

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Non-	:	
Market-Based Services Rider Pilot Program	:	
Established by Ohio Edison Company, the	:	Case No. 22-391-EL-RDR
Cleveland Electric Illuminating Company,	:	
and the Toledo Edison Company	:	

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**MOTION FOR THE EXTENSION OF THE DEADLINE  
FOR FILING THE AUDIT REPORT AND REQUEST FOR EXPEDITED  
TREATMENT  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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The Staff of the Public Utilities Commission of Ohio (“Staff”), pursuant to Ohio Administrative Code 4901-1-13(A), respectfully requests an extension of the February 10, 2023 audit report filing deadline. Staff respectfully requests that the deadline be moved to April 10, 2023. Staff also requests that an expedited ruling be issued pursuant to O.A.C. 4901-1-12(C), and certifies that all parties to this proceeding have been contacted about this request and none objects to the extension or the expedited ruling. The reasons for this motion are set forth more fully in the attached memorandum.

Respectfully submitted,

**Dave A. Yost**  
Attorney General

**John H. Jones**  
Section Chief

/s/ Steven L. Beeler

**Steven L. Beeler**  
Assistant Attorney General

**Rhiannon D. Howard**  
Assistant Attorney General

Public Utilities Section

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## **MEMORANDUM IN SUPPORT**

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By entry dated June 15, 2022, the Commission selected Exeter Associates, Inc. (Exeter) to perform the audit consulting services in accordance with RFP No. RA22-TR-1 Reissue (see attached). RFP No. RA22-TR-1 contains an audit report deadline of February 10, 2023. Due to complex issues in this case and issues upfront with the execution of the original contract, there has been a significant delay in the start of the auditor's review. Exeter needs additional time to file the audit report in this proceeding. Staff respectfully requests that the deadline be moved to April 10, 2023. Staff also requests that an expedited ruling be issued pursuant to O.A.C. 4901-1-12(C), and certifies that all parties to this proceeding have been contacted about this request and none objects to the extension or the expedited ruling. Accordingly, Staff respectfully requests an extension as described above in order for it to properly review the Non-Market-Based Transmission Pilot Audit.

Respectfully Submitted,

**Dave A. Yost**  
Attorney General

**John H. Jones**  
Section Chief

*/s/ Steven L. Beeler* \_\_\_\_\_

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Assistant Attorney General

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[Steven.Beeler@OhioAGO.gov](mailto:Steven.Beeler@OhioAGO.gov)

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Motion for Extension and Request for Expedited Treatment** has been served upon the below-named counsel via electronic mail, this 6<sup>th</sup> day of January, 2023.

/s/ Steven L. Beeler

**Steven L. Beeler**

### **Parties of Record:**

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### **Attorney Examiners**

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REQUEST FOR PROPOSAL NO. RA22-TR-1

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Review of the Non-Market Based Services Riders  
Established by Ohio Edison Company, The Cleveland  
Electric Illuminating Company and The Toledo Edison  
Company and Associated Pilot Programs

Issued by:  
THE  
PUBLIC UTILITIES COMMISSION OF OHIO  
180 East Broad Street  
Columbus, Ohio  
43215-3793

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PROPOSAL DUE: July 11, 2022

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## **I. INTRODUCTION**

On March 31, 2016, the Public Utilities Commission of Ohio (Commission or PUCO) issued its Opinion and Order in *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company 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 which included approval for a proposal submitted by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, FirstEnergy or the Companies) to establish a pilot program for its Non-Market-Based Transmission Services Rider (Rider NMB). Rider NMB is the rate mechanism the Companies utilizes to pass through transmission related costs to its retail customers. The Rider NMB pilot program allows certain customers to opt out of Rider NMB and be charged for their transmission related costs through their competitive retail electric service (CRES) suppliers as opposed to FirstEnergy. By opting out, customers pay for their actual transmission related costs as opposed to paying average rates as contained in Rider NMB, which may or may not reflect their actual cost.

In its 5<sup>th</sup> Entry on Rehearing in Case No. 14-1297-EL-SSO, dated October 12, 2016 (Entry), the Commission noted that the Rider NMB pilot program bears further study to determine if the actual results of the pilot program, rather than the projected results, are in the public interest. The Commission directed the Companies and Staff to review the actual results and periodically report their findings to the Commission. The Entry highlights that the review should include:

1. whether there is an aggregate savings in transmission costs for all of the Companies' customers,
2. whether and how much in transmission costs are being shifted to customers not participating in the pilot program,
3. whether the benefits of the pilot program outweigh any costs, and
4. whether Rider NMB results in an overall cost savings to customers.

Following this review, the Commission may determine whether Rider NMB should be continued with or without the ability for customers to opt out, or whether Rider NMB should be terminated.

## **II. PURPOSE**

The Commission is seeking proposals to conduct a review of Rider NMB and the Rider NMB pilot program to address the items listed above from the Commission's 5<sup>th</sup> Entry on Rehearing in Case No. 14-1297-EL-SSO and report its findings to the Commission.



The auditor shall be familiar with and comply with all:

- Generally accepted accounting principles (GAAP)
- Federal Energy Regulatory Commission (FERC) Uniform System of Accounts

### **III. SCOPE OF INVESTIGATION**

#### **A. General Project Requirements**

The auditor selected shall investigate and determine:

- whether the pilot program results in an aggregate savings in transmission costs for all 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, as opposed to a recovery mechanism that would be a bypassable rider for recovering transmission-related costs.

Based on the review and findings related to the above questions, the auditor shall provide recommendations as to:

- 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 and possibly be replaced with a bypassable transmission Rider

The auditor should consider and evaluate:

- whether the reduced peak load that results from the pilot program, if any, results in benefits for FirstEnergy retail customers (i.e., delayed/reduced transmission build, reduced wholesale electricity prices, increased reliability, reduced stress on transmission and other system equipment, other),
- whether there are other benefits of the pilot program that are not necessarily associated with reduced peak loads (i.e., reduced transmission costs, better assignment of transmission-related costs, promotion of Economic Development, other),
- the dollar value associated with any determined benefits, and
- the drivers behind any cost shifts that may result when customers become pilot program participants.

In addition, the auditor selected shall:

- Review all relevant Cases, including Case No. 14-1297-EL-SSO, and all applicable testimony and work papers.
- Understand of the mechanics of NMB Rider and Pilot program
- Understand the ATSI and PJM transmission planning processes
- Understand how network service peak loads impact transmission costs, both short-term and long-term

#### B. Role of the Auditor

Any auditor who is chosen by the Commission to perform an audit expressly agrees to perform his or her audit as an independent contractor. Any conclusions, results, or recommendations formulated by the auditor may be examined by any participant to the proceeding for which the audit report was generated. Further, it shall be understood that the Commission and/or Staff shall not be liable for any acts committed by the auditor or its agents in the preparation and presentation of the audit reports.

#### C. Commission Staff Supervision

Staff will oversee the project. Staff personnel shall be informed of all correspondence between the auditor selected and the Companies and shall be given at least three working days' notice of all meetings and interviews with the Companies to allow Staff the opportunity to attend. The auditor shall periodically meet with Staff through the duration of the audit. These meetings may occur via telephone.

#### D. Cost Of Audit and Quotation of Charges

The proposed cost of the audit shall include all expenses associated with conducting the audit and presenting the findings and recommendations in the audit report. The proposed cost of the audit shall include actual costs associated with serving as an expert witness before the Commission during the applicable hearing, including time and materials. A detailed presentation of costs shall be provided, broken down by task and by phase, in conformance with this Request for Proposal. The proposed costs shall be considered firm prices for performing the work described in the proposal.

Costs associated with conducting the audit can include, but are not limited to the following:

- Hourly rates of project team
- Hours allocated by category of activities and team member
- Total cost by category of activity and by team member

Expenses associated with the presentation of testimony will include the following:

- Transportation expenses (i.e., airfare, etc.)
- Living expenses (hotels, meals, local transportation)
- Preparation time, up to 8 hours per witness
- Hours spent in travel
- Hours spent presenting testimony

#### **IV. TIMELINE**

The timeline presented below is intended to provide the auditor an understanding of the timeframe during which the audit is to be conducted. Although precise dates are used below, the actual dates for awarding the audit and for conducting audit and hearing activities may vary somewhat when they are set through a subsequent Commission entry.

Audit proposals due	July 11, 2022
Award audit (Commission Order)	August 10, 2022
Audit Conducted	Aug 10, 2022 – Jan 10, 2023
Draft audit report presented to Staff	January 10, 2023
Final audit report filed with Commission	February 10, 2023

#### **V. DEADLINES AND DELIVERABLES**

##### **A. Availability Of Documents**

The Companies shall provide any and all documents or information requested by the auditor selected and Staff. The Companies may conspicuously mark such documents or information as being “confidential.” In no event, however, shall the Companies refuse or delay providing such documents or information.

Staff or the auditor selected shall not publicly disclose any document marked “confidential” by the Companies, except upon three days prior notice of intent to disclose served upon the Companies’ counsel. Three days after such notice, Staff or the auditor may disclose or otherwise make use of such documents or information for any purpose, unless the Companies move the Commission for a protective order pertaining to such documents or information within the three-day notice period.

The three-day notice period will be computed according to Ohio Adm. Code 4901-1-07. Service shall be complete upon mailing or delivery in person.

##### **B. Fiscal Reports**

The auditor will submit invoices when work is 50 percent complete and when work is 100 percent complete, unless more frequent intervals are agreed to by Staff. The invoices shall include details regarding the dates and activities covered by each invoice and shall be sufficiently detailed to allow Staff to identify the work completed, the time spent in each billable activity, the personnel involved, and the corresponding charges in relation to the activity schedule originally set forth in the auditor's proposal. All invoices are to be sent to the Companies and copies are to be sent to Staff.

After approval of the invoice by the Staff, the Companies will be authorized to make payment.

The Companies shall be ordered by the Commission to enter into a contract, which shall incorporate by reference all provisions of this proposal, with the auditor chosen by the Commission to perform the audit. Auditors shall submit a copy of this contract agreement between the auditor and the Companies to the Staff member assigned to the audit.

#### C. Interim Reporting

At the midpoint of the audit activities, the auditor selected will provide a progress report to Staff. This report will briefly describe progress made on required audit activities, as well as initial/tentative findings and conclusions on issues investigated to date. Unless requested by Staff, this interim report may be made verbally.

#### D. Draft Report

Two copies of a draft of the final audit report shall be sent to Staff at least twenty-eight days prior to the due date of the final audit report. The report may be sent electronically if agreed to, in prior, by Staff.

#### E. Final Report

One copy of the final audit report plus one reproducible original shall be docketed with the Commission by the morning of the date specified in Section IV. The final report should include an executive summary of recommendations. The final docketed report should contain an overview of the investigation and recommendations. Along with the docketed report, the auditor shall deliver to Staff one hard copy of the audit report and shall submit to Staff a computer flash drive containing a complete version of the final audit report. The final audit report should be docketed in a "searchable" PDF format. If it is necessary to prepare a redacted report, due to confidentiality concerns, two copies of a non-redacted

report shall also be provided to both the Commission and the Company. If necessary, the final redacted report should be redacted using the Adobe Acrobat “redaction tool”. The non-redacted report shall clearly be labeled “confidential.”

#### F. Working Papers

A complete set of working papers is an integral part of the audit requirements. With the final audit report, the auditor selected shall deliver to Staff one complete set of working papers that contain documents used and procedures followed to develop the conclusions set forth in the audit report. Working papers should include Applicant’s name, case number, description (items in folder), and source documents. Voluminous documents may be included only as references in the working papers, upon Staff’s agreement. Confidential documents should be clearly marked and provided in a separate section of the working papers.

The auditor selected shall maintain working papers and document all supporting information, including, with limitation, meetings, interviews, or any pertinent information. The auditor selected shall utilize Staff’s data request procedures, utilizing a Microsoft Outlook public folder (or similarly accessible method) for issuing information requests and recording responses or may use its own system, provided Staff has full access to all data requests and responses and is able to store the requests and responses in Microsoft Outlook. All text documents should be word searchable and all data and formulas in Excel spreadsheets shall be fully disclosed and accessible.

#### G. Production Of Documents

At any time, upon request of the Commission or Staff, the auditor selected shall immediately produce any document of information obtained or produced within the scope of the audit.

#### H. Testimony

The auditor shall be expected to present expert testimony during any hearing at which the audit report is considered. The individual providing testimony will be one or more persons who conducted or directed the audit activities being considered at any hearing.

### **VI. MINIMUM CONTENTS OF PROPOSAL**

Each proposal shall contain page numbers and a table of contents. In a separate section, reflected in the table of contents, the following information shall be provided:

- A. Name, mailing address, and telephone number of the individual to contact if further information is desired;
- B. An indication of how the bidder plans to incorporate Staff's participation in the proposed work plan; and
- C. The name(s) of all subcontractors to be used in the performance of the proposed work, identification of the specific items to be performed/provided by the subcontractor, and the cost of the proposed subcontractor's work; or if no subcontractors are to be used, the entry "Subcontractor – non"/ (all such subcontractors indicated in the proposal will be acknowledged as accepted by the Commission upon selection of the proposal for contract awarded unless the auditor is previously notified of the contrary. No addition, deletion, or substitution of subcontractors will be permitted during the course of the contract unless approved in advance by Staff in writing.) If subcontractors are proposed, all information required in this section shall be supplied for each subcontractor proposed. Such information shall be supplied in a format parallel to the overall format specified for the contractor.
- D. The following required Equal Employment Opportunity (EEO) data must be provided for the auditor and each subcontractor:
  - 1. The total number of employees;
  - 2. The percentage of the total which are women;
  - 3. The percentage of the total which are Black, Hispanic, Asian, or American Indian (please specify);
  - 4. The total number of employees located in Ohio offices;
  - 5. The percentage of the Ohio total which are women;
  - 6. The percentage of the Ohio total which are Black, Hispanic, Asian, or American Indian (please specify);
  - 7. The number of individuals to be assigned to the project;
  - 8. The percentage of the total assigned which are women;

9. The percentage of the total assigned which are Black, Hispanic, Asian, or American Indian (please specify);
- E. A listing of contracts the auditor and each subcontractor has with the State of Ohio and:
1. Name of the state agency(s) for each contract;
  2. The cost of each contract;
  3. The duration of each current contract.
- F. A listing of the auditor's and each subcontractor's clients which may have a financial interest in the Company, or their affiliates. Auditors maintaining any present or ongoing contracts or agreements with the Company and affiliates may, at the discretion of the Commission, be disqualified by reason of possible conflict of interest. In the proposal, such contracts should be described in sufficient detail that the Commission can determine whether a conflict of interest exists. A response indicating that this information will be provided on request or that such contracts are too numerous to enumerate will be cause for disqualification of the auditor.
- G. A listing of all the auditor's and each subcontractor's offices, facilities, and equipment to be used in performance under this contract and their locations, including a specification of offices, facilities, and equipment located in Ohio. If none, state – none.
- H. For the auditor and each subcontractor, a description of all existing, pending or past rulings, judgements, findings, contingent liabilities, revocation of authority, regulatory investigations, judicial actions, or other formal or informal notices of violations, fines, or any other matter related to services in Ohio or equivalent services in another jurisdiction within the past five years.
- I. A statement of financial responsibility including certification that the auditor, joint partners if the auditor is a conglomerate operation, and any subcontractors have no outstanding liens or claims against them.
- J. Contact persons that the Commission or Staff may call to receive an assessment of the auditor's, and each subcontractor's previous performance. References should be provided for the company or companies proposing and for the individuals designated as principals for the project. The information required for each reference is as follows:
- Name of individual to contact for reference.

