

**OCC EXHIBIT NO.** \_\_\_\_\_

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
Campbell Soup Supply Company L.L.C. for ) Case No. 21-1047-EL-AEC  
the Approval of a Reasonable Arrangement )  
for its Napoleon, Ohio Plant. )

**DIRECT TESTIMONY  
OF  
MICHAEL P. HAUGH**

**On Behalf of**  
**Office of the Ohio Consumers' Counsel**  
*65 East State Street, Suite 700*  
*Columbus, Ohio 43215*

**DECEMBER 6, 2021**

## **TABLE OF CONTENTS**

	<b>PAGE</b>
I. OVERVIEW .....	1
II. PURPOSE OF TESTIMONY .....	2
III. CONCLUSION.....	8

## **ATTACHMENTS**

- Attachment MPH-1 Previous Testimony of Michael P. Haugh
- Attachment MPH-2 Motion to Intervene and Objections by the Office of the Ohio  
Consumers' Counsel

1    **I.        OVERVIEW**

2

3    ***Q1.    PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.***

4    ***A1.***    My name is Michael P. Haugh. I am the Director of Analytical Services for  
5            Markets and Competitive Services at the Office of the Ohio Consumers' Counsel  
6            ("OCC"). My business address at OCC is 65 East State Street, Suite 700,  
7            Columbus, Ohio 43215.

8

9    ***Q2.    PLEASE BRIEFLY SUMMARIZE YOUR EDUCATION AND***  
10    ***PROFESSIONAL EXPERIENCE.***

11    ***A2.***    I have a Bachelor of Science in Business Administration from the Ohio State  
12            University with a major in Finance. I have also attended the Institute of Public  
13            Utilities Advanced Regulatory Studies at Michigan State University. I have over  
14            20 years working in the energy industry with experience in wholesale and retail  
15            energy trading, risk management, natural gas purchasing and scheduling, and  
16            regulatory affairs. I started with Enron Energy Services in 1995 as an Energy  
17            Trader and then moved on to American Electric Power Energy Services in 1998  
18            where I worked in Risk Management and Wholesale Energy Trading. In January  
19            2004 I went to work for MidAmerican Energy Services as a Senior Product  
20            Manager. In October of 2004 I began work as a Senior Regulatory Analyst with  
21            the OCC. I left the OCC in September 2007 and joined Integrys Energy Services  
22            as a Regulatory Affairs Analyst. I joined Just Energy in 2009 and held the  
23            position of Manager of Regulatory Affairs before becoming Manager of Market

1 Relations in 2011. I was re-hired at the OCC in June 2014 as the Assistant  
2 Director of Analytical Services where I worked until May 2018. I then worked for  
3 Genie Energy as the Director of Energy Affairs until December of 2018. I was an  
4 independent consultant from January 2019 until I took my current position in July  
5 2021.

6

7 ***Q3. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN UTILITY CASES***  
8 ***BEFORE REGULATORY COMMISSIONS?***

9 ***A3.*** Yes, I have testified before the Public Utilities Commission of Ohio (“PUCO”)  
10 and the Michigan Public Service Commission. The complete list of cases in which  
11 I have testified is attached as Attachment MPH-1.

12

13 **II. PURPOSE OF TESTIMONY**

14

15 ***Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***  
16 ***PROCEEDING?***

17 ***A4.*** The purpose of my testimony is to make recommendations to the PUCO for  
18 resolving this case in a manner that includes reasonable protections for residential  
19 consumers. My recommendations are consistent with prior PUCO orders and I  
20 understand they are consistent with Ohio law. These protections will provide a  
21 balance for FirstEnergy (Toledo Edison) consumers considering they could be  
22 asked to subsidize another reasonable arrangement – this time for—Campbell  
23 Soup Supply Company L.L.C. (“Campbell” or “Applicant”).

At this time, the PUCO should deny this Application. The PUCO Staff should conduct a full review, as earlier anticipated, before any further reasonable arrangements are approved that involve the FirstEnergy utilities' Non-Market Based Services Rider ("Rider NMB") opt-out pilot program. This is consistent with the PUCO's direction to FirstEnergy in its last electric security plan proceeding (Case No. 14-1297-EL-SSO, et al.). Once the full review has been completed and the Staff's findings published, the PUCO can revisit the Applicant's request to expand the pilot program. Similarly, the PUCO should not consider any other Applications from non-residential customers wishing to join the Rider NMB opt-out pilot program without the benefit of the PUCO Staff's full review of the Rider NMB pilot.

