

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Review of the )       |                         |
| Distribution Modernization Rider of Ohio ) |                         |
| Edison Company, The Cleveland Electric )   | Case No. 17-2474-EL-RDR |
| Illuminating Company, and The Toledo )     |                         |
| Edison Company. )                          |                         |

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**REPLY COMMENTS OF THE OHIO HOSPITAL ASSOCIATION**

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The Ohio Hospital Association (“OHA”) is concerned with the revelations and findings made in the Daymark Energy Advisors Rider DMR Audit Report (“audit report”) like other parties in this proceeding.<sup>1</sup> OHA opposed Distribution Modernization Rider (“Rider DMR”) from its inception, but the Commission ultimately chose to approve the rider. The Commission implemented certain guardrails for the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (the “Companies” or “FirstEnergy Utilities”) to spend and utilize funds collected through Rider DMR to “directly or indirectly” support grid modernization. In addition, the Commission directed Staff to conduct periodic reviews on the use of the Rider DMR funds to ensure they were, in fact, connected to grid modernization efforts. However, the auditor could not find that the Companies stayed with the Commission’s guardrails because of the Companies’ failure to document spending of the Rider DMR funds.

OHA agrees with the Ohio Manufacturers’ Association Energy Group (“OMAEG”) that “the lack of supporting documentation regarding the use of the Rider DMR funds is perplexing.”<sup>2</sup> The Commission directed Staff to conduct periodically reviews of the use of the Rider DMR

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<sup>1</sup> Page 1 of OMAEG Initial Comments.

<sup>2</sup> Page 2 of OMAEG Initial Comments.

funds.<sup>3</sup> Unfortunately, the Companies did not properly maintain records and documents to allow Staff to determine if the Rider DMR funds were directly or indirectly used for grid modernization, in accordance with the Commission's order. The Companies' actions appear to be in direct conflict with the Commission's order from the ESP IV case.<sup>4</sup>

Additionally, the failure of the Companies to maintain accurate records of their spending makes the auditor's task in this case nearly impossible.<sup>5</sup> The auditor was tasked with determining whether funds collected from ratepayers through Rider DMR were used to support House Bill 6 ("HB 6") or oppose the subsequent referendum efforts. Due to the Companies' failure to properly document Rider DMR spending, they have made it nearly impossible for the Commission to definitively conclude that the Rider DMR funds were not used to support HB 6. Therefore, OHA agrees with OMAEG that the Commission should direct the Companies to return the Rider DMR funds to customers if they cannot unequivocally present evidence demonstrating that none of the Rider DMR funds were used in relation to HB 6.<sup>6</sup>

The Commission has the ability to protect the FirstEnergy Utilities' customers from misconduct and misuse. In this case, the Companies' failure to properly document its Rider DMR spending results in the Commission and customers guessing about whether the Rider DMR funds were used for their intended purposes. It would be unwarranted for the Commission to allow the Companies to retain all collected Rider DMR funds if the Companies cannot prove that these funds were tied to grid modernization.

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<sup>3</sup> *In the Matter of the Application of Ohio Edison Co., the Cleveland Electric Illuminating Co., and the Toledo Edison Co., for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the form of an Electric Security Plan*, Case No. 14-1297-EL-SSO (ESP IV Case), First Entry on Rehearing at ¶ 282 (October 12, 2016).

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

<sup>5</sup> *In the Matter of the Review of Distribution Modernization Rider of the Ohio Edison Co., the Cleveland Electric Co., and the Toledo Edison Co.*, Case No. 17-2474-EL-RDR, Entry at ¶23 (December 30, 2020).

<sup>6</sup> Pg. 9 of OMAEG Initial Comments.

Respectfully submitted on behalf of  
THE OHIO HOSPITAL ASSOCIATION



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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Comments was served upon the parties of record listed below this 4th day of May 2022 *via* electronic mail.



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Summary: Reply Comments of The Ohio Hospital Association electronically filed by  
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