

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE FILING BY)	CASE NO. 16-481-EL-UNC
OHIO EDISON COMPANY, THE)	
CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY, AND)	
THE TOLEDO EDISON COMPANY)	
OF A GRID MODERNIZATION)	
BUSINESS PLAN)	

IN THE MATTER OF THE FILING BY)	CASE NO. 17-2436-EL-UNC
OHIO EDISON COMPANY, THE)	
CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY AND)	
THE TOLEDO EDISON COMPANY)	
OF AN APPLICATION FOR)	
APPROVAL OF A DISTRIBUTION)	
PLATFORM MODERNIZATION)	
PLAN)	

IN THE MATTER OF THE)	CASE NO. 18-1604-EL-UNC
APPLICATION OF OHIO EDISON)	
COMPANY, THE CLEVELAND)	
ELECTRIC ILLUMINATING)	
COMPANY AND THE TOLEDO)	
EDISON COMPANY TO IMPLEMENT)	
MATTERS RELATING TO THE TAX)	
CUTS AND JOBS ACT OF 2017)	

IN THE MATTER OF THE)	CASE NO. 18-1656-EL-ATA
APPLICATION OF OHIO EDISON)	
COMPANY, THE CLEVELAND)	
ELECTRIC ILLUMINATING)	
COMPANY AND THE TOLEDO)	
EDISON COMPANY FOR APPROVAL)	
OF A TARIFF CHANGE)	

**REPLY COMMENTS OF OHIO EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY
ON THE NOVEMBER 14, 2022 OPERATIONAL BENEFITS ASSESSMENT REPORT**

I. INTRODUCTION

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (“Companies”) submit these Reply Comments in response to the initial comments of The Office of the Ohio Consumers’ Counsel,¹ Ohio Energy Leadership Counsel,² The Northwest Ohio Aggregation Coalition and its Member Communities,³ The Retail Energy Supply Association,⁴ and The Ohio Manufacturers’ Association Energy Group and The Kroger Co.⁵ on the Operational Benefits Assessment (“OBA”) Report.⁶

The OBA and other provisions of the Grid Mod I Stipulation and Recommendation⁷ and Supplemental Stipulation and Recommendation⁸ are providing customer protections as intended. For example, the OBA evaluated the actual functionality and performance of Grid Mod I and included a review of the operational savings credited to the revenue requirement of Rider AMI. The Supplemental Stipulation allows for the Report’s recommendations to be incorporated into Grid Mod II, and in fact, it is the Companies’ intent to incorporate recommendations from the report into Grid Mod II. Additionally, audits of the Companies’ Rider AMI are performed annually by Commission Staff.

¹ Comments of The Office of the Ohio Consumers’ Counsel (8/11/2023) (“OCC Comments”).

² Initial Comments of the Ohio Energy Leadership Counsel (8/11/2023) (“OELC Comments”).

³ Initial Comments by the Northwest Ohio Aggregation Coalition and its Member Communities (8/11/2023) (“NOAC Comments”).

⁴ Initial Comments of The Retail Energy Supply Association (8/11/2023) (“RESA Comments”).

⁵ Joint Comments of the Ohio Manufacturers’ Association Energy Group and The Kroger Co. (8/11/2023) (“OMAEG/Kroger Comments”).

⁶ Operational Benefits Assessment of FirstEnergy Ohio’s Grid Mod I (11/14/2022) (“Report”).

⁷ Stipulation and Recommendation (11/9/2018) (“Stipulation”).

⁸ Supplemental Stipulation and Recommendation (1/25/2019) (“Supplemental Stipulation”).

For the reasons more fully set forth herein and in the Companies' initial Comments,⁹ it is unnecessary to adopt stakeholder comments suggesting that the OBA should be expanded beyond its express scope. The Commission should also decline to conduct further proceedings in the Companies' Grid Mod I docket and decline to pause the Companies' pending Grid Mod II application.

