

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 )	Case No. 09-1820-EL-ATA
Edison Company for Approval of Ohio )	Case No. 09-1821-EL-GRD
Site Deployment of the Smart Grid )	Case No. 09-1822-EL-EEC
Modernization Initiative and Timely )	Case No. 09-1823-EL-AAM
Recovery of Associated Costs. )	

ENTRY ON REHEARING

The Commission finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) are electric distribution utilities as defined in R.C. 3928.01(A)(6) and public utilities as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.
- (2) R.C. 4928.141 provides that an electric distribution utility shall provide customers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including firm supply of electric generation services. The SSO must be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

Procedural History

- (3) On January 21, 2009, the Commission approved the creation of an advanced metering infrastructure rider (Rider AMI) as a mechanism for the recovery of costs related to the deployment of smart grid and advanced metering infrastructure. *In re FirstEnergy*, Case No. 07-551-EL-AIR, et al., Opinion and Order (Jan. 21, 2009) at 44-45.
- (4) On July 31, 2008, as amended on February 19, 2009, FirstEnergy filed an application for an ESP in *In re FirstEnergy*, Case No. 08-935-EL-SSO (*FirstEnergy ESP I Case*).

- (5) On March 25, 2009, the Commission approved the stipulation filed in the *FirstEnergy ESP I Case*. In the stipulation, FirstEnergy committed to developing a proposal to pursue federal funds that may be available for smart grid investment. The signatory parties also agreed that recovery for smart grid investment would be through an unavoidable rider. *FirstEnergy ESP I Case*, Second Opinion and Order (Mar. 25, 2009) at 13.
- (6) In furtherance of FirstEnergy's commitment, FirstEnergy submitted its Smart Grid Modernization Initiative (Smart Grid Program) to the United States Department of Energy (DOE) on August 6, 2009. FirstEnergy received notification that its Smart Grid Program was selected for award negotiations from DOE on October 27, 2009.
- (7) On November 18, 2009, in this proceeding, FirstEnergy filed an application with the Commission for approval of its proposed Ohio Site Deployment, a three-year pilot program of the Companies' Smart Grid Program. By Finding and Order issued on June 30, 2010, the Commission approved FirstEnergy's application for the Smart Grid Program with modifications, specifically Phase 1 of the Smart Grid Program, which was an initial test phase of 5,000 customers. The Commission provided that, after reviewing the results of Phase 1, the Commission would make a decision whether the Companies should proceed to Phase 2, or expansion of the initial test phase to 44,000 customers.
- (8) On October 19, 2012, the Companies filed a report on the Consumer Behavior Study of Phase 1 of the Smart Grid Program as well as a request for a directive from the Commission as to whether the Companies should proceed with Phase 2 of the Smart Grid Program.
- (9) On February 8, 2013, Staff filed a report (Staff Report) recommending that the Commission approve Phase 2 of the Smart Grid Program for a second and third year. Additionally, Staff made multiple additional recommendations.
- (10) On February 21, 2013, the Companies filed a letter in response (Response Letter) to the Staff Report.

- (11) Thereafter, on April 18, 2013, FirstEnergy and Staff filed a joint recommendation (Joint Recommendation) reflecting several of the proposed modifications and clarifications contained in the Response Letter, including recommendation that the Companies be permitted to develop and file an experimental residential time-of-use/on- and off-peak tariff rider.
- (12) By Finding and Order issued May 15, 2013, the Commission adopted the Joint Recommendation. The Companies were instructed to proceed with Phase 2 of the Smart Grid Program and implement the recommendations set forth in the Joint Recommendation and the Staff Report.
- (13) On May 1, 2014, the Companies filed tariff pages reflecting the pilot Residential Critical Peak Pricing Rider (Rider RCP) in order to carry out the Commission's May 15, 2013 Order. Rider RCP provides for time-of-day pricing or critical peak pricing options in lieu of the Generation Service Rider (Rider GEN) as to residential customers participating in the voluntary smart grid modernization initiative.

#### 2014 Application

- (14) On December 22, 2014, FirstEnergy filed an application seeking authority for further cost recovery to complete studies related to the Ohio Site Deployment of the Smart Grid Program. In its application, FirstEnergy stated that DOE funding for the Ohio Site Deployment would end on June 1, 2015, but that the Companies still had several years of data collection remaining to complete the Volt/VAR Optimization<sup>1</sup> and Distribution Automation<sup>2</sup> studies after June 1, 2015. Consequently, the Companies requested approval to collect 100 percent of their ongoing data collection and maintenance costs for the completion of the Volt/VAR and Distribution Automation studies.
- (15) By Finding and Order issued May 28, 2015 (Order), the Commission granted FirstEnergy's application with certain modifications. In the Order, the Commission directed the

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<sup>1</sup> Voltage/Voltage-Ampere Reactive (Volt/VAR) Optimization is intended to reduce distribution line losses and increase efficiency through control of voltage and current fluctuations.

<sup>2</sup> Distribution automation enables autonomous reaction to system disturbances such as faults and non-fault loss of voltage scenarios, which may improve service reliability for customers.

Companies to continue to offer to Phase 2 customers the voluntary two-part residential time-of-use/on- and off-peak SSO rate until otherwise ordered by the Commission. Additionally, the Commission directed the Companies to file interim reports regarding the data obtained from the Volt/VAR Optimization and Distribution Automation studies. Further, the Commission held that it would approve only recovery of prudently incurred costs, subject to an annual true-up and reconciliation. (Order at 3.)

#### Consideration of Applications for Rehearing

- (16) Pursuant to R.C. 4903.10, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days of the entry of the order upon the Commission's journal.
- (17) On June 29, 2015, Ohio Consumers' Counsel (OCC) and FirstEnergy each filed applications for rehearing regarding the Commission's May 28, 2015 Finding and Order (Order). OCC and FirstEnergy subsequently filed memoranda contra the applications for rehearing. Thereafter, by Entry on Rehearing issued July 22, 2015, the Commission granted the applications for rehearing for further consideration of the matters specified in the applications for rehearing.
- (18) In its application for rehearing, FirstEnergy asserts as its first assignment of error that the Commission should clarify the Order to include specifically full and timely cost recovery for the continuation of Rider RCP. Regarding this assignment of error, FirstEnergy asserts that the Order is unclear whether the Commission was allowing cost recovery for only costs associated with the Volt/VAR Optimization and Distribution Studies or if the language was also intended to include recovery of costs associated with Rider RCP. FirstEnergy notes that its December 2014 application did not seek approval to continue Rider RCP, as it did not believe the program warranted continuation due to its cost and limited participation. In support, FirstEnergy asserts that the estimated cost to provide the service could be \$5.8 million, while only 250 customers are expected to participate through 2019. FirstEnergy specifically requests that the Commission clarify the Order to specify that the

Companies (1) will receive cost recovery for Rider RCP, and (2) will not be subject to a prudence disallowance associated with costs incurred if only a limited number of customers elect to participate in Rider RCP.

- (19) In its second assignment of error, FirstEnergy contends that, to the extent the Commission affirmatively intended to preclude cost recovery for the continuation of Rider RCP, the Order is unreasonable and unlawful. In support, FirstEnergy states that the Commission did not include a cost recovery mechanism for the costs incurred in providing the service mandated by the Commission, even though the previous Rider RCP expired on August 31, 2014.
- (20) In its memorandum contra, OCC first asserts that FirstEnergy's application fails to meet the requirements for applications for rehearing found in R.C. 4903.10 and the Commission's rules. More specifically, OCC claims that FirstEnergy's request for clarification on cost recovery does not specify grounds on which the Commission's order is alleged to be unreasonable or unlawful and the Commission does not permit motions for clarification.

Next, OCC asserts that, even if FirstEnergy's filing was not deficient, the Commission should nevertheless deny it on the basis that a request to approve charges to customers for the time-of-use rates without a prudence review is unreasonable and should be dismissed. OCC asserts that FirstEnergy has submitted a "bare-bones" request that is unsupported by evidence and that it is unjust and unreasonable for the Commission to forgo a prudency review because it puts customers at risk for paying imprudent charges.

- (21) The Commission finds that FirstEnergy's application for rehearing should be granted. As a preliminary matter, the Commission finds OCC's claim that FirstEnergy's application for rehearing fails to meet the requirements of R.C. 4903.10 to be meritless. The application for rehearing clearly set forth the grounds for rehearing alleged by the Companies as well as the basis for the Companies' claim that the Order was unjust and unreasonable.

Further, the Commission clarifies that, as the Order required FirstEnergy to continue to offer Phase 2 customers the

voluntary two-part residential time-of-use/on- and off-peak SSO rate, FirstEnergy is entitled to seek recovery of the costs of continuing Rider RCP. Further, the Commission notes that, while recovery will be subject to a prudency review, the Commission will not disallow recovery solely based upon the number of customers electing to participate in Rider RCP. In any event, it is our expectation that FirstEnergy will take all due efforts to ensure the voluntary two-part residential time-of-use/on- and off-peak SSO rate is widely available and utilized.

- (22) In its sole assignment of error in its application for rehearing, OCC asserts that it was unjust and unreasonable for the Commission to approve FirstEnergy's application, as it authorizes FirstEnergy to charge customers \$8.5 million requested for Volt/VAR and Distribution Automation studies. OCC asserts that Commission precedent should limit customer responsibility to no more than half of FirstEnergy's prudently incurred expenses. In support, OCC cites *In re FirstEnergy*, Case No. 10-388-EL-SSO, Opinion and Order (Aug. 25, 2010) at 14, which OCC asserts found that customers' obligation would be limited to half of the charges for the Ohio Site Deployment.
- (23) In its memorandum contra OCC's application for rehearing, FirstEnergy asserts that Commission precedent does not limit customers' responsibility for the benefits derived from the studies at issue, that OCC has ignored the fact that the Companies and Staff committed to perform the studies over a period of five years, extending beyond the DOE grant period, and that the Companies are studying technology that could improve reliability, which is a benefit for customers.
- (24) The Commission finds that OCC's application for rehearing should be denied. The Commission finds that the language cited by OCC limiting customers' obligation to half of the charges for the Ohio Site Deployment clearly applied only during the time period of the DOE grant, which ended June 1, 2015. The Commission does not find that this language limits the Companies' recovery beyond June 1, 2015. Accordingly, the Companies are entitled to seek recovery of all prudently incurred costs sustained after June 1, 2015.

It is, therefore,

ORDERED, That the application for rehearing filed by FirstEnergy be granted as set forth in Finding (21). It is, further,

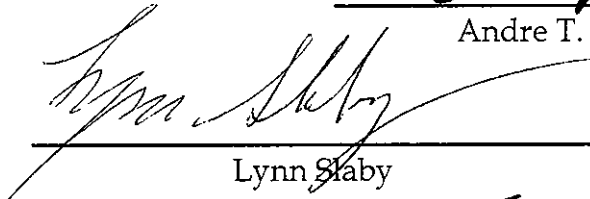
ORDERED, That the application for rehearing filed by OCC be denied as set forth in Finding (24). It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



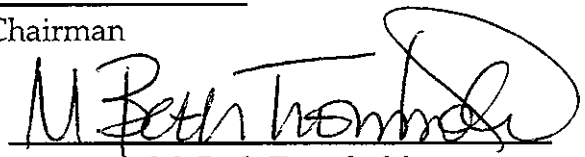
Andre T. Porter, Chairman



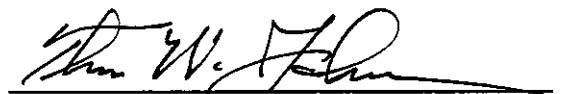
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Secretary