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 Cleveland Electric Illuminating Company, and The Toledo Edison Company.	)))))	Case No. 22-391-EL-RDR

REPLY COMMENTS OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

I. INTRODUCTION

On April 20, 2022 and June 15, 2022, the Commission issued requests for proposal to audit the Ohio Edison Company (Ohio Edison), The Cleveland Electric Illuminating Company (CEI), and The Toledo Edison Company's (Toledo Edison) (collectively, FirstEnergy) Non-Market-Based Services Rider (Rider NMB) Pilot Program (Pilot).[1] Rider NMB is a non-bypassable rider designed to recover non-market-based transmission-related costs imposed on or charged to FirstEnergy by the Federal Energy Regulatory Commission (FERC) or PJM Interconnection, LLC (PJM),[2] while the Pilot provides participating customers an opportunity to be directly billed for their transmission-related costs by their competitive retail electric service (CRES) provider rather than paying Rider NMB rates.[3] By participating in the Pilot, customers can control their

---

[1] *In the Matter of the Review of the Non-Market-Based Services Rider Pilot Program Established by Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 22-391-EL-RDR, Entry at ¶ 8 (April 20, 2022) (hereinafter, Rider NMB Order).

[2] *Id.* at ¶ 4.

[3] *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, Opinion and Order at 28 (March 31, 2016).

transmission-related costs by controlling their Network Service Peak Load (NSPL).[4] Moreover, participating customers only pay for their actual transmission-related costs rather than paying Rider NMB's average rates, which may or may not reflect actual costs.[5]

The audit report filed by Exeter Associates (Exeter) on July 17, 2023 (Audit Report) concludes that (1) the Pilot produces aggregate transmission savings for all FirstEnergy customers, (2) transmission costs are being reallocated, (3) the Pilot's quantified benefits outweigh the costs, and (4) it is unclear whether Rider NMB results in overall cost savings to customers as compared to eliminating Rider NMB, as Rider NMB does not appear to assign costs or provide price signals consistent with cost causation principles.[6] In light of these findings, Exeter recommends eliminating Rider NMB for all customers and charging them directly for their transmission costs through NSPL billing (Recommendation #1).[7]

On August 17, 2023, pursuant to the July 19, 2023 Entry, the Ohio Manufacturers' Association Energy Group (OMAEG) submitted initial comments on the Audit Report recommending that the Commission adopt Exeter's preferred Recommendation #1, or, alternatively, Exeter's alternate Recommendations #2A through #2D.[8]

---

[4] Rider NMB Order at ¶ 6.

[5] Request for Proposal at 1 (April 20, 2022).

[6] 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 Program at 1 (July 17, 2023) (hereinafter, Audit Report).

[7] *Id.* at 50.

[8] Comments of The Ohio Manufacturers' Association Energy Group at 10 (August 17, 2023) (hereinafter, OMAEG Comments) (Recommendations #2A through #2D would eliminate Rider NMB for medium commercial, large commercial, and industrial customers).

In addition to OMAEG, the Ohio Hospital Association (OHA),[9] the Ohio Energy Leadership Council (OELC),[10] the Ohio Energy Group (OEG),[11] the Office of the Ohio Consumers' Counsel (OCC),[12] Nucor Steel Marion, Inc. (Nucor),[13] the Retail Energy Supply Association (RESA),[14] Calpine Retail Holdings, LLC (Calpine),[15] and FirstEnergy all filed initial comments on the Audit Report.[16]

The comments from the parties generally support implementing changes to FirstEnergy's transmission billing practices.[17] Some parties agreed with OMAEG's recommendation that Rider NMB should be eliminated in accordance with Exeter's preferred Recommendation #1,[18] other parties praised the success and benefits of the Pilot and its NSPL-billing approach,[19] and FirstEnergy itself conceded that customers' costs for non-market-based services can be better aligned with how PJM assigns costs at the wholesale level.[20]

Pursuant to the Commission's July 19, 2023 Entry, OMAEG respectfully submits the following reply comments.

---

[9] Comments of The Ohio Hospital Association (August 17, 2023) (hereinafter OHA Comments).

[10] Initial Comments by the Ohio Energy Leadership Council (August 17, 2023) (hereinafter, OELC Comments).

[11] Comments of the Ohio Energy Group (OEG) (August 17, 2023) (hereinafter OEG Comments).

[12] Consumer Protection Comments by Office of the Ohio Consumers' Counsel (August 17, 2023) (hereinafter OCC Comments).

[13] Comments of Nucor Steel Marion, Inc. (August 17, 2023) (hereinafter Nucor Comments).

[14] Initial Comments of The Retail Energy Supply Association (August 17, 2023) (hereinafter, RESA Comments).

[15] Comments of Calpine Retail Holdings, LLC (August 17, 2023) (hereinafter Calpine Comments).

[16] Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (August 17, 2023) (hereinafter, FirstEnergy Comments).

[17] *See generally* All Comments.

[18] OMAEG Comments at 10; OCC Comments at 2; Calpine Comments at 4.

[19] Nucor Comments at 3–4; OELC Comments at 3–4; OEG Comments at 1.