The Companies respectfully request that the Commission issue a Finding and Order determining that: (1) the Companies' deployment and reporting for Grid Mod I was consistent with the approved Stipulation, Supplemental Stipulation, and Opinion and Order;¹⁰ (2) the fixed operational savings included in Attachment D of the Stipulation be used for years 4-6;¹¹ and (3) Daymark's additional recommendations be considered in the context of future grid modernization proposals, consistent with the Supplemental Stipulation.¹²

II. REPLY COMMENTS

A. The Companies Tracked and Reported the Stipulated and Approved Metrics and Are Considering the OBA's Metrics Recommendations for Future Grid Modernization Deployments in Accordance with the Supplemental Stipulation.

The Companies tracked and reported the metrics agreed to in the Stipulation and approved by the Commission.¹³ Neither the Report nor the commentors identified an approved metric that was not tracked. Yet based on the Report, commenters raise questions about the metrics.¹⁴ OMAEG and Kroger go further and incorrectly assert that the Companies were "obligated by the

⁹ Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (8/11/2023) ("Companies' Comments").

¹⁰ Opinion and Order (7/17/2019) ("Order").

¹¹ Supplemental Stipulation at 6.

¹² *Id.* at 5.

¹³ Report at 21.

¹⁴ OELC Comments at 6-8; OCC Comments at 5-6.

approved Stipulation and Grid Mod I Order to create reporting metrics . . .” and that by not properly doing so, the Companies prevented the auditor from evaluating Grid Mod I’s benefits.¹⁵ OCC accuses the Companies of making themselves “unauditable.”¹⁶

As the Companies explained in their comments, the approved metrics were developed with Staff and the other signatory parties and were part of a settlement that was approved by the Commission. And, while not all commenters were signatory parties, the metrics were filed as an attachment to the Stipulation and have been in the public record since November 2018.¹⁷ Moreover, the metrics are nearly identical to those used by at least one other Ohio EDU in connection with its grid modernizing deployments.¹⁸ Contrary to OMAEG and Kroger’s assertion, the Stipulation and Order did not require the Companies to *create* metrics; the Stipulation and Order authorized the use of the agreed-upon metrics that had already been developed and submitted as an attachment to the Stipulation.¹⁹ Further, the metrics were not intended to directly track the estimated operational savings and benefits as they were calculated in the Grid Mod I cost-benefit analysis (“CBA”) one-for-one. The Report found that the Companies implemented the metrics approved by the Commission.²⁰

The Report determined that the metrics could have better facilitated the operational benefits assessment and that many of the metrics could be more “directly informative of benefits being

¹⁵ OMAEG/Kroger Comments at 6.

¹⁶ OCC Comments at 2.

¹⁷ Stipulation at Attachment C.

¹⁸ See Case No. 18-1618-EL-RDR (4/12/20219), AEP Ohio GridSmart® Deployment Audit: Review of the Phase 1 and Phase 2 Operational Benefits, Final Report, performed by Daymark at 143-145.

¹⁹ Stipulation at Attachment C; Order at ¶ 43 (“The Companies and Staff agree that a set of performance metrics will measure the status of deployment and related impacts from grid modernization investments. . . .”), ¶ 91, ¶ 118 (“Notably, the Stipulation contains a set of performance metrics by which the Companies committed to routinely monitor, measure, and report to Staff the status of the deployment and other related benefits associated with the grid modernization projects as part of the Rider AMI quarterly update process.”).

²⁰ Report at 21.

achieved.”²¹ As the Companies noted in their Comments, they appreciate and are reviewing the Report’s metrics-related recommendations and, consistent with the Supplemental Stipulation, they are considering which if any could be incorporated in the pending Grid Mod II proposal.²² It is important to keep the Report’s metrics-related recommendations in perspective – the fact that the auditor, with the benefit of hindsight, found that the metrics did not facilitate the operational benefits assessment does not indicate that the Companies failed to meet their commitment to track the metrics pursuant to the Stipulation, Supplemental Stipulation, and Order.

B. The Operational Benefits Assessment Should Not Be Expanded Beyond the Scope Prescribed by the Stipulation and Supplemental Stipulation.