***Q5. WOULD YOU PLEASE PROVIDE SOME BACKGROUND REGARDING  
FIRSTENERGY'S RIDER NMB OPT-OUT PILOT PROGRAM?***

***A5.*** The Rider NMB opt-out pilot program was approved by the PUCO in FirstEnergy's most recent electric security plan ("ESP") case.<sup>1</sup> This pilot program allowed for certain large non-residential customers<sup>2</sup> to avoid paying Rider NMB<sup>3</sup>.

FirstEnergy requested that the PUCO approve the pilot program "where the

---

<sup>1</sup> See *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Opinion & Order (Mar. 31, 2016).

<sup>2</sup> Material Science Corporation, Nucor Steel Marion, Inc., and members of Industrial Energy Users-Ohio and Ohio Energy Group.

<sup>3</sup> See *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Opinion & Order (Mar. 31, 2016) at 19.

1 Companies will seek to study the administrative burden and costs of allowing  
2 customers the option to have their marketer providers pay Rider NMB charges, as  
3 well as whether such a program would result in benefits to both participating and  
4 non-participating customers.”<sup>4</sup> The PUCO approved the pilot, stating that the pilot  
5 program would determine if avoiding the NMB would provide savings for  
6 industrial customers “without imposing significant costs on other customers.”<sup>5</sup>  
7

8 ***Q6. WHAT IS YOUR DEFINITION OF A PILOT PROGRAM?***

9 ***A6.*** A pilot program is a small-scale, short-term program that offers an opportunity to  
10 analyze and study its impacts to help learn if a larger scale project might work.  
11 The PUCO got it right in the Opinion and Order in FirstEnergy’s current ESP by  
12 declaring that the opt-out pilot program should be “continuously reviewed” and  
13 that the PUCO Staff should “periodically report finding to the PUCO.”<sup>6</sup>  
14

15 ***Q7. WHAT IS YOUR OPINION OF THE FIRSTENERGY RIDER NMB OPT-  
16 OUT PILOT PROGRAM?***

17 ***A7.*** Ratemaking is a complex process of allocating certain costs between and among  
18 different customer classes while considering things such as equity, fairness and  
19 non-discrimination for all customers. Residential customers have been required to

---

<sup>4</sup> *Id.* at 73.

<sup>5</sup> *Id.* at 94.

<sup>6</sup> *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing ¶ 310 (Oct. 12, 2016).

*Direct Testimony of Michael P. Haugh  
On Behalf of the Office of the Ohio Consumers' Counsel  
PUCO Case No. 21-1047-EL-AEC*

1 pay economic development subsidy charges while large energy users often avoid  
2 such charges.

3

4 The Rider NMB opt-out pilot was created as a way to study the impacts of certain  
5 high-usage customers arranging their own transmission service and opting out of  
6 paying Rider NMB. The PUCO expressed its interest in determining whether the  
7 pilot could avoid significant costs being shifted to other FirstEnergy customers. I  
8 appreciate the PUCO for considering possible consumer concerns about this  
9 program and choosing to do a pilot program before making it a permanent  
10 program. The PUCO's proposed process was to evaluate the results of the pilot  
11 before moving forward with a more permanent option.

12

13 Unfortunately, there appears to have been no follow through by the PUCO Staff  
14 to require the study be performed to determine whether FirstEnergy residential  
15 consumers are being harmed by this pilot program. For consumer protection, he  
16 PUCO should first complete the study of the FirstEnergy Rider NMB pilot  
17 program (that has been in place for five years) prior to allowing any additional  
18 customer to enroll.

1   ***Q8. HAS THE PUCO STAFF PROVIDED A REPORT ON ITS REVIEW OF THE***  
2                   ***ACTUAL RESULTS OF THE FIRSTENERGY RIDER NMB PILOT***  
3                   ***PROGRAM?***

4   ***A8.***   Based on my review, I have not found any reports by the PUCO Staff referencing  
5           whether there is an aggregate savings in transmission costs for all customers,  
6           whether and how much transmission costs are being shifted to non-participating  
7           customers (which would include residential consumers, who cannot participate),  
8           whether the benefits of the pilot program outweigh any costs, and whether Rider  
9           NMB results in an overall cost savings to customers. The FirstEnergy Rider NMB  
10          opt-out program has been in effect for five years since the PUCO issued an Order  
11          approving it and no report has been publicly filed. Additionally, PUCO Staff has  
12          not yet taken a position regarding OCC's objections filed in this case.<sup>7</sup>

