

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for )  
Establishment of a Reasonable ) Case No. 23-798-EL-AEC  
Arrangement Between the City of Akron, )  
Ohio and Ohio Edison Company. )

---

**APPLICATION FOR REASONABLE ARRANGEMENT**

---

Christine M.T. Pirik (0029759)  
(Counsel of Record)  
Terrence O'Donnell (0074213)  
Kevin D. Shimp (0097760)  
Dickinson Wright PLLC  
180 East Broad Street, Suite 3400  
Columbus, Ohio 43215  
(614) 591-5461  
[cpirik@dickinsonwright.com](mailto:cpirik@dickinsonwright.com)  
[todonnell@dickinsonwright.com](mailto:todonnell@dickinsonwright.com)  
[kshimp@dickinsonwright.com](mailto:kshimp@dickinsonwright.com)  
(Counsel willing to accept service via email)

August 17, 2023

*Attorneys for the City of Akron*

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for )  
Establishment of a Reasonable ) Case No. 23-798-EL-AEC  
Arrangement Between the City of Akron )  
and Ohio Edison Company. )

---

**APPLICATION FOR REASONABLE ARRANGEMENT**

---

**I. INTRODUCTION**

Pursuant to Ohio Revised Code (“R.C.”) 4905.31 and 4928.02, and Ohio Adm.Code 4901:1-38-05, the City of Akron (“City”), Summit County, Ohio, respectfully submits this Application for Approval of a Reasonable Arrangement (“Arrangement”) to the Public Utilities Commission of Ohio (“Commission”). Through this Application, the City seeks Commission authorization for the City of Akron Water Reclamation Facility (“Water Reclamation”) and the City of Akron Water Treatment Facility (“Water Treatment”) to participate in a Pilot Program<sup>1</sup> offered by its electric utility, Ohio Edison Company (“Ohio Edison”), in order to secure reasonable, predictable energy costs that will allow it to lower its transmission costs through prudent energy management, without any direct subsidy for those costs from other ratepayers.

---

<sup>1</sup> As part of a settlement agreement in a previous electric security plan (“ESP”) case before the Commission, Ohio Edison created for Rider Non-Market-Based (“NMB”) an opt-out pilot program (“Pilot Program”) that allows certain customers to bypass and avoid paying Rider NMB, and instead obtain all transmission and ancillary services through a retail supplier. *See In re Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 14-1297-EL-SSO (“*FirstEnergy ESP IV Case*”), Opinion and Order (Mar. 31, 2016) at 18, 73-74, 94, 112; Supp. Stipulation (May 28, 2015) at 3-5 ¶ 2; Third Supp. Stipulation (Dec. 1, 2015) at 17 ¶ H(6).

The proposed Arrangement will enable the City's Water Reclamation and Water Treatment facilities to reduce operating costs and those savings will, in turn, be passed on to the City's water and sewer customers in the form of lower bills.

## **II. BACKGROUND**

Founded in 1825, the City is home to more than 189,000 residents many of whom are below Ohio's median household income. In fact, the latest census show that the percent of City residents in poverty is higher than Ohio's statewide average.<sup>2</sup>

The City treats its own surface and wastewater. The City also assists other communities in Summit County by treating their waste and sewer water. To provide this water treatment service, the City owns the Water Reclamation and the Water Treatment facilities. The City provides sewer services to 330,000 residents and treats domestic water for 300,000 residents. The facilities provide these services across approximately 96 square miles and treat approximately 35 million gallons per day of surface water and 75 million gallons per day of wastewater.

The Water Reclamation facility is the 4<sup>th</sup> largest wastewater treatment facility in Ohio. The facility is governed by its National Pollutant Discharge Elimination System ("NPDES") permit issued by the U.S. Environmental Protection Agency ("USEPA"). The City has received recognition for its compliance record from the National Association of Clean Water Agencies by achieving either a gold or silver Peak Performance Award in each of the past 14 years.