The purpose of the OBA was “to evaluate whether the actual functionality and performance of [Grid Mod I] is consistent with the planned specifications.”²³ As part of this assessment, an independent cost benefit analysis could be conducted, “which could include a review and possible increase or decrease to the level of operational savings credited to the revenue requirement of Rider AMI during Grid Mod I.”²⁴ The results of the review are subject to Commission approval, and “may also be incorporated into future deployment of the Companies’ grid modernization investment to ensure the goals of the investments are being met.”²⁵ The OBA did not – and was not intended to – include determinations of prudence, used and useful, or a forensic examination or investigation of construction practices in its scope. Rather, the OBA had specific purposes, as set forth above. As agreed to by the signatory parties and ordered by the Commission, financial audits of the Companies’ Rider AMI are performed annually by Commission Staff separate from

²¹ *Id.* at 2.

²² Companies’ Comments at 7.

²³ Supplemental Stipulation at 5.

²⁴ *Id.*

²⁵ *Id.*

the OBA and are to include, among numerous other components, “[v]erification that the Grid Mod I investments are used and useful and were prudently incurred.”²⁶

In their comments, multiple stakeholders make recommendations that are wholly outside the scope of the OBA. For example, OMAEG and Kroger jointly comment that the Companies should not be allowed to continue recovering for Grid Mod I investments until they demonstrate that the amounts previously collected are actually prudent, used, and useful.²⁷ OCC similarly argues that the Companies have failed to show that the investments are used and useful and prudently incurred.²⁸ NOAC recommends expanding the scope of the assessment to include a “fully independent forensic financial and operational accounting”²⁹ of the Companies’ Grid Mod I and construction practices.³⁰

While prudence review is a valid consideration, commenters are overlooking that it, and other customer protections, are already in place pursuant to the Stipulation, Supplemental Stipulation, and Order.³¹ The Commission should decline to adopt recommendations from commenters suggesting that the OBA be expanded beyond its express scope.

C. Commenters’ Request for Further Grid Mod I Proceedings and a Pause of Grid Mod II Should Be Declined.

The Companies are willing and able to demonstrate operational savings and other benefits to consumers. OCC overlooks this and argues that the Commission should set a procedural schedule in Grid Mod I and “investigate why [the Companies are] unwilling or unable to demonstrate operational savings and other benefits to consumers. . . .” and further requests

²⁶ Stipulation at 12-13; Supplemental Stipulation at 3; Order at 14-16.

²⁷ OMAEG/Kroger Comments at 8.

²⁸ OCC Comments at 8.

²⁹ NOAC Comments at 2nd unnumbered page.

³⁰ *Id.* at 2nd – 3rd unnumbered pages.

³¹ Stipulation at 12-13; Supplemental Stipulation at 3; Order at 14-16.

discovery and a hearing.³² OCC and OMAEG/Kroger further ask the Commission to pause the Companies' Grid Mod II application until all of the OBA recommendations have been addressed.³³ OMAEG and Kroger additionally assert that the Companies "should not be rewarded by allowing [them] to begin Grid Mod II when Grid Mod I's operational savings fell short of the Stipulation."³⁴

OCC's request for a procedural schedule, discovery, and hearing is based on an incorrect premise and should be declined by the Commission. As explained above and in their initial Comments,³⁵ the Companies tracked the agreed-upon metrics approved by the Commission and in response to the Report's recommendations, they plan to propose different or enhanced metrics in Grid Mod II, consistent with the Supplemental Stipulation. And, as the Companies explained in their Comments, they did demonstrate operational savings in Grid Mod I.³⁶ In connection with AMI meter reading, the Companies achieved operational savings totaling more than \$3.9 million through June 2022,³⁷ which is more than 100% of the estimated operational savings associated with AMI in years 1-3 and approximately 93.5% of the total estimated operational savings for years 1-3.³⁸ Other operational savings were not estimated to accrue at all in years 1-3.³⁹ OMAEG and Kroger misinterpret the Stipulation when they suggest that the Companies would be "rewarded" by being allowed to proceed with Grid Mod II if Grid Mod I's operational savings fell short of the amounts set forth in the Stipulation.⁴⁰ As contemplated in the Stipulation and

³² OCC Comments at 8.