[20] FirstEnergy Comments at 1.

II. COMMENTS

A. The Commission Should Adopt NSPL-Based Billing to Better Align Costs With Principles of Cost Causation.

While parties have varying proposals to address Rider NMB's shortcomings (namely restructuring Rider NMB's billing mechanism versus assigning PJM transmission charges to CRES providers), the majority agree with OMAEG that NSPL-based transmission charges better align with principles of cost causation and are more beneficial for Ohio ratepayers.

For example, FirstEnergy agreed with Exeter's finding that "there is an opportunity to improve cost-causation in the treatment of non-market-based services costs"[21] and that "customers' costs for non-market-based services can be better aligned with how PJM assigns costs at the wholesale level."[22] Similarly, Nucor stated that "the Pilot Program better aligns costs with how those costs are caused, compared to Rider NMB, by inducing customers to respond to appropriate price signals" and "[t]he recommendations recognize that, unlike Rider NMB, the NSPL pricing mechanism under the Pilot Program reflect cost causation."[23]

OELC and OEG echoed these assertions. OELC noted that "[t]he pilot program sends better price signals to program participants by aligning their transmission costs with each participant's load contribution during the five coincident peak (5 CP) events in FirstEnergy territory, known as American Transmission Systems Inc. ('ATSI')."[24] And OEG agreed that "the Exeter audit supports the merits of the NMB Pilot transmission billing approach"[25] because the

[21] FirstEnergy Comments at 1.

[22] *Id.*

[23] Nucor Comments at 4.

[24] OELC Comments at 5.

[25] OEG Comments at 1.

Pilot encourages participating customers to reduce their load during PJM system peaks, which results in savings to other customers "by aligning recovery with cost causation at the PJM level."[26]

While disagreeing with Exeter's recommendations, RESA "agree[s] with some aspects of the audit report (like the benefits of the price signals from billing on coincident demand),"[27] and the OHA, "is supportive of FirstEnergy implementing innovative programs to more properly align transmission and ancillary costs with the causation of those costs."[28]

In light of the consensus that Rider NMB as it exists today does not align with cost causation principles, OMAEG once again urges the Commission to adopt Exeter's preferred Recommendation #1 to remedy this problem.

B. The Commission Should Adopt Exeter's Recommendations to Promote Competitive Discipline in Ohio for PJM's Ancillary Markets.

In their initial comments, Calpine strongly supported Exeter's preferred Recommendation #1 to eliminate Rider NMB for all customers and instead assign associated PJM transmission charges to the CRES providers of these customers.[29] OMAEG supports Calpine's arguments that Ohio suppliers should be able to take full responsibility for their PJM demand-based costs based on their own loads and contributions to the zone's NSPL. This is how the Pilot functions today. One hundred percent of the Pilot accounts are served by a CRES provider, and customers are able to receive transmission service bundled with their CRES provider via the Pilot as opposed to through Rider NMB.[30] Additionally, the majority of Primary and Transmission voltage customers in FirstEnergy's territory are shopping customers, which suggests that they are comfortable

[26] *Id.* at 2.

[27] RESA Comments at 5.

[28] OHA Comments at 3.

[29] Calpine Comments at 2.

[30] *See e.g.*, Calpine Comments at 2; OEG Comments at 2; Nucor Comments at 2.

procuring energy from their CRES provider and calls into question FirstEnergy's argument that transmission costs would increase if billed by a CRES provider rather than FirstEnergy.

Moreover, CRES providers can provide additional, value-added services that are not provided by FirstEnergy, such as assisting with peak predictions. These services can be extremely valuable for manufacturers, and CRES providers that can provide additional value-added to their customers should be able to compete for their business. Ohio has a de-regulated energy market, and suppliers compete for customers all the time. This market competition will continue to evolve with new opportunities that will deliver better products and services for customers.

Exeter's findings strongly support OMAEG's position on these matters, and Calpine correctly summarizes the issue: "Not only does Rider NMB limit the current competitive choices in the market by taking a one-size-fits-all approach, it also dilutes the incentive and opportunity for CRES providers to create customized and innovative products and services that are, or potentially could be, formulated to assist Ohio's customers in addressing their individual loads as they relate to ever changing transmission costs, without burdening all non-participating customers with needless additional costs."[31]

Finally, FirstEnergy's concerns about the risks of suppliers "marking up" transmission costs to customers are overblown. Transmission services are very transparent and can simply be pass-through components of costs, just like capacity costs are in many competitive contracts. Pilot participants are already receiving their transmission services in this manner, from their chosen CRES provider.

[31] Calpine Comments at 2.