13  
14   ***Q9. HAS THE APPLICANT DETERMINED IF THERE WILL BE ANY DELTA***  
15                   ***REVENUE AS A RESULT OF THIS REASONABLE ARRANGEMENT?***

16   ***A9.***   The Applicant stated that "The terms of the unique arrangement would not result  
17           in the creation of delta revenue, and there would be no reduction in electric  
18           distribution utility revenue to Toledo Edison or transmission revenue to the  
19           transmission owner."<sup>8</sup> Delta revenue is a reference to the amount the PUCO may  
20           expect other customers to pay to the utility to reimburse it for the reduced utility  
21           charges for the benefiting customer. Based on the information I have reviewed; it

---

<sup>7</sup> OCC Motion to Intervene, Objection and Memorandum in Support filed Oct. 28, 2021 (Attachment MPH-2).

<sup>8</sup> Application at page 6.

1 remains unproven that there would not be additional costs (delta revenue) shifted  
2 to FirstEnergy's (Toledo Edison) residential consumers as a result of this  
3 Application.

4  
5 Setting aside the issue of the creation of delta revenue, the Commission has  
6 already weighed in that the PUCO Staff must report on the impact of the entire  
7 Rider NMB opt-out program. So regardless of the Applicant's own opinion  
8 regarding cost-shifting to other consumers, the PUCO Staff should provide the  
9 expected report on the current pilot program prior to allowing any other customers  
10 to join.

11

12 ***Q10. WHAT ACTIONS BY THE PUCO DO YOU RECOMMEND?***

13 ***A10.*** First, the PUCO Staff should follow the Commission's Order in Case No. 14-  
14 1297-EL-SSO and publicly file a report on the impact (including dollar impact on  
15 other consumers) of the FirstEnergy Rider NMB opt-out pilot program. The  
16 review and its results should be filed in the docket in PUCO Case No. 14-1297-  
17 EL-SSO. Secondly, the PUCO should deny this Application in the current case.

18

19 Additionally, on November 29, 2021, another large energy user requested to  
20 enroll in this program<sup>9</sup>. The PUCO needs to again order the PUCO Staff to

---

<sup>9</sup> *In the Matter of the Application for Establishment of a Unique Arrangement for Tosi CMC, LLC*, Case No. 21-1205-EL-AEC at page 7.

1           conduct the study as it was required to “continuously review”<sup>10</sup> and “periodically  
2           report to the Commission.”<sup>11</sup> The PUCO should not be adding more customers to  
3           this FirstEnergy program until it is aware of the impact (such as increasing  
4           charges) on all consumers.

5  
6           If the PUCO doesn’t deny the Application outright, then at a minimum it should  
7           first require FirstEnergy (Toledo Edison) and the PUCO Staff to calculate any  
8           cost-shifting as a result of adding the Applicant into the Rider NMB opt-out pilot  
9           program. Any potential delta revenue created by this arrangement should be paid  
10          to FirstEnergy by other customers in the Applicant’s customer class to avoid  
11          inter-class cost shifting to residential and other consumers.

12  
13   **III.   CONCLUSION**

14  
15   ***Q11.   DOES THIS CONCLUDE YOUR TESTIMONY?***

16   ***A11.***   Yes, however I reserve the right to incorporate new information that may  
17          subsequently become available.

---

<sup>10</sup> *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing ¶ 310 (Oct. 12, 2016).

<sup>11</sup> *Id.*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing *Direct Testimony of Michael P. Haugh, on Behalf of the Office of the Ohio Consumers' Counsel* was served via electronic transmission upon the parties below this 6th day of December 2021.

/s/ Christopher Healey  
Christopher Healey  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

### **SERVICE LIST**

[thomas.lindgren@ohioAGO.gov](mailto:thomas.lindgren@ohioAGO.gov)

Attorney Examiners:

[jacqueline.st.john@puco.ohio.gov](mailto:jacqueline.st.john@puco.ohio.gov)

[gregory.price@puco.ohio.gov](mailto:gregory.price@puco.ohio.gov)

[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)

[wygonski@carpenterlipps.com](mailto:wygonski@carpenterlipps.com)

[bknipe@firstenergycorp.com](mailto:bknipe@firstenergycorp.com)