- Company/facility which employed the individual.
  - Telephone number.
  - Whether reference is for the company or a principal.
  - Project or work for which reference is given.
- K. A description of the proposed scope of work to be performed including a work plan, expected deliverable products and task timing. In a separately numbered section, the auditor will provide a detailed cost breakdown by phase/task of the work plan including the class of personnel performing each phase/task of the work, the hourly rate charged for each class, the number of hours charged for each class, an equivalent breakdown of all subcontracted work, any direct or indirect cost items which the auditor plans to charge, and the total cost.
- L. Identification, by name, of the lead personnel to be employed, the extent of their involvement in the project, and a description of how the proposed personnel's experience matches project requirements. Contract terms will not permit substitution of lead personnel without prior written approval of the Commission. Identification of lead personnel in the cost proposal will not constitute satisfactory compliance with this requirement.
- M. A description of the qualifications, experience, and proven results achieved by all professional lead or significant personnel to be employed on the project, with a summary of work performed on projects similar to the one contemplated by this RFP including specific references. The Commission reserves the right to request samples of prior relevant work from any auditor prior to making its final consultant selection.
- N. Identification by name, title and the hourly rate of pay and all other related costs of the individual or individuals who will present expert testimony before the Commission during the appropriate hearing.

## **VII. REVIEW CRITERIA**

Proposals will be evaluated on a basis which includes the following criteria:

### **A. Compliance with Minimum Contents Requirements**

Lack of satisfactory response to the minimum contents requirements will be grounds for elimination of any proposal from further consideration.

### **B. Cost**



The total proposed contract price is specified in the Proposal. Auditors are encouraged to provide as competitive a bid as is practicable.

C. Understanding of Project

Whether the entity bidding on the project has grasped intent of the project; is knowledgeable of the technical aspects required; indicates understanding of potential problems; demonstrates understanding of regulatory issues, trends, and perspectives; and the work plan indicates appropriate phasing. Whether the method of handling the project is indicated, the proposal reflects thorough understanding of project requirement, the methods appear realistic under stated time constraints, and innovative methodologies appear appropriate to the project. The proposal is responsive to the RFP.

D. Experience of Personnel Assigned to Project and Related Organizational Experience

Relevant experience in field, qualified to undertake assignment. References of previous clients/projects provided.

E. Timelines

Demonstrated ability to meet stated deadline; realistic timelines provided; demonstrated proven results of lead personnel.

**VIII. OTHER PROPOSAL CRITERIA**

A. Relevance

The auditor shall include only relevant information and pertinent exhibits in the proposal. Duplication of materials provided in the RFP, exhaustive resumes, inclusion of standard company promotional materials, etc., will not garner additional points in the evaluation process and may detract from the clarity and conciseness of the proposal.

B. Proprietary Data in Proposal

Submissions to the Public Utilities Commission of Ohio become public documents available to open inspection. Proprietary data in a proposal will also assume this status. Therefore, discretionary action is recommended for any proprietary data to be submitted in proposals.

C. Due Date and Submittal Address

Any proposal submitted hereunder must be received at the following address no later than 5:00 p.m. on July 13, 2022. The proposal should be sent in a sealed container, clearly marked and addressed to:

Don Howard  
Response to RFP No. RA22-TR-1  
The Public Utilities Commission of Ohio  
3<sup>rd</sup> Floor, 180 East Broad Street  
Columbus, OH 43215-3793

An electronic copy should also be sent to [Donald.Howard@puco.ohio.gov](mailto:Donald.Howard@puco.ohio.gov). Such electronic copy shall not fulfill the requirement for submitting paper responses.

Note: By responding to this request for proposal, the proposer expressly accepts and is bound by all the terms thereof including all attachments, exhibits, and schedules.

#### D. Copies

Three copies of the proposal are to be submitted to the Commission.

