

**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. 19-1903-EL-RDR
Edison Company for Review of Rider)	
AMI)	

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

I. INTRODUCTION

On May 3, 2023, The Office of the Ohio Consumers’ Counsel (“OCC”) filed combined Comments in the Companies’ 2020 and 2021 Rider AMI audit dockets.¹ OCC argues that the Commission should disallow recovery of costs associated with the CEI Pilot after June 1, 2019,² but it is unclear if OCC is arguing that CEI Pilot costs should not be recovered, or that they should not be recovered specifically through Rider AMI.³ Regardless of which argument is intended, the Companies maintain that recovery of the CEI Pilot costs is appropriate and that recovery through Rider AMI is proper as set forth in their comments.⁴

OCC agrees with Staff that certain incentive compensation costs associated with financial performance and transmission and generation should be removed from Rider AMI.⁵ The Companies agree that CEI Pilot and Grid Mod I incentive compensation that was related solely to

¹ Comments by Office of the Ohio Consumer’s Counsel (“OCC Comments”) 5/3/2023.

² *Id.* at 3-5.

³ *Id.*

⁴ Case No. 19-1903-EL-RDR (5/3/2023) Companies’ Comments at 2-5; Case No. 20-1672-EL-RDR (5/3/2023) Companies’ Comments at 3-5.

⁵ OCC Comments at 5-6.

the achievement of financial goals should be removed from Rider AMI. The Companies addressed this issue in their comments.⁶

Finally, OCC takes issue with the scope of the Rider AMI audits and the nexus to other Commission proceedings.⁷ The Companies agree that the scope of the Rider AMI audits includes a review to determine that the investments are used and useful and were prudently incurred. However, the Commission should not adopt OCC's suggestion to conflate the annual Rider AMI financial audits with the separately-conducted Operational Benefits Assessment⁸ or its suggestion that completion of Rider AMI audits – including a review for used and useful/prudency – must occur before Grid Mod II is approved.⁹

II. REPLY COMMENTS

A. Recovery of CEI Pilot Costs through Rider AMI is Appropriate.

OCC argues that the Commission should disallow recovery of approximately \$5.2 million in costs related to the CEI Pilot from June 1, 2019 through December 2022.¹⁰ The Companies have addressed recovery of the CEI Pilot costs from June 1, 2019 through 2022 in their comments,¹¹ and they incorporate those comments by reference here. It is unclear if OCC is arguing that CEI Pilot costs should not be recovered, or that they should not be recovered specifically through Rider AMI.¹² Either way, the Companies maintain that recovery of the CEI

⁶ Case No. 19-1903-EL-RDR (5/3/2023) Companies' Comments at 5-6; Case No. 20-1672-EL-RDR (5/3/2023) Companies' Comments at 6.

⁷ OCC Comments at 6-8.

⁸ *Id.* at 7.

⁹ *Id.* at 7-8.

¹⁰ *Id.* at 3-5.

¹¹ Case No. 19-1903-EL-RDR (5/3/2023) Companies' Comments at 2-5; Case No. 20-1672-EL-RDR (5/3/2023) Companies' Comments at 3-5. *See also*, Case No. 18-1647-EL-RDR (9/22/2021) Companies' Reply Comments at 2-5.

¹² OCC Comments at 3-5.

Pilot costs is appropriate and that recovery through Rider AMI is proper.¹³ If OCC is proposing removal from Rider AMI, with the potential for recovery elsewhere, then if the Commission adopts OCC's suggestion, the Companies reiterate their request for authorization to create a regulatory asset for these costs consistent with the terms authorized in Case Nos. 09-1820-EL-ATA and 10-388-EL-SSO, including costs of O&M, depreciation, property tax expense, and carrying charges at the weighted average cost of capital, for consideration in their upcoming base distribution rate case.¹⁴

OCC further claims that allowing continued CEI Pilot charges to customers violates R.C. 4905.22 and the "settlements" in 16-481.¹⁵ The costs are just and reasonable and authorized by the Commission as explained in the Companies' referenced comments; as such they do not violate R.C. 4905.22. It is unclear what OCC is referring to when it argues that allowing cost recovery for the CEI Pilot in Rider AMI violates "the settlements the PUCO approved in Case No. 16-481-EL-UNC."¹⁶ In the Grid Mod I Stipulation and Recommendation,¹⁷ the Signatory Parties agreed that:

Subject to Commission approval, nothing in this plan precludes the Companies from recovering through Rider AMI costs associated with other Commission-approved grid modernization investments outside of this plan, including but not limited to . . . costs incurred associated with the Smart Grid Modernization Initiative – Ohio Site Deployment, Case No. 09-1821-EL-GRD. . . .¹⁸

Thus, the Stipulation expressly allowed the Companies to recover other Commission-approved grid modernization expenditures through Rider AMI, including costs related to the CEI

¹³ Case No. 19-1903-EL-RDR (5/3/2023) Companies' Comments at 2-5; Case No. 20-1672-EL-RDR (5/3/2023) Companies' Comments at 3-5.

¹⁴ Case No. 19-1903-EL-RDR (5/3/2023) Companies' Comments at 2-3; Case No. 20-1672-EL-RDR (5/3/2023) Companies' Comments at 3.

¹⁵ OCC Comments at 3.

¹⁶ *Id.*

¹⁷ Case No. 16-481-EL-UNC, *et al.* (11/9/2018) Stipulation and Recommendation ("Stipulation").

¹⁸ Stipulation at 24.

Pilot, and including but not limited to such costs as were authorized in Case No. 09-1821-EL-GRD.¹⁹ As explained in the Companies' comments in these dockets, Rider AMI, as approved by the Commission in ESP IV, expressly authorizes recovery of CEI Pilot costs.²⁰ OCC was a non-opposing Signatory Party to this provision of the Stipulation.²¹

B. The Companies Agree to Remove Incentive Compensation Costs Related Solely to Financial Performance.

OCC agrees with Staff that the Commission should remove from Rider AMI approximately \$2.1 million in incentive compensation costs associated with financial performance, transmission, and generation in 2021 and 2022 combined.²² The Companies addressed Staff's recommendation in their comments in these dockets.²³ The Companies agree that for the CEI Pilot and Grid Mod I, costs of employee incentive compensation that were related solely to the achievement of financial goals should be removed.²⁴ As explained in their comments in the 2020 and 2021 audits, the Companies made adjustments in their Rider AMI quarterly filings to exclude financial-based incentive compensation costs associated with Grid Mod I that were included in the rider in 2020 and 2021.²⁵ And, the Companies further commented that they will make similar adjustments in an upcoming Rider AMI filing for 2020 and 2021 financial-based incentive compensation costs associated with the CEI Pilot.²⁶ However, Staff's proposed exclusions, with which OCC agrees,

¹⁹ *Id.*

²⁰ Case No. 19-1903-EL-RDR (5/3/2023) Companies' Comments at 4; Case No. 20-1672-EL-RDR (5/3/2023) Companies' Comments at 4-5.

²¹ Case No. 16-481-EL-UNC, *et al.* (1/25/2019) Supplemental Stipulation and Recommendation ("Supplemental Stipulation") at 10.

²² OCC Comments at 5-6.

²³ Case No. 19-1903-EL-RDR (5/3/2023) Companies' Comments at 5-6; Case No. 20-1672-EL-RDR (5/3/2023) Companies' Comments at 6.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

are higher than the amounts identified by the Companies, and the Companies are not able to determine how Staff arrived at their numbers.²⁷

C. The Commission Should Reject OCC's Recommendation to Combine the Operational Benefits Assessment with these Rider AMI Audits.

OCC takes issue with the scope of the Rider AMI audits and the nexus to other Commission proceedings.²⁸ OCC recommends that the next audit of Rider AMI should include a review and verification that the Grid Mod I investments are used and useful and were prudently incurred, as required by the Grid Mod I settlement.²⁹ The Companies agree that this is an appropriate review for Rider AMI audits. The Supplemental Stipulation provides that the annual audits of Rider AMI will include verification that Grid Mod I investments are used and useful and were prudently incurred.³⁰

OCC further argues that in the next Rider AMI audit, in connection with the verification that the investments are used and useful and were prudently incurred, the Commission should reconcile the Companies' Grid Mod I performance with the findings in the Grid Mod I Operational Benefits Assessment.³¹ The Commission should not adopt OCC's suggestion to conflate the annual Rider AMI financial audits with the separately-conducted Operational Benefits Assessment. The annual Rider AMI audits are standard, backwards-looking financial audits, and the Stipulation and Supplemental Stipulation are explicit about what these audits will include.³² The Stipulation and Supplemental Stipulation do not contemplate the Operational Benefits Assessment being addressed, or the Companies' Grid Mod I performance somehow being

²⁷ *Id.*

²⁸ OCC Comments at 6-8.

²⁹ *Id.* at 6-7.

³⁰ Supplemental Stipulation at 3.

³¹ OCC Comments at 7.

³² Stipulation at 12-13; Supplemental Stipulation at 3.

“reconciled” in a Rider AMI financial audit.³³ Pursuant to the Stipulation and Supplemental Stipulation, the Operational Benefits Assessment is a separate, mid-point review of the functionality and performance of the Grid Mod I program. The Operational Benefits assessment – unlike the annual Rider AMI audits – was not intended to assess the Companies’ recovery of Grid Mod I costs. Rather, the Operational Benefits Assessment was intended to consider whether the functionality and performance of the Grid Mod I program, as deployed to date, were consistent with its planned specifications.³⁴ The results of the Operational Benefits Assessment may be incorporated into future deployment of grid modernization investments.³⁵ Therefore, while a review to determine if Grid Mod I investments are used and useful and were prudently incurred is appropriate for inclusion in annual Rider AMI audits pursuant to the Stipulation and Supplemental Stipulation, addressing the Operational Benefits Assessment is not.

Finally, OCC contends that verification that Grid Mod I investments were used and useful and were prudently incurred, and reconciliation of the Operational Benefits Assessment should be completed in the next Rider AMI audit before any additional grid mod spending is allowed.³⁶ The Commission should not adopt OCC’s suggestion. There is no requirement in the Stipulation or Supplemental Stipulation that the completion of Rider AMI audits – including a review for used and useful/prudency – must occur before Grid Mod II is approved.³⁷ The Rider AMI audits allow for a financial review of Grid Mod I costs, including adjustments for costs found by the Commission to not have been prudently incurred or that were not used and useful, consistent with the Stipulation and Supplemental Stipulation. However, in accordance with the Stipulation and

³³ *Id.*

³⁴ Stipulation at 22-23; Supplemental Stipulation at 5-6.

³⁵ Stipulation at 22; Supplemental Stipulation at 5.

³⁶ OCC Comments at 7-8.

³⁷ *See generally*, Stipulation, Supplemental Stipulation.

Supplemental Stipulation, the Rider AMI audits do not have a bearing on approval of future grid modernization investment programs.³⁸

III. CONCLUSION

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

- A. Decline to adopt OCC's suggestion that CEI Pilot costs may not be recovered or may not be recovered through Rider AMI after June 1, 2019 as more fully explained in the Companies' comments;
- B. Find that the Companies have properly removed incentive compensation costs for Grid Mod I from Rider AMI and that the Companies should remove incentive compensation costs for the CEI Pilot from Rider AMI, as more fully explained in the Companies' comments; and
- C. Decline to adopt OCC's suggestions to conflate the annual Rider AMI financial audits with the separately-conducted Operational Benefits Assessment and that completion of Rider AMI audits – including a review for used and useful/prudence – must occur before Grid Mod II is approved.

Respectfully submitted,

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³⁸ *Id.*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 18th day of May, 2023. 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.

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Summary: Reply Comments electronically filed by Ms. Christine E. Watchorn on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company.