**Public Utilities Commission of Ohio**

*Monongahela Power Company*, Case No. 04-1047-EL-ATA

*American Electric Power Company*, Case No. 05-376-EL-UNC

*Dayton Power and Light Company*, Case No. 05-276-EL-AIR

*Dominion East Ohio Company*, Case No. 05-474-EL-ATA

*Dominion East Ohio Company*, Case No. 05-219-GA-GCR

*Columbia Gas of Ohio*, Case No. 05-221-GA-GCR

*Duke Energy Ohio*, Case No. 03-93-EL-ATA

*American Electric Power*, Case No. 07-63-EL-UNC

*Eramet Marietta, Inc.*, Case No. 09-516-EL-AEC

*TimkenSteel Corporation*, Case No. 15-1857-EL-AEC

*American Electric Power Company*, Case No. 14-1693-EL-RDR

*Columbia Gas of Ohio*, Case No. 16-1309-GA-UNC

*American Electric Power*, Case No. 10-2929-EL-UNC

*Dayton Power and Light*, Case No. 16-395-EL-SSO

*American Electric Power*, Case No. 16-1852-EL-SSO

*Duke Energy Ohio*, Case No. 18-0218-GA-GCR

*Duke Energy Ohio*, Case No. 20-167-EL-RDR

**Michigan Public Service Commission**

*Michigan Consolidated Gas Company*, Case No. U-17131



OCC is filing on behalf of the 275,000 residential utility consumers of Toledo Edison who may be adversely affected by cost shifting associated with Applicant being exempted from Rider NMB.<sup>2</sup> The reasons the PUCO should grant OCC's motion are further set forth in the attached memorandum in support.

OCC also submits below its objections to Applicant's application, per the PUCO's rule.<sup>3</sup>

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Christopher Healey

Christopher Healey (0086027)  
Counsel of Record  
Amy Botschner O'Brien (0074423)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

65 East State Street, 7th Floor  
Columbus, Ohio 43215  
Telephone [Healey]: (614) 466-571  
Telephone [Botschner-O'Brien]: (614) 466-9575  
[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)  
[amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)  
(willing to accept service by email)

---

<sup>2</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

<sup>3</sup> See O.A.C. 4901:1-38-05(F) ("Affected parties may file a motion to intervene and file comments and objections to any application filed under this rule within twenty days of the date of the filing of the application.").

**BEFORE**

In the Matter of the Application of )  
Campbell Soup Supply Company L.L.C. ) Case No. 21-1047-EL-AEC  
for the Approval of a Reasonable )  
Arrangement for its Napoleon, Ohio Plant. )

**MEMORANDUM IN SUPPORT OF INTERVENTION  
AND  
OBJECTIONS**

## I. INTERVENTION

Under Campbell Supply's proposal, it would no longer pay charges to Toledo Edison for its Non-Market-Based Services Rider. According to Applicant, it has paid about \$1.3 million under this rider over the past five years.<sup>4</sup> If Applicant's application is approved by the PUCO, any benefits from this proposal (reductions to these charges) could be shifted and charged to other customers by Toledo Edison, including charged to residential consumers.

OCC has authority under law to represent the interests of the 275,000 residential utility consumers of Toledo Edison, per R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential consumers may be “adversely affected” by this case. That is especially so if the consumers were unrepresented in a proceeding where they could pay increased charges as a result of Applicant’s reasonable arrangement for an exemption from Rider NMB. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

<sup>4</sup> Application at 2 (Oct. 8, 2021).

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential consumers of Toledo Edison in this case involving a proposed reasonable arrangement. This interest is different from that of any other party and especially different from that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential consumers will include, among other things, advancing the concern about residential consumers being charged by utilities to subsidize reasonable arrangements for commercial and industrial customers. OCC's position is therefore directly related to the merits of this case, which is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. Intervention for OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case where residential consumers’ charges for utility service could increase as a result of the applicant’s proposal.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B), which OCC already has addressed, and which OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio (“Court”) confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.<sup>5</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the PUCO should grant OCC’s Motion to Intervene.