The Water Treatment facility has provided uninterrupted service to residents since 1915. It is the 5<sup>th</sup> largest water supplier in Ohio – serving over 300,000 residents in the City of Akron and

---

<sup>2</sup> See Census data shows 23% of Akron residents are in poverty compared to statewide average of 13.4% <https://www.census.gov/quickfacts/fact/table/OH.akroncityohio/PST045222,PST045221>.

surrounding cities including Tallmadge, Stow, Fairlawn, Cuyahoga Falls, Twinsburg, Hudson, and the townships of Bath, Boston, Copley, Coventry, and Springfield.

Through the City's two separate water facilities, they improve water quality and make clean water available to hundreds of thousands of residents and businesses of northeast Ohio. In fact, residents in the footprint of these water facilities are reliant upon the City for these services since there is no alternative provider.

The City's water utility customers are in desperate need of any and all relief available because of the imposition of an unprecedented federal consent decree,<sup>3</sup> the likes of which no other city in the country has been subjected to by USEPA. Specifically, the City is under a USEPA federal consent decree to eliminate 100% of its combined sewer overflows ("CSO") from the Cuyahoga River over a 20-year mandated program.<sup>4</sup> These mandates require a complete overhaul of the City's existing combined sewer overflow system. The cost to effectuate the mandates is estimated to be over \$1.2 billion by the end of the program in 2026 and, unfortunately, these costs are reflected directly in the City's utility rates paid by customers. The burden of these costs falls on a population that largely cannot afford it, as many of the City's residents live at or below the federal poverty level.<sup>5</sup> In light of the foregoing, it is the City's duty to voraciously seek out all possible cost saving opportunities for its residents.

Unsurprisingly for a system and water treatment facility that has provided non-stop service since April 1, 1915, the Akron Water Supply Bureau is facing its own set of dire financial

---

<sup>3</sup> *United States v. City of Akron, et al.*, Case No. 5:09-cv-00272.

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

<sup>5</sup> Census data shows the City per capita income was \$26,064 compared to the statewide average of \$34,526 <https://www.census.gov/quickfacts/fact/table/OH,akroncityohio/PST045222>. See also *USEPA Clean Water Act Financial Capability Assessment Guidance* (page 9) showing the average Akron resident is paying beyond the Congressionally-recommended ceiling of 2% of monthly income on utility payments. (<https://www.epa.gov/system/files/documents/2023-01/cwa-financial-capability-assessment-guidance.pdf>).

circumstances. With many components of the original infrastructure remaining in operation today, the City’s water system is in critical need of over \$600 million in new investment, as documented in its existing Asset Management Capital Investment Plan, which is filed with the Ohio Environmental Protection Agency (“Ohio EPA”).<sup>6</sup> This plan identifies the most vital pieces of infrastructure that were at, or near, their original service life and would be most likely to fail, and the plan estimates the cost to repair or replace this infrastructure, which is staggering. The issues facing the City’s water utility have also been compounded by: dramatic unforeseeable operating cost increases (e.g., the cost for chemicals used in treating water in 2022 went up by \$750,000, and those same costs are estimated to increase by another \$1.8 million in 2023); and an inability to raise water rates due to the high cost of sewer, which is attributable to the CSO consent decree. Although the City’s water team has been able to creatively implement cost savings measures, other measures such as Ohio Edison’s Rider NMB Pilot Program are desperately needed.

The City has never filed an application with the Commission for a reasonable arrangement. However, many entities already utilize this type of reasonable arrangement, participate in transmission programs, or participate in other rate reducing programs such as the Pilot Program, which places the customers of the Water Reclamation and Water Treatment facilities at a disadvantage.<sup>7</sup> Thus, it is critical that this Arrangement is approved and the Water Reclamation and Water Treatment facilities realize more affordable and competitively priced electricity.

This Arrangement allowing the Water Reclamation and Water Treatment facilities to participate in the Pilot Program will lower the facilities’ transmission costs, ensure that the

---

<sup>6</sup> [https://www.akronohio.gov/cms/resource\\_library/files/aeec6881ed5147368/2022\\_cip\\_official.pdf](https://www.akronohio.gov/cms/resource_library/files/aeec6881ed5147368/2022_cip_official.pdf)

<sup>7</sup> See, e.g., *In re the Application of Earth ’N Wood Co.*, Case No. 19-2098-EL-AEC, Finding and Order (Jan. 29, 2020); *In re the Application of Campbell Soup Supply Company LLC*, Case No. 21-1047-EL-AEC, finding and Order (June 1, 2022); *In re the Application of Toshi CMC, LLC*, Case No. 21-1205-EL-AEC, Finding and Order (June 1, 2022); *In re the Application of Northeast Ohio Regional Sewer District*, Case No. 21-715-EL-AEC, Finding and Order (Oct. 6, 2021).

facilities do not pay more than their fair share for transmission services, and enable the facilities' customers, many of whom are low income, to realize a cost savings on their utility bills. The City respectfully requests the Commission approve this Arrangement for the Water Reclamation and Water Treatment facilities because the benefits to the ratepayers in Akron and the surrounding areas served by the Water Reclamation and Water Treatment facilities outweigh any indirect costs of the transmission Pilot Program.

### **III. SUPPORT OF THE ARRANGEMENT**

#### **A. STATEMENTS REGARDING APPLICATION**

1. The City owns, operates, and maintains the Water Reclamation and Water Treatment facilities.

2. The Water Reclamation and Water Treatment facilities, organized under R.C. Chapter 6119, were created in 1928 and 1915, respectively, in order to provide regional wastewater treatment and sewer services in the City and surrounding communities.<sup>8</sup> The facilities qualify as mercantile customers pursuant to R.C. 4928.01(A)(19).

3. Both the Water Treatment facility and Water Reclamation facility are within the certified service area of Ohio Edison.

4. Ohio Edison is an electric light company as defined by R.C. 4905.03(C), and a public utility as defined by R.C. 4905.02, and is, therefore, subject to the jurisdiction of the Commission.

5. The proposed Arrangement furthers the policy of the state of Ohio in R.C. 4908.02.

6. The proposed Arrangement satisfies R.C. 4905.31.

---

<sup>8</sup> See [https://www.akronohio.gov/cms/sewer/wrf\\_history/index.html](https://www.akronohio.gov/cms/sewer/wrf_history/index.html).

7. The proposed Arrangement is just and reasonable and in the public interest as required by Ohio Adm.Code 4901:1-38-05.

8. The proposed Arrangement does not violate either R.C. 4905.33 or 4905.35.

9. The terms of the proposed Arrangement will not result in the creation of delta revenue, and there will be no reduction in electric distribution utility revenue to Ohio Edison or transmission revenue to the transmission owner.

10. Attachment A to this Application is an affidavit from the City that attests to the accuracy of the information contained in this Application.

11. The City has not previously applied for or received from the Commission a reasonable arrangement.

**B. COST-SAVING EFFORTS BY THE WATER RECLAMATION AND WATER TREATMENT FACILITIES**

12. Utility charges owed by the City's Water Treatment and Water Reclamation facilities to Ohio Edison are a major driver of operating costs at these facilities and contribute to residents facing increases in rates charged for water usage.

13. The City has undertaken extensive and effective steps over the past 20 years to reduce its utility costs in order to mitigate potential rate increases for its customers of the Water Reclamation and Water Treatment facilities. These efforts have reduced energy costs and increased energy efficiency at both facilities.

14. In a City with a median household income of \$42,129 compared to Ohio's statewide average of \$61,938,<sup>9</sup> higher residential water rates are difficult for consumers to absorb into their budgets. That is why the City has developed several programs designed to help low-income

---

<sup>9</sup> <https://www.census.gov/quickfacts/fact/table/OH.akroncityohio/PST045222>

residents with their utility bills and has directed American Rescue Plan<sup>10</sup> funding into these programs.

15. The Akron Cares Program offers emergency payment assistance of up to \$500.00 towards a City utility bill for eligible residents.<sup>11</sup> This program was created to offer emergency funding to Akron residents who are having difficulty paying their utility bill and are delinquent. This program was initially seeded with \$25,000 and is made possible through generous donations from customers, city employees, and community partners. Additionally, the City is using \$2.5 million in state and local fiscal recovery funds, made available through the American Rescue Plan, to bolster and continue the program to ensure struggling residents have help when they are most in need.

16. Another program offered by the City is the Homestead Program, which provides low-income seniors and disabled residents with lower sewer and curb service rates.<sup>12</sup> As sewer rates have steeply risen in recent years due to the federal consent decree, this program locks-in sewer rates at the pre-consent decree amount for Akron homeowners meeting certain criteria like low-income seniors and disabled residents. The discount provided by this program is available to qualifying individuals for both sewer and refuse charges.

17. The City participates in the Home Energy Assistance Program (“HEAP”) for its residents. HEAP is a federally-funded program that provides eligible Ohioans assistance with their home energy bills. This one-time benefit is applied directly to the customer’s utility bill or bulk fuel bill. Ohioans with a household income at or below 175% of the federal poverty guidelines are eligible for the program.

---

<sup>10</sup> <https://www.akronohio.gov/cms/news/645e1855ba2233c0/index.html>

<sup>11</sup> <https://www.akronohio.gov/cms/site/a1c1965762eaf81a/index.html>

<sup>12</sup> <https://www.akronohio.gov/cms/site/8a0bc9866760f059/index.html>



18. As energy costs represent a significant portion of the overall operating budgets for the Water Reclamation and Water Treatment facilities, they have taken a number of steps to reduce those costs and mitigate the need for rate increases.

19. The Water Reclamation facility has reduced its energy costs through reduced usage and efficiency gains, as well as onsite renewable generation. For example, the Water Reclamation facility has:

- Installed renewable biogas generation and anaerobic digestion systems at its Renewable Energy Facility. These anaerobic digesters further the City's cost saving efforts by generating sufficient power to satisfy approximately 43% of the Water Reclamation facility's energy needs. The facility has decreased its reliance on energy supplied by the utility from approximately 4.3 million kilowatt hour ("kWh")/month supplied by Ohio Edison in 1993 to around 1.6 million kWh/month in 2021. Of the 1.6 million kWh/month, 0.7 million kWh is generated on site by the facility's renewable biogas generation and only 0.9 million kWh/month is supplied by Ohio Edison. By participating in the Pilot Program, the Water Reclamation facility will be able to better leverage its onsite generation investment by running its diesel generator in addition to the biogas units, which are limited to the amount of biogas generated, thus, realizing further utility bill savings that ultimately benefit their ratepayers.
- Upgraded its aeration basins to their fine-pore diffusers and upgraded to intelligent blower control, which reduced energy consumption at the facility by 1 million kWh/month.

- Converted its dissolved air floatation process to a gravity belt thickening process, thus, saving nearly than \$250,000 a year. This new process has cut power usage by 79%, lowered chemical costs, and shrunk manpower costs by \$180,000.

20. The City has also sought cost reductions at the Water Treatment facility using a variety of methods over the past 10 years. For example, the Water Treatment facility has:

- Removed, rebuilt, and reinstalled each of its service pumps to improve energy efficiency, which accounts for more than 90% of the plant's energy consumption.
- Decommissioned all power intensive KMnO<sub>4</sub> batching and pumping equipment.
- Upgraded and replaced building lighting, which is projected to save 279,000 kWh/month.
- Installed a finished water backwash system that enables the facility to perform filter backwashes using existing head pressure, and installed variable frequency drivers that enable more efficient use of service pumps through a soft start mechanism and operation at a more efficient pump curve.
- Implemented a solar panel array feasibility study utilizing the Lake Rockwell watershed and reservoir.
- The facility has on-site diesel generators that can handle 100% of the house load during electrical outages and emergencies. The Pilot Program will

allow the Water Treatment facility to better leverage its generator assets to provide costs savings that benefit the ratepayers.

21. The City also has entered into a multi-year agreement with a third-party energy services company, Enel X, to use its generators to achieve generation cost savings through the PJM Interconnection, LLC (“PJM”) Emergency Load Reduction Program and overall management of its peak demand to reduce its Peak Load Contribution at both the City’s Water Treatment and Water Reclamation facilities.

22. The City is currently unable to use these back-up generators to effectively reduce transmission costs under Ohio Edison’s Rider NMB, through which Ohio Edison recovers charges, including Network Integration Transmission Service (“NITS”) charges imposed by the Federal Energy Regulatory Commission (“FERC”) or PJM.

23. Ohio Edison bills the Water Reclamation and Water Treatment facilities as General Transmission (“GT”) customers. Rider NMB charges for GT customers are based on the customer’s kilovolt-amps (“kVa”) of Billing Demand, relevantly defined as the highest 30 minute integrated kVa/month, regardless of when that occurs. The Rider NMB charges cost the City approximately \$173,000 for the Water Reclamation facility and \$139,000 for the Water Treatment facility from December 2021 through November 2022.

24. Rider NMB’s rate design does not reflect PJM’s methodology for determining NITS charges applicable to Ohio Edison customers in the American Transmission System, Inc. (“ATSI”) transmission zone. PJM calculates a customer’s NITS “tag” for ATSI based on kilowatt (“kW”) consumption during the five highest peak hours (“5 CP”) for the ATSI transmission zone in a given year.

25. Enel X has offered to assist the City's Water Reclamation and Water Treatment facilities in reducing their NITS tags through participation in Enel X's Predictive Alerting Services program, which uses predictive modeling capabilities to alert the facilities to reduce their demand during potential windows that will set the relevant 5 CP transmission system peaks. However, even if the Water Reclamation and Water Treatment facilities utilized back-up generators to lower their kW consumption during anticipated 5 CP hours and decreased their NITS tag accordingly, they would not reduce their actual billed transmission charges under Rider NMB because their monthly Billing Demand would simply be calculated based on their kVa demand during a 30-minute period outside those on-peak hours. Therefore, if the City's Water Reclamation and Water Treatment facilities continue to receive transmission service from Ohio Edison under Rider NMB, they will not have any appreciable incentive to lower their NITS tag because doing so would not lower their Rider NMB charges enough to offset the costs and effort of running the back-up generators.

26. The windows of time that are likely to set zonal peaks for the ATSI zone and form a basis for the Water Reclamation and Water Treatment facilities' NITS tags often do not overlap with the overall PJM peaks on which the facilities' capacity charges are based. Therefore, the facilities' ongoing efforts to manage their peak demand to lower their capacity costs are unlikely to result in lower NITS tags if the facilities cannot opt-out of the Rider NMB.

27. To the extent the Water Reclamation and Water Treatment facilities do successfully reduce their demand during anticipated peak times on the transmission grid, the need for additional investment in transmission facilities will be decreased. The cost of such transmission investments is generally socialized across all ratepayers in the relevant transmission zone.

### C. THE RIDER NMB OPT-OUT PILOT

28. As part of a settlement agreement in a previous ESP case before the Commission, Ohio Edison created the Rider NMB Pilot Program that allows certain customers to bypass and avoid paying Rider NMB, and instead obtain all transmission and ancillary services through a retail supplier. Under the approved settlement agreement, the Pilot Program was limited to a small group of customers that signed the settlement agreement. The Commission explained the Pilot Program would further Ohio's policy of facilitating the state's effectiveness in the global economy, in accordance with R.C. 4928.02(N), by allowing industrial customers to pursue "substantial savings by obtaining certain transmission services outside of Rider NMB without imposing significant costs on other customers."<sup>13</sup>

29. Therefore, participating in the Pilot Program and opting out of the Rider NMB charges requires a reasonable arrangement for customers that did not sign the settlement agreement in the previous ESP case.

30. In its Fifth Entry on Rehearing in the FirstEnergy ESP IV Case, the Commission noted that:

[a]lthough the Stipulations provide one avenue for customer participation in the Rider NMB pilot program, the Stipulations do not provide the only avenue. Customers who may benefit from participation in the Rider NMB pilot program should work with Staff and the Companies to determine if the customers' participation is appropriate, and the customer may then file an application with the Commission under R.C. 4905.31 for permission to participate in the Rider NMB pilot program, and the Commission will determine if such participation is in the public interest.<sup>14</sup>

---

<sup>13</sup> *FirstEnergy ESP IV Case*, Opinion and Order at 94.

<sup>14</sup> *FirstEnergy ESP IV Stipulation Case*, Fifth Entry on Rehearing (Oct. 12, 2016) at 139; *See also FirstEnergy ESP IV Stipulation Case*, Eighth Entry on Rehearing (Aug. 16, 2017) at 42.

31. Accordingly, through this Application, the City seeks approval from the Commission for its Water Reclamation and Water Treatment facilities to participate in the Pilot Program. Participation in the Pilot Program would allow the City to obtain transmission services for these facilities through a third party, with the City being billed for those services to the facilities based on the facilities' actual 5 CP demand. Likewise, the Water Reclamation and Water Treatment facilities' participation would enable them to effectively reduce their transmission charges through demand management, producing significant savings.

**D. TERMS AND CONDITIONS OF THE REASONABLE ARRANGEMENT**

32. The City seeks participation in the Rider NMB Opt-Out Pilot Program on behalf of the Water Reclamation and Water Treatment facilities under the same terms and conditions applicable to customers already participating pursuant to the Stipulations approved by the Commission in the *FirstEnergy ESP IV Case*.<sup>15</sup> All other terms and conditions of service would be governed by the applicable provisions of the Ohio Edison tariffs.

33. Upon approval of this Application and execution of an agreement with Ohio Edison, the Water Reclamation and Water Treatment facilities would be authorized to participate in the Rider NMB Opt-Out Pilot and would be exempt from standard Rider NMB rates as of the earliest possible date.

34. The term of the Arrangement would be the full duration of the Rider NMB Opt-Out Pilot Program, including any successor program approved by the Commission in future cases.

35. Within this proposed term, the City also requests that it be permitted to seek modification of the Arrangement on behalf of the Water Reclamation and Water Treatment

---

<sup>15</sup> In accordance with the *FirstEnergy ESP IV Case* Order, the City contacted Ohio Edison and Commission Staff regarding this Application. Ohio Edison has indicated to the City that it takes a neutral position at this time, and Staff has not raised any objection to the filing of the Application.

facilities so that the Arrangement can be altered, with Commission approval, as circumstances and conditions may warrant. No modification shall become effective without the Commission's prior approval.

36. Upon reasonable notice to Ohio Edison, the City may terminate this Arrangement before the end date of the term as approved by the Commission.

37. The proposed Arrangement would not include any delta revenue in the traditional sense. The Pilot Program provides for the City to be billed for transmission service for the Water Reclamation and Water Treatment facilities separately from Ohio Edison customers. Thus, approval of the City's participation in the Pilot Program will not increase any costs billed by PJM to Ohio Edison. At the retail level, this reasonable Arrangement aligns the allocation of transmission costs with the PJM wholesale allocation methodology. Therefore, to the extent it results in the reassignment of costs within the Water Reclamation and Water Treatment facilities' customer class, it will simply represent a reversal of the existing intra-class cost subsidization that exists under the standard non-bypassable Rider NMB. Moreover, to the extent the Water Reclamation and Water Treatment facilities are not able to reduce their electricity costs through participation in the Rider NMB Opt-Out Pilot, the continuing costs charged to the Water Reclamation and Water Treatment facilities under Rider NMB will be incorporated into rates for the Water Reclamation and Water Treatment facilities' customers going forward.

38. The proposed Arrangement would be subject to such other terms and conditions as are customary. For example and for illustration purposes only, there should be standard provisions to address default and insolvency by either party, provisions to facilitate the confidential exchange of information between the parties, provisions regarding documentation and mutual cooperation to address regulatory or other requirements including the duty to provide annual reports to Ohio

Edison as required by Commission rule, provisions to address resolution of any conflicts between the arrangement and any otherwise applicable schedule, and provisions designed to facilitate the resolution of any disputes.

**E. CONSISTENCY OF THE ARRANGEMENT WITH OHIO LAW AND POLICY**

39. This Application meets the applicable criteria for a reasonable arrangement under R.C. 4905.31.

40. The Water Treatment Facility and Water Reclamation Facility qualify as mercantile customers as defined in R.C. 4928.01(A)(19) since they are commercial customers, their electricity is consumed for nonresidential use, and they each use more than 700,000 kWh per year.

41. This Application seeks to establish a reasonable arrangement with Ohio Edison to provide a financial device that is advantageous to the parties interested. The Pilot Program is advantageous to the Water Reclamation and Water Treatment facilities and their customers because the facilities participation in the Pilot Program will enable them to utilize backup generators to reduce demand during peak hours. Reducing demand during peak hours will result in cost savings for the City, and ultimately the facilities' customers, through lower transmission charges.

42. This Application meets the applicable criteria for a reasonable arrangement under Ohio Adm. Code 4901:1-38-05(B).

43. The City is not eligible for an economic development arrangement since neither water facility is a new or expanding customer. The City is not eligible for an energy efficiency arrangement since neither water facility has any qualifying new or expanded energy efficiency production facilities.



44. Consistent with the Commission's statements in the *FirstEnergy ESP IV Case* Fifth Entry on Rehearing regarding the Rider NMB Opt-Out Pilot Program, this Application is in the public interest. As the only provider of water treatment and water supply services to more than 330,000 and 300,000 residents in northeast Ohio, respectively, the transmission costs paid by the Water Reclamation and Water Treatment facilities impact the budgets of countless families and businesses. As inflation and other cost pressures have increased over the past several years, residents of the City and surrounding communities have also seen the rates for these water services increase. City residents have a median household income and per capita income that is significantly lower than statewide figures, so any rate increases jeopardize the availability of clean and reliable water to these residents.

45. Granting this Application can ameliorate these financial issues and help assure residents of Akron and surrounding communities have access to safe water by providing another cost containment resource to the City's water facilities. Furthermore, entering the Pilot Program is in the public interest because it will alleviate some upward cost pressure and may result in saving millions of dollars in transmission costs for the City's water facilities which are funded by taxes and fees paid by Ohioans.

46. The proposed Arrangement does not violate the provisions of R.C. 4905.33 and 4905.35. Participation by the Water Reclamation and Water Treatment facilities in the Pilot Program does not provide those facilities any special rate or rebate nor does it provide any undue or unreasonable preference since this Application asks that the same terms and conditions be applied to the facilities that are already applicable to customers participating in the Pilot Program.

47. The proposed Arrangement is just and reasonable. This Application does not ask the Commission to order any special treatment or variation from the Pilot Program that has already

been approved by this body. The proposed Arrangement is also consistent with Commission precedent approving similar proposals for customers of electric distribution utilities in the state of Ohio.<sup>16</sup>

48. The proposed Arrangement furthers the policy of the state of Ohio as embodied in R.C. 4928.02. Approval of the proposed Arrangement would further a variety of state policies under R.C. 4928.02 including:

- Ensuring the availability of reasonably priced retail electric service for the facilities consistent with R.C. 4928.02(A);
- Providing the facilities with the ability to effectively choose a third-party supplier that meets their needs, consistent with R.C. 4928.02(B) and (C);
- Facilitating market access for the demand-side management services provided by the facilities' vendor Enel X consistent with R.C. 4928.02(D);
- Implementing flexible regulatory treatment that accommodates the continuing emergence of competitive electricity markets, consistent with R.C. 4928.02(G); and
- Perhaps most importantly, facilitating the state's effectiveness in the global economy consistent with R.C. 4928.02(N). In the case of this Application, this impact does not come in the form of lowering the City's costs for purposes of vying with out-of-state competitors. Rather, it comes through enabling cost savings that will help mitigate significant affordability issues for the Water Reclamation and Water Treatment facilities' customer base within Ohio, potentially saving them millions of dollars going forward that they will then be able to spend in support of Ohio's economy and their own well-being.

49. As explained above, the proposed Arrangement also fulfills the majority of the criteria considered as relevant by the Commission in its decisions in such cases including:

- Whether the applicant's business is acutely energy intensive or has a distinct energy profile;

---

<sup>16</sup> See, e.g., *In re the Application of Earth 'N Wood Co.*, Case No. 19-2098-EL-AEC, Finding and Order (Jan. 29, 2020); *In re the Application of Campbell Soup Supply Company LLC*, Case No. 21-1047-EL-AEC, Finding and Order (June 1, 2022); *In re the Application of Toshi CMC, LLC*, Case No. 21-1205-EL-AEC, Finding and Order (June 1, 2022).

- Whether the applicant has made a commitment to investing in Ohio either in a new investment or support of a new industry;
- Whether the economic impact of the applicant's project on the region will be significant and meets the minimum requirements of Ohio Adm.Code 4901:1-38-03;
- Whether the applicant has explored or taken advantage of other opportunities for operational savings such as a basic budgetary management, shopping for or self-generating electricity, energy efficiency, and participation in utility or regional transmission organizations' conservation or reliability programs; and
- Whether the benefits to the community of the project outweigh the costs imposed on other retail customers because of the reasonable arrangement.<sup>17</sup>

50. For all of the reasons stated above, the proposed Arrangement advances the policy of the state of Ohio and will serve the public interest.

51. To the extent the relief requested in this Application requires a waiver of any filing requirements of Ohio Adm. Code Chapter 4901:1-1-38, the City requests such a waiver.

52. Through the attached Affidavit in Attachment A, the City submits that it has met its burden of proof to demonstrate that the proposed Arrangement is just and reasonable, consistent with Ohio law, and in the public interest.

53. Because the proposed Arrangement is just and reasonable, the City requests that the Commission approve this Application without a hearing.

#### **IV. REQUEST FOR EXPEDITED RULING**

54. The City requests that the Commission approve this Application on an expedited basis, *i.e.*, within 60 days.

55. Expedited consideration is critical because, in order to manage its 5 CP demand and lower its NITS tag to produce future bill savings through the Pilot Program, the City must

---

<sup>17</sup> *BlueScope*, Case No. 19-950-EL-AEC, Finding and Order (June 5, 2019) at 3-4.

incur fuel costs when transmission system peaks are likely to occur. The City seeks a decision from the Commission regarding its participation in the Pilot Program as soon as possible to minimize unneeded expenditures.

## **V. CONCLUSION**

56. For the foregoing reasons, the City, on behalf of the Water Reclamation and Water Treatment facilities, urges the Commission to:

- Find that the Arrangement proposed in this Application is just, reasonable, and in the public interest;
- Promptly authorize and approve a reasonable arrangement between the City, on behalf of the Water Reclamation and Water Treatment facilities, and Ohio Edison on the terms and conditions generally described herein; and
- Grant such additional relief as is appropriate.

Respectfully Submitted,

Christine M.T. Pirik

Christine M.T. Pirik (0029759)

(Counsel of Record)

Terrence O'Donnell (0074213)

Kevin D. Shimp (0097760)

Dickinson Wright PLLC

180 East Broad Street, Suite 3400

Columbus, Ohio 43215

(614) 591-5461

[cpirik@dickinsonwright.com](mailto:cpirik@dickinsonwright.com)

[todonnell@dickinsonwright.com](mailto:todonnell@dickinsonwright.com)

[kshimp@dickinsonwright.com](mailto:kshimp@dickinsonwright.com)

*Attorneys for the City of Akron*

**BEFORE THE  
OHIO POWER SITING BOARD**

In the Matter of the Application for )  
Establishment of a Reasonable ) Case No. 23-798-EL-AEC  
Arrangement Between the City of Akron, )  
Ohio and Ohio Edison Company. )

**AFFIDAVIT OF  
CITY OF AKRON, OHIO**

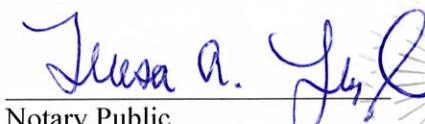
STATE OF OHIO :  
: SS  
COUNTY OF SUMMIT :

I, Chris Ludle, being duly sworn and cautioned, state that I am over 18 years of age and competent to testify to the matters stated in this affidavit and further state the following based on my personal knowledge:

1. I am City Service Director for the City of Akron, Ohio, which is the applicant in this case.
2. As part of my duties, I have helped oversee the preparation of the Application for Establishment of a Reasonable Arrangement ("Application") in this case.
3. To the best of my knowledge, information, and belief, the information and materials contained in the above-referenced Application are true and accurate.
4. To the best of my knowledge, information, and belief, the above-referenced Application is complete.

  
\_\_\_\_\_  
Chris Ludle  
City Service Director  
City of Akron

Sworn to before and signed in my presence this 16TH day of AUGUST 2023.

  
\_\_\_\_\_  
Notary Public

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

**8/17/2023 1:14:53 PM**

**in**

**Case No(s). 23-0798-EL-AEC**

Summary: Application - In the Matter of the Application for Establishment of a Reasonable Arrangement Between the City of Akron, Ohio and Ohio Edison Company electronically filed by Christine M.T. Pirik on behalf of The City of Akron.