³³ OCC Comments at 2; OMAEG/Kroger Comments at 8.

³⁴ OMAEG/Kroger Comments at 4.

³⁵ Companies' Comments at 7.

³⁶ *Id.* at 5-6.

³⁷ DM Set 3-DR-015 and Attachments 1-3.

³⁸ Stipulation at Attachment D.

³⁹ *Id.*

⁴⁰ OMAEG/Kroger Comments at 4.

Supplemental Stipulation, there is no specific level of achieved operational savings in Grid Mod I required before proceeding with Grid Mod II. To the extent the Companies have not achieved all of the estimated operational savings across all categories for years 1-3, customers are protected because the deemed amount of operational savings is credited to them through Rider AMI, even though it exceeds the savings realized by the Companies.⁴¹

Moreover, OCC's request that the Commission reopen the Grid Mod I proceeding is legally invalid. Grid Mod I, which was a consolidated case composed of four dockets (including resolution of the impact of the Tax Cuts and Jobs Act of 2017, which provided approximately \$900 million in credits to customers) has been concluded for years. The Commission unanimously approved and adopted the Stipulation and Supplemental Stipulation in its Order on July 17, 2019,⁴² and later unanimously denied the rehearing applications filed by three parties.⁴³ No party appealed.⁴⁴ The Commission should decline to set a procedural schedule or allow any further proceedings in the consolidated Grid Mod I cases.

The Commission should also decline to pause the Companies' Grid Mod II application. Grid Mod II should proceed according to the procedural schedule issued by the Commission,⁴⁵ and it should include consideration of the OBA's recommendations, which are intended to be forward-looking in nature consistent with the Supplemental Stipulation.⁴⁶

⁴¹ Stipulation at 23-24.

⁴² *See generally*, Order.

⁴³ Entry on Rehearing (9/11/2019).

⁴⁴ *See generally*, Case 16-481-EL-UNC, *et al.*, docket.

⁴⁵ Case No. 22-704 (7/20/2023) Entry.

⁴⁶ Supplemental Stipulation at 5 ("The results of the reviews may also be incorporated into future deployment of the Companies' grid modernization investments to ensure the goals of the investments are being met.").

D. The Companies Have Been Transparent.

The Companies have been and continue to be open and transparent about Grid Mod I deployments and impacts. Not only do the Companies track and report the agreed upon metrics,⁴⁷ they have also provided detailed information and updates and responded to stakeholder questions during their quarterly Grid Mod I Collaborative meetings for almost four years. During the audit, the Companies provided all requested information based on data that was available.

Commenters point to the Report's assertions that the Companies failed to identify a "CVR Study" and "business case models" that supported assumptions in the CBA and suggest that the Companies were not forthcoming.⁴⁸ The Companies respectfully disagree that these examples indicate a lack of transparency. The CVR study was identified in the CBA, which was provided on May 26, 2022 – two days after it was requested,⁴⁹ and it was described in detail in the Companies' Grid Modernization Business Plan.⁵⁰ The Companies provided the CVR study when it was requested.⁵¹ The Companies addressed the business case models in their Comments⁵² and further note that those models were also provided when requested.⁵³ OELC observes that the Report critiqued the Companies' transparency where it found that "[t]he Grid Mod I cost-benefit analysis does not meet the level of transparency which would be expected per the Commission's

⁴⁷ Although the Stipulation and Order only require the Companies to provide the metrics reports to Staff (*see* Stipulation at 22; Order at ¶ 118), the Companies have provided them in response to discovery in their Grid Mod II proceeding (*see* DM Set 4-DR-025-Attachment 1, provided in response to OCC Set 3-RPD-001 in Case No. 22-704-EL-UNC, and OCC Set 4-INT-001-Attachment 1 in Case No. 22-704-EL-UNC).

⁴⁸ OELC Comments at 7.

⁴⁹ DM Set 1 (providing PAC Set 01-DR-003- Attachments 1-2).

⁵⁰ Case No. 16-481-EL-UNC (2/29/2016) Grid Modernization Business Plan and Exhibit A thereto.

⁵¹ *See* Report at Appendix 7, p. 17 at DR 4-19.

⁵² Companies' Comments at 10.

⁵³ Report at Appendix 7, p. 19, at DR 5-1.

grid modernization proceeding conclusions. . . .”⁵⁴ But the Companies respectfully submit that this finding is contradicted by the case record. The Grid Mod I case was the appropriate forum for parties to raise any concerns regarding the transparency of the underlying CBA. If the Commission had concluded that the CBA did not meet its own standards for transparency, it would have declined to approve the Stipulation and Supplemental Stipulation.

The Companies acknowledge that the Report opined that the operational benefits assessment could have been better facilitated with alternate benefit tracking methodologies and additional reporting metrics, and the Companies appreciate and are reviewing the Report’s recommendations for possible inclusion into future grid modernization deployments, including their pending Grid Mod II proposal.⁵⁵ However, a perceived disconnect between the stipulated reporting metrics and different information that may have better facilitated the OBA does not amount to a lack of transparency on the part of the Companies.

III. CONCLUSION

For the reasons set forth here and in the Companies’ Comments, the Companies respectfully request that the Commission:

- A. Decline to adopt stakeholder comments suggesting that the OBA should be expanded beyond its express scope.
- B. Decline to conduct further proceedings in the Companies’ Grid Mod I docket and decline to pause the Companies’ pending Grid Mod II application.
- C. Issue a Finding and Order finding that: (1) the Companies’ deployment and reporting for Grid Mod I was consistent with the approved Stipulation,

⁵⁴ OELC Comments at 6 (quoting Report at 4).

⁵⁵ Case No. 22-704.

Supplemental Stipulation, and Commission Order; (2) the fixed operational savings included in Attachment D of the Stipulation be used for years 4-6; and (3) Daymark's additional recommendations be considered in the context of future grid modernization proposals, consistent with the Supplemental Stipulation.

Respectfully submitted,

/s/Christine E. Watchorn

Christine E. Watchorn (0075919)

FirstEnergy Service Company

100 East Broad Street, Suite 2225

Columbus, OH 43215

Phone: 614-437-0183

Facsimile: 330-245-5682

Email: cwatchorn@firstenergycorp.com

*Attorney for Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The Toledo
Edison Company*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the forgoing Reply Comments was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 25th day of August, 2023. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/Christine E. Watchorn

Christine E. Watchorn (0075919)

*Attorney for Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The Toledo
Edison Company*

Thomas.Lindgren@ohioago.gov
Werner.Margard@OhioAGO.gov
angela.obrien@occ.ohio.gov
mpritchard@mcneeslaw.com
awalke@mcneeslaw.com
mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com
dstinson@brickergraydon.com
mwarnock@brickergraydon.com
DBorchers@brickergraydon.com
bojko@carpenterlipps.com
easley@carpenterlipps.com
paul@carpenterlipps.com
gkrassen@nopec.org
glpetrucci@vorys.com
rdove@keglerbrown.com
mdortch@kravitzllc.com
whitt@whitt-sturtevant.com
Evan.Betterton@igs.com
joe.oliker@igs.com
michael.nugent@igs.com
mkelter@elpc.org
jweber@elpc.org
dproano@bakerlaw.com
ahaque@bakerlaw.com
eproudy@bakerlaw.com
pwillison@bakerlaw.com
knordstrom@theOEC.org
ctavenor@theOEC.org
trhayslaw@gmail.com

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Summary: Reply Comments on the November 14, 2022 Operational Benefits
Assessment Report electronically filed by Ms. Christine E. Watchorn on behalf of
Ohio Edison Company and The Cleveland Electric Illuminating Company and The
Toledo Edison Company.