C. The Commission Should Not Adopt Proposals to Maintain the Rider NMB and the Pilot's Status Quo.

While OMAEG agrees with OCC that the Commission should adopt Exeter's preferred Recommendation #1 and eliminate Rider NMB,[32] OMAEG opposes OCC's alternative recommendation that, if the Commission does not eliminate Rider NMB, then the Commission should instead maintain the status quo and not expand the Pilot.[33] OELC also seems to advocate for a continuation of the status quo.[34]

OMAEG has explained in numerous prior cases that unfettered transmission building/upgrading is on the rise, and transmission costs are rapidly becoming increasingly burdensome for Ohio manufacturers as, primarily, Network Integration Transmission Service (NITS) rates have soared over the past decade.[35] Charging manufacturers for transmission based on monthly peak demand, as opposed to NSPL-based billing, precludes manufacturers the opportunity to manage their NSPL through curtailment, changes in scheduling, on-site generation, or a combination of these. Enabling manufacturers to control their transmission costs by managing their NSPL will help them lower one of the largest components of their energy bills, making Ohio manufacturers more cost-effective and competitive in the global economy.

---

[32] OCC Comments at 2.

[33] *Id.* at 5.

[34] OELC Comments at 7.

[35] *See, e.g.*, *In the Matter of the Ohio Power Siting Board's Review of Ohio Adm.Code Chapters 4906-1, 4906-2, 4906-3, 4906-4, 4906-5, 4906-6, and 4906-7*, Case No. 21-902-GE-BRO, Motion to Intervene and Comments of The Ohio Manufacturers' Association Energy Group (August 5, 2022); *Id.*, Reply Comments of The Ohio Manufacturers' Association Energy Group (September 2, 2022); *Id.*, Supplemental Comments of The Ohio Manufacturers' Association Energy Group (January 30, 2023); *Id.*, Supplemental Reply Comments of The Ohio Manufacturers' Association Energy Group (February 6, 2023); *In the Matter of the Ohio Power Siting Board's Report to the General Assembly Regarding the Power Transmission System*, Case No. 21-796-EL-UNC, Comments of The Ohio Manufacturers' Association Energy Group (October 8, 2021); *Id.*, Reply Comments of The Ohio Manufacturers' Association Energy Group (October 15, 2021).

To reiterate, while OMAEG supports OCC's position on adopting Exeter's preferred Recommendation #1, alternatively allowing the status quo to continue would be a grave mistake for FirstEnergy customers and manufacturers.

D. The Commission Should Reject RESA's Proposal to Consider Exeter's Recommendations in FirstEnergy's ESP V Case.

RESA argued that it would be more appropriate to consider Exeter's recommendations in FirstEnergy's ongoing fifth electric security plan (ESP V) case because the Pilot arose from a settlement in FirstEnergy's ESP IV case, which limited participation to the customers of parties that signed the ESP IV settlement.[36] Despite RESA's arguments, it would be imprudent to delay considering Exeter's recommendations until ESP V settlement discussions occur for several reasons.

First, as discussed above, transmission costs are rapidly becoming increasingly burdensome for Ohio manufacturers. NSPL-based billing allows manufacturers the opportunity to manage their NSPL through curtailment, changes in scheduling, on-site generation, or a combination of these, which in turn helps them lower one of the largest components of their energy bills. This makes Ohio manufacturers more cost-effective and competitive in the global economy. These points are worth repeating because transmission is becoming a critical concern for manufacturers.

Second, Exeter's recommendations and proposed changes to Rider NMB are valuable outside of ESP V settlement negotiations. As described above and in previous comments, Rider NMB is too important of a rider to leave the billing particulars up to ESP settlement discussions. Instead, the Commission should consider Exeter's recommendations and work to redesign Rider

[36] RESA Comments at 10.

NMB (or assign costs to CRES providers) in a dedicated process, following the best practices for rate design, such as how rates can be used to better align principles of cost causation.

Third, regarding RESA's criticism that the Pilot was created by the ESP IV settlement, this issue would not be remedied by shifting consideration of Exeter's recommendations to ESP V settlement negotiations. The "problem" of only a few interested parties having a say would still be present as compared to addressing Exeter's recommendations in *this* docket.

Finally, FirstEnergy's proposed ESP V term is eight years.[37] Eight years is too long a time to afford getting the rate design wrong or waiting on another study before making much-needed changes to Rider NMB.

For these reasons, OMAEG opposes waiting for ESP V to determine the future billing methodology for Rider NMB and urges the Commission to proactively consider what is best for Ohio customers and in line with Ohio policy.

E. Distributed Energy Resources Can be Leveraged to Reduce a Customer's NSPL in Addition to Curtailment.

While OHA generally supports providing customers with increased control over transmission costs, it raises a concern that not all medium/large commercial and industrial customers can effectively curtail load during peak periods and asks the Commission to determine whether these customers can effectively curtail load during peak periods.[38] OHA noted that "unlike many of the participants in the Pilot Program, a concern with hospitals is the ability to curtail load during peak periods without negatively impacting the operation of their healthcare

[37] *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. 23-301-EL-SSO, Application at 11 (April 5, 2023).

[38] OHA Comments at 5.

facilities . . . because these hospitals must operate HVAC equipment during on-peak hours to provide comfort for occupants."[39]

OMAEG submits that having the opportunity to respond to peak loads and manage a site's NSPL, even if difficult, is preferable to the status quo of having almost no control over transmission billing. Under Rider NMB, both manufacturers and hospitals are charