:	DSE1	DSE2
RS	0.0196¢	0.0000¢
GS	0.0196¢	0.0000¢
GP	0.0196¢	0.0000¢
GSU	0.0196¢	0.0000¢
GT	0.0196¢	0.0000¢
STL	0.0196¢	0.0000¢
TRF	0.0196¢	0.0000¢
POL	0.0196¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

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The Company reserves the right to revise such schedule consistent with the Commission's final rules, which may include modification or deletion of all or portions of this schedule.

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The following charges will apply, by rate schedule, effective for service rendered beginning July 1, 2010, for all kWhs per kWh:

RATE:	DSE1	DSE2
RS	0.0215¢	0.0000¢
GS	0.0215¢	0.0000¢
GP	0.0215¢	0.0000¢
GSU	0.0215¢	0.0000¢
GT	0.0215¢	0.0000¢
STL	0.0215¢	0.0000¢
TRF	0.0215¢	0.0000¢
POL	0.0215¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

2. The DSE2 charges set forth in this Rider recover costs incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the, energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code through demand-response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all program costs, including but not limited to any customer incentives or rebates paid, applicable carrying costs, all reasonable administrative costs to conduct such programs, and lost distribution revenues resulting from the implementation of such programs.

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RS	0.0260¢	0.0000¢
GS	0.0260¢	0.0000¢
GP	0.0260¢	0.0000¢
GSU	0.0260¢	0.0000¢
GT	0.0260¢	0.0000¢
STL	0.0260¢	0.0000¢
TRF	0.0260¢	0.0000¢
POL	0.0260¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

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Demand Side Management and Energy Efficiency Rider

The Company reserves the right to revise such schedule consistent with the Commission's final rules, which may include modification or deletion of all or portions of this schedule.

APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The following charges will apply, by rate schedule, effective for service rendered beginning May 18, 2011, for all kWhs per kWh:

RATE:	DSE1	DSE2
RS	0.0260¢	0.1867¢
GS	0.0260¢	0.1252¢
GP	0.0260¢	0.0465¢
GSU	0.0260¢	0.0461¢
GT	0.0260¢	0.0460¢
STL	0.0260¢	0.0000¢
TRF	0.0260¢	0.4645¢
POL	0.0260¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

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APPLICABILITY:

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RATE:

	DSE1	DSE2
RS	0.0345¢	0.0000¢
GS	0.0345¢	0.0000¢
GP	0.0345¢	0.0000¢
GSU	0.0345¢	0.0000¢
GT	0.0345¢	0.0000¢
STL	0.0345¢	0.0000¢
TRF	0.0345¢	0.0000¢
POL	0.0345¢	0.0000¢

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GP	0.0196¢	0.0000¢
GSU	0.0196¢	0.0000¢
GT	0.0196¢	0.0000¢
STL	0.0196¢	0.0000¢
TRF	0.0196¢	0.0000¢
POL	0.0196¢	0.0000¢

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RATE:

	DSE1	DSE2
RS	0.0215¢	0.0000¢
GS	0.0215¢	0.0000¢
GP	0.0215¢	0.0000¢
GSU	0.0215¢	0.0000¢
GT	0.0215¢	0.0000¢
STL	0.0215¢	0.0000¢
TRF	0.0215¢	0.0000¢
POL	0.0215¢	0.0000¢

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GS	0.0260¢	0.0000¢
GP	0.0260¢	0.0000¢
GSU	0.0260¢	0.0000¢
GT	0.0260¢	0.0000¢
STL	0.0260¢	0.0000¢
TRF	0.0260¢	0.0000¢
POL	0.0260¢	0.0000¢

PROVISIONS:

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APPLICABILITY:

Applicable to any customer that takes electric service under the Company's rate schedules. The following charges will apply, by rate schedule, effective for service rendered beginning May 18, 2011, for all kWhs per kWh:

RATE:

	DSE1	DSE2
RS	0.0260¢	0.2070¢
GS	0.0260¢	0.1392¢
GP	0.0260¢	0.0677¢
GSU	0.0260¢	0.0675¢
GT	0.0260¢	0.0671¢
STL	0.0260¢	0.0000¢
TRF	0.0260¢	0.4509¢
POL	0.0260¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

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RS	0.0345¢	0.0000¢
GS	0.0345¢	0.0000¢
GP	0.0345¢	0.0000¢
GSU	0.0345¢	0.0000¢
GT	0.0345¢	0.0000¢
STL	0.0345¢	0.0000¢
TRF	0.0345¢	0.0000¢
POL	0.0345¢	0.0000¢

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GSU	0.0196¢	0.0000¢
GT	0.0196¢	0.0000¢
STL	0.0196¢	0.0000¢
TRF	0.0196¢	0.0000¢
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RS	0.0215¢	0.0000¢
GS	0.0215¢	0.0000¢
GP	0.0215¢	0.0000¢
GSU	0.0215¢	0.0000¢
GT	0.0215¢	0.0000¢
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GSU	0.0260¢	0.0000¢
GT	0.0260¢	0.0000¢
STL	0.0260¢	0.0000¢
TRF	0.0260¢	0.0000¢
POL	0.0260¢	0.0000¢

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RATE:	DSE1	DSE2
RS	0.0260¢	0.2008¢
GS	0.0260¢	0.0776¢
GP	0.0260¢	0.0352¢
GSU	0.0260¢	0.0351¢
GT	0.0260¢	0.0350¢
STL	0.0260¢	0.0000¢
TRF	0.0260¢	0.9973¢
POL	0.0260¢	0.0000¢

PROVISIONS:

1. The DSE1 charges set forth in this Rider recover costs incurred by the Company associated with customers taking service under the Economic Load Response Rider (ELR) and Optional Load Response Rider (OLR).

2. The DSE2 charges set forth in this Rider recover costs incurred by the Company associated with the programs that may be implemented by the Company to secure compliance with the, energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code through demand-response programs, energy efficiency programs, peak demand reduction programs, and self-directed demand-response, energy efficiency or other customer-sited programs. The costs initially deferred by the Company and subsequently fully recovered through this Rider will be all program costs, including but not limited to any customer incentives or rebates paid, applicable carrying costs, all reasonable administrative costs to conduct such programs, and lost distribution revenues resulting from the implementation of such programs.

RIDER UPDATES:

1. The DSE1 charges set forth in this Rider shall be updated semi-annually. No later than December 1st and June 1st of each year, the Company shall file with the PUCO a request for approval of the these charges which, unless otherwise ordered by the PUCO, shall become effective on a service rendered basis on January 1st and July 1st of each year, beginning with the January 1, 2010 effective date.

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 26th day of March 2021 to the following:

/s/ Michael L. Kurtz
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