---

<sup>5</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

## II. OBJECTIONS

### A. Background on Rider NMB Pilot

Customers pay for certain transmission costs through Toledo Edison's Rider NMB.<sup>6</sup> In Toledo Edison's most recent electric security plan ("ESP") case, the PUCO approved a Rider NMB pilot program.<sup>7</sup> Under the pilot, certain large nonresidential customers (limited to Material Science Corporation, Nucor Steel Marion, Inc., and members of Industrial Energy Users-Ohio and Ohio Energy Group<sup>8</sup>) are exempted from paying for Rider NMB and instead obtain transmission service on their own.<sup>9</sup>

According to FirstEnergy, the purpose of the pilot program was for FirstEnergy "to study the administrative burden and costs of allowing customers the option to have their CRES providers pay Rider NMB charges, as well as whether such a program would result in benefits to both participating and non-participating customers."<sup>10</sup> The PUCO similarly described the pilot as providing an "opportunity to determine if industrial customers can obtain substantial savings by obtaining certain transmission services outside of Rider NMB *without imposing significant costs on other customers.*"<sup>11</sup>

Because the Rider NMB Pilot is a pilot program, it is intended to be studied and used as a learning experience for regulatory policymaking. Accordingly, the PUCO directed FirstEnergy

---

<sup>6</sup> See Rider NMB Tariff.

<sup>7</sup> See *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Opinion & Order (Mar. 31, 2016).

<sup>8</sup> *Id.* at 19.

<sup>9</sup> *Id.* at 18-19 (the purpose of NMB pilot is "to explore whether certain customers could benefit from opting out of the Companies' Rider NMB and obtaining all transmission and ancillary services through the Open Access Transmission Tariff and other PJM governing documents ... or whether the administrative burden to the Companies, and the cost and risk to the customer, would render this option impractical").

<sup>10</sup> *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Opinion & Order at 73 (Mar. 31, 2016).

<sup>11</sup> *Id.* at 94 (emphasis added).

and the PUCO Staff “to continuously review the actual results of the Rider NMB pilot program and periodically report their findings to the Commission.”<sup>12</sup> The PUCO ruled that such review “should include, at a minimum: whether there is an aggregate savings in transmission costs for all of the Companies’ customers, *whether and how much in transmission costs are being shifted to customers not participating in the pilot program*, whether the benefits of the pilot program outweigh any costs, and whether Rider NMB results in an overall cost savings to customers.”<sup>13</sup>

Ultimately, the PUCO-ordered review of the Rider NMB Pilot “is necessary for the Commission to determine whether Rider NMB should be continued with the ability for customers to opt out, whether Rider NMB should be continued without the ability for customers to opt out, and whether Rider NMB should be terminated.”<sup>14</sup> At the time of the PUCO’s approval, any potential benefits or harms to consumers from the pilot had yet to be shown because they were based only on projections and not actual results.<sup>15</sup> Thus, the PUCO retained the right “to modify the provisions of Rider NMB based upon the results of the review by Staff.”<sup>16</sup>

---

<sup>12</sup> *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing ¶ 310 (Mar. 31, 2016).

<sup>13</sup> *Id.* (emphasis added).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* (“Rider NMB pilot program is a pilot program which bears further study to determine if the actual results of the pilot program, rather than the projected results, are in the public interest.”).

<sup>16</sup> *Id.*

- B. The PUCO should first fulfill its intention, stated in 2016, to have the pilot program reviewed and reported to the PUCO according to its announced criteria that include the extent of “cost shifting” to other customers that has resulted from the pilot program. This review and its results (including dollar impacts) should be presented in the public light, for PUCO transparency of state government.**

As the PUCO explained when it approved the Rider NMB Pilot Program, the “nature of any pilot program is to keep the number of participants manageable in order to make some determination of the efficacy of the program being tested.”<sup>17</sup> This is consistent with representations made by signatory parties in the ESP IV case that “a pilot program is, by its very nature, limited in participation in order to better evaluate the results.”<sup>18</sup>

The pilot program has been in effect for more than five years, having been approved in ESP IV in March 2016. Applicant wants to expand the program further through its participation. However, as described above, the purpose of the pilot program was for the PUCO Staff to evaluate the results of the program and “report” to the PUCO regarding:

whether there is an aggregate savings in transmission costs for all of the Companies’ customers, whether and how much in transmission costs are being shifted to customers not participating in the pilot program, whether the benefits of the pilot program outweigh any costs, and whether Rider NMB results in an overall cost savings to customers.<sup>19</sup>

It is not clear whether the PUCO Staff has in fact performed any such evaluations. In various rider proceedings in the last five years, the PUCO Staff has filed reports mentioning the Rider NMB Pilot Program. But based on OCC’s review, none of these reports provide the PUCO’s expected information about (i) whether there is an aggregate savings in transmission

---

<sup>17</sup> *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Opinion & Order at 112 (Mar. 31, 2016).

<sup>18</sup> *In re Application of [FirstEnergy] for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Opinion & Order at 74 (Mar. 31, 2016).

<sup>19</sup> *Id.* (emphasis added).

costs for all customers, (ii) whether and how much transmission costs are being shifted to non-participating customers (which would include residential consumers, who cannot participate), (iii) whether the benefits of the pilot program outweigh any costs, and (iv) whether Rider NMB results in an overall cost savings to customers.<sup>20</sup> Instead, the reports generally provide a basic overview of the Rider NMB Pilot Program and the number of customers participating.

Before the PUCO considers expansion of the Rider NMB Pilot Program, it should first follow through with its 2016 plan that the pilot be thoroughly examined by its Staff and reported to the PUCO. Critical to residential consumers is the PUCO's expectation for a detailed analysis of "whether and how much transmission costs are being shifted to non-participating customers."<sup>21</sup> The review required by the PUCO five years ago is needed to determine if it is just and reasonable to expand the pilot program or even continue it. As identified by the PUCO, an important component of the review is to assess any cost-shifting to other consumers (which could result in others having to subsidize Rider NMB Pilot Program participants).

**C. The PUCO should require Applicant, Toledo Edison, and the PUCO Staff to calculate and publicly file the amount of any costs shifted to other customers as a result of its proposal.**

Applicant says that it has paid about \$1.3 million to Toledo Edison per Rider NMB over the past five years.<sup>22</sup> Applicant also says that its proposal "would not result in the creation of delta revenue."<sup>23</sup> No delta revenue means that, according to the Applicant, there would be no other amount for other consumers to subsidize.

---

<sup>20</sup> See Case No. 16-2043-EL-RDR, Staff Report (Feb. 7, 2017); Case No. 17-2378-EL-RDR, Staff Report (Feb. 9, 2018); Case No. 18-1818-EL-RDR, Staff Report (Feb. 21, 2019); Case No. 19-2120-EL-RDR, Staff Report (Feb. 20, 2020); Case No. 20-1768-EL-RDR, Staff Report (Feb. 16, 2021); Case No. 21-695-L-RDR, Staff Report (Aug. 11, 2021).

<sup>21</sup> *Id.* (emphasis added).

<sup>22</sup> Application at 2.

<sup>23</sup> Application at 6.

Given the significance of the subsidy issue, which the PUCO itself has emphasized, the Applicant should back up its assertion of no delta revenue with analysis. Also, the Applicant asserts that the utility “does not oppose” its Application. But the PUCO (and public) should hear from FirstEnergy/Toledo Edison to learn from the source if it will be charging other consumers for the Rider NMB that the Applicant would cease paying. FirstEnergy, of course, is no stranger to subsidies.

### **III. CONCLUSION**

For the reasons described above, the PUCO should grant OCC’s motion to intervene. And the PUCO should grant OCC’s objections so as to first complete the PUCO’s earlier announced assessment process of the Rider NMB pilot program, before considering this Application. And the PUCO should obtain other input on the subsidy issue as recommended above. All of that would fit the PUCO’s stated intention to determine what is in the “public interest” regarding the Rider NMB exemption pilot program.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Christopher Healey  
Christopher Healey (0086027)  
Counsel of Record  
Amy Botschner O'Brien (0074423)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone [Healey]: (614) 466-571  
Telephone [Botschner-O'Brien]: (614) 466-9575  
[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)  
[amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)  
(willing to accept service by email)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene and Objections was served on the persons stated below via electronic transmission, this 28th day of October 2021.

/s/ Christopher Healey  
Christopher Healey  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

**SERVICE LIST**

[John.jones@ohioAGO.gov](mailto:John.jones@ohioAGO.gov)

Attorney Examiner:

[Jacqueline.st.john@puco.ohio.gov](mailto:Jacqueline.st.john@puco.ohio.gov)

[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)

[wygonski@carpenterlipps.com](mailto:wygonski@carpenterlipps.com)

[bknipe@firstenergycorp.com](mailto:bknipe@firstenergycorp.com)

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on  
10/28/2021 1:49:10 PM  
in**

**Case No(s). 21-1047-EL-AEC**

Summary: Motion Motion to Intervene and Objections by Office of the Ohio  
Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of  
Healey, Christopher Mr.

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**12/6/2021 4:04:45 PM**

**in**

**Case No(s). 21-1047-EL-AEC**

Summary: Testimony Direct Testimony of Michael P. Haugh on Behalf of the Office  
of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on  
behalf of Healey, Christopher Mr.