#### E. Contractor Requirements and Minority Participation

The Commission, in awarding the contract, will give preference to Ohio contractors. Ohio contractors include not only established domestic companies actively doing business in Ohio but also encompass multi-state companies with headquarters outside of Ohio but with substantial commitments of offices, divisions, and facilities within the state. The Commission will give preference to proposals that demonstrate compliance with minority and women EEO criteria.

#### F. Late Proposals

A proposal is late if received at any time after the due date set for receipt of the proposals. A late proposal will be considered along with other proposals only if it is received before the evaluation of proposals has, in the sole opinion of the Commission, substantially progressed, and then only if one of the three following conditions exists:

1. Mail delay – The lateness is due solely to a delay in the mail when the response has been sent by registered or certified mail for which an official dated postmark on the original receipt has been obtained.

2. Commission error – If it is received by a reasonable means at the Commission in sufficient time to be delivered at the office designated for the opening and would have been received at such office except the delay due to mishandling at the Commission. Only an appropriate date or item stamp showing the time of the receipt will be accepted as evidence of timely receipt of the proposal.
3. Exceptions – Any other late proposal will not be considered, unless it is the only proposal received or in the sole judgment of the Commission it offers some important technical or scientific advantage that is of benefit to the Commission.

#### G. Modification or Withdrawal of Proposal

Any proposal may be modified or withdrawn upon written request of the auditor if such request is received by the Commission at the above address by the date set for receipt of original proposals.

#### H. Modification or Withdrawal of this RFP

This Request for Proposal may be modified or withdrawn at any time prior to the time set for receipt of proposals and thereafter, as long as no proposal has been opened. Upon any such modification or withdrawal, all bidders will be notified and any person or firm who has expressly requested such notice in writing will also be notified of such changes at the discretion of the Commission.

#### I. Right to Reject Any and All Proposals

The Commission reserves the right, without limitation or discussion with those submitting proposals, to reject any and all proposals.

#### J. Penalty For Divulging Information

The auditor selected shall abide by all provisions of Sections 4901.16 of the Ohio Revised Code which states; “Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent. Whoever violates this section shall be disqualified from acting as agent, or acting in any other capacity under the appointment or employment of the commission”

The auditor shall not divulge any information regarding its audit activities to the media or to any other entity, except in its report and testimony before the Commission, before, during, and /or after the audit. All comments or concerns that the auditor wants to address shall be directed to the Commission's Media Office.

**K. RFP Website**

All firms wishing to remain on the Commission's bidder list must subscribe to the PUCO RFP list by clicking on the "PUCO RFP Email Notification List" link at:

<https://puco.ohio.gov/documents-and-rules/request-for-proposals>

Pending RFPs and further information will be posted at the above website.

**L. Statutory Scope of Audit**

Any auditor selected by the Commission to perform an audit shall execute its duties pursuant to the Public Utilities Commission's statutory authority to investigate and acquire records, contracts, reports and other documentation under Sections 4903.02, 4903.03, 4905.06, 4905.15, and 4905.16, Revised Code.

**M. Auditor Selection**

The Commission reserves the right to determine that the described audit will not be conducted or will be conducted by Staff, depending on the Commission's needs and circumstances at the time of the selection.

**IX. QUESTIONS**

Technical questions regarding this RFP should be directed to Don Howard at [Donald.Howard@puco.ohio.gov](mailto:Donald.Howard@puco.ohio.gov). Direct administrative questions to either Don Howard or Zee Molter at [Zee.Molter@puco.ohio.gov](mailto:Zee.Molter@puco.ohio.gov).

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

**1/6/2023 2:37:00 PM**

**in**

**Case No(s). 22-0391-EL-RDR**

Summary: Motion For The Extension Of The Deadline For Filing The Audit Report  
And Request For Expedited Treatment Submitted On Behalf Of The Staff Of The  
Public Utilities Commission Of Ohio electronically filed by Mrs. Kimberly M. Naeder  
on behalf of PUCO