BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company	)))))	Case No. 20-1629-EL-RDR

COMMENTS OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY

I. INTRODUCTION

On August 3, 2021, Blue Ridge Consulting Services, Inc. ("Blue Ridge") submitted its 2020 audit report of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's ("Companies") Delivery Capital Recovery Rider ("Rider DCR"), which included an expanded scope audit of certain vendor payments, as ordered by the Commission.[1]

In the standard scope portion of the 2020 Audit Report, Blue Ridge recommends 24 adjustments[2] and makes six recommendations.[3] The Companies agree with or have already implemented the majority of the adjustments and recommendations. Further, the Companies note that Blue Ridge's recommendation regarding the capitalization of vegetation management costs[4] has been adopted by the Commission in Case No. 17-2009-EL-RDR,[5] and is thus resolved as set forth in that case. However, the Companies disagree with Blue Ridge's recommended adjustments regarding the proper excess deferred income tax ("EDIT") amounts to reflect in Rider DCR

[1] Compliance Audit of the 2020 Delivery Capital Recovery (DCR) Riders of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company and Expanded Scope (8/3/2021) ("2020 Audit Report").
[2] 2020 Audit Report at 11, 19-21.
[3] *Id*. at 21-22.
[4] *Id*. at 19, 21.
[5] Case No. 17-2009-EL-RDR (6/16/2021) Finding and Order at ¶¶40-41.

revenue requirements. As explained more fully below, the Companies' December 31, 2017 EDIT balances reflected in Rider DCR are consistent with the terms of the Stipulation and Recommendation approved by the Commission on July 17, 2019 in Case No. 18-1604-EL-UNC ("Stipulation").

Regarding the expanded scope audit of certain vendor payments, Blue Ridge recommends refunds totaling approximately $6.6 million, returned to customers through a number of rate mechanisms. Blue Ridge also recommends that approximately $7.4 million that was recorded as capital be identified and excluded from rate base in any future base rate case.[6] The Companies agree with and accept Blue Ridge's recommendations.

II. COMMENTS

A. Blue Ridge's Recommendation #2 Regarding Vegetation Management Has Been Resolved by the Commission.

In the 2020 Audit Report, Blue Ridge again recommends that the Companies revise their vegetation management accounting policy to be consistent with the FERC Uniform System of Accounts."[7] In the Commission's 2017 audit of the Companies' Rider DCR, Blue Ridge made a similar recommendation,[8] which was adopted by the Commission.[9] As the Commission explained: "[a]ddressing capitalization of tree-trimming costs, we similarly find that Blue Ridge's recommendations are reasonable and should be adopted on a going forward basis."[10] The Commission instructed the Companies:

> [T]o implement the recommendations set forth in the 2017 Audit Report as they relate to its current accounting policy for the capitalization of certain clearing activities. However, consistent with Staff's comments, tree removal during the initial clearing of the

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[6] 2020 Audit Report, Expanded Scope at 28.
[7] *See, e.g.*, 2020 Audit Report at 21, Recommendation #2.
[8] Case No. 17-2009-EL-RDR (6/16/2021) Finding and Order at ¶28.
[9] *Id*. at ¶ 40.
[10] *Id*.

> corridor or an expansion of the existing corridor may continue to be capitalized, which appears to also comply with the FERC USoA.[11]

Therefore, Blue Ridge's recommendation regarding the capitalization of vegetation management costs has been adopted by the Commission and implemented by the Companies.

B. The Companies Disagree with Blue Ridge's Adjustments # 21, 22, and 23 Regarding Excess Deferred Income Taxes.

Blue Ridge found that the December 31, 2017 EDIT balances included in Rider DCR were different from those reflected in the Stipulation.[12] Blue Ridge recommended reversing all adjustments made to these balances since the Stipulation, except for reclasses between normalized and non-normalized property, so that the Total Property EDIT reflected in Rider DCR matches the Total Property EDIT as of December 31, 2017, in the Stipulation.[13] However, Blue Ridge's recommendation regarding EDIT is inconsistent with the Commission-approved Stipulation. Blue Ridge's recommendation fails to recognize that the Stipulation plainly labels all of the balances reflected therein as "illustrative."[14] Those balances were based upon the Companies' financial reporting for 2017 but were subject to adjustment and therefore were not final. These preliminary balances were used in the Stipulation because they were the best available balances at that time, and they were labeled as "illustrative" in recognition that they were not the actual final balances.

Blue Ridge attempts to justify its recommendation to use the Stipulation's non-final "illustrative" balances by explaining that the Stipulation did not describe a "true up" reconciliation and that the Companies' external auditor had issued an unqualified opinion on the December 31, 2017 EDIT balances several months before the Stipulation was executed.[15] While the Stipulation

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[11] *Id*. at ¶ 41.
[12] 2020 Audit Report at 16-17.
[13] *Id*. at 17.
[14] Attachment A and Supplemental Attachment A, TCJA Stipulation, filed November 9, 2018 and January 25, 2019, respectively, in Case No. 18-1604-EL-UNC (all pages in Attachment A and Supplemental Attachment A containing EDIT balances labeled as "Illustrative").
[15] 2020 Audit Report at 17.

did not explicitly refer to a "true-up reconciliation," Blue Ridge appears to overlook the fact that the Stipulation requires the use of actual final balances, which necessarily contemplates such a true-up. The Stipulation provides that "[t]he actual amount of EDIT flowing back to customers will reflect the final, audited balances, including a federal and state tax gross up, as of December 31, 2017"[16] and "for all tax savings associated with the Tax Cuts and Jobs Act 2017 to flow back to customers."[17]

Blue Ridge appears to rely, in part, on information provided by the Companies in the Rider DCR audit for the year 2018, where the Companies referred to the December 31, 2017 EDIT balances included in the Stipulation.[18] This reliance is misplaced because that information was provided to Blue Ridge prior to approval of the Stipulation, so the final EDIT balances that complied with the Commission order approving the Stipulation could not have been known at that time. Following Commission approval of the Stipulation on July 17, 2019, the Companies calculated the final, audited December 31, 2017 EDIT balances, which have been used in subsequent Tax Savings Adjustment Rider (Rider TSA) compliance filings, pursuant to the Commission's Order approving the Stipulation. These EDIT balances, which are subject to continued review in the Companies' Rider TSA update filings, are included in the Companies' annual financial reporting, and are appropriately included in Rider DCR, pursuant to the Commission approved Stipulation. Use of any other balances for Rider DCR purposes would contravene the Stipulation by not flowing back to customers all tax savings reflecting final, audited balances. If Blue Ridge's recommendation were adopted, the total property-related EDIT returned

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[16] Stipulation at 9.
[17] *Id*. at 2.
[18] 2020 Audit Report at 105.

to customers through ratemaking would be $29.3 million higher than the actual liability recorded on the Companies' audited financial books.[19]

Because Blue Ridge's EDIT recommendation is in direct conflict with the plain language of the Stipulation, the Commission should reject Blue Ridge's recommendation.

C. The Companies Agree with the Remaining Adjustments and Recommendations in the Standard Scope Portion of the 2020 Audit Report.

The 2020 Audit Report accurately describes both the RFP prescribing the scope of audit services to be performed in this proceeding as well as the controlling provisions established in the Commission's approval of Rider DCR in ESP II and continued as part of ESP III and ESP IV.[20] The 2020 Audit Report further accurately documents Blue Ridge's analysis of the data provided by the Companies and identifies and explains its conclusions and recommendations. Therefore, with the exceptions of Adjustments # 21, 22, and 23 regarding Excess Deferred Income Taxes, the Companies agree with the remaining adjustments and recommendations in the standard scope portion of the 2020 Audit Report.

With respect to Blue Ridge's review of the 2019 Audit Report recommendations, the Companies note that Blue Ridge reviewed the Companies' responses to discovery and concluded that "no additional work is necessary" for Recommendation Nos. 1, 5, and 7;[21] the Commission should consider those to be fully resolved at this time. Regarding 2019 Recommendation Nos. 3 and 6, Blue Ridge observed that the Companies have implemented appropriate changes and enhancements and should continue doing so;[22] the Companies agree with these recommendations.

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[19] 2020 Audit Report at 106.

[20] Case No. 10-388-EL-SSO (ESP II) and extended in Case No. 12-1230-EL-SSO (ESP III) and Case No. 14-1297-EL-SSO (ESP IV).

[21] 2020 Audit Report at 27, 30, 31.

[22] *Id*. at 29, 31.

Regarding 2019 Recommendation No. 4, Blue Ridge recommends that the Companies create a documented process by which the Companies or the software vendor determines the split between capital and expense and that the document be subject to internal audit;[23] the Companies agree with this recommendation. 2019 Recommendation Nos. 2 and 8 deal with vegetation management and EDIT, respectively, and both are discussed above.

D. The Companies Agree with the Recommendations in the Expanded Scope Portion of the 2020 Audit Report.

Following a review of the 10K filed by FirstEnergy Corp. on February 18, 2021, which disclosed the identification of the vendor transactions at issue in the expanded scope portion of this audit,[24] Staff immediately filed a data request with the Companies for additional records related to the vendor transactions. The Companies responded to Staff's data request on February 25, 2021. At the Commission's direction, Blue Ridge expanded the scope of the 2020 Audit to determine whether any funds collected from ratepayers were used to pay the vendors and if so, whether the funds associated with those payments should be returned to ratepayers through Rider DCR or through an alternative proceeding.[25]

In the expanded scope portion of the 2020 Audit Report, Blue Ridge recommends refunds totaling approximately $6.6 million, through a number of rate mechanisms.[26] Blue Ridge also

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[23] *Id*. at 30.
[24] Specifically, FirstEnergy Corp.'s 10K stated:

> Also, in connection with the internal investigation, FirstEnergy recently identified certain transactions, which, in some instances, extended back ten years or more, including vendor services, that were either improperly classified, misallocated to certain of the Utilities and Transmission Companies, or lacked proper supporting documentation. These transactions resulted in amounts collected from customers that were immaterial to FirstEnergy, and the Utilities and Transmission Companies will be working with the appropriate regulatory agencies to address these amounts.

[25] Entry (3/10/2021) at ¶ 8.
[26] 2020 Audit Report, Expanded Scope at 28, Table 25.

recommends that approximately $7.4 million that was recorded as capital be identified and excluded from rate base in any future base rate case.[27] Blue Ridge agreed with the Companies' assessment of the vendor payments' impacts on rates and the appropriate ways to return the dollars to customers. The Companies accept Blue Ridge's recommendations in the expanded scope portion of the 2020 Audit Report.

III. CONCLUSION

For the forgoing reasons, the Companies respectfully request that the Commission:

1. Decline to adopt Blue Ridge's Adjustments # 21, 22, and 23 regarding EDIT;
2. Adopt and accept the remaining adjustments and recommendations in the 2020 Audit Report, including the expanded scope portion.

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[27] *Id*., Expanded Scope at 28.

Respectfully submitted,

<u>/s/ Ryan A. Doringo</u> ________________
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Comments by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company were filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 4th day of October, 2021. The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

*/s/ Ryan A. Doringo*____________________

One of the Attorneys for Ohio Edison Company,
The Cleveland Electric Illuminating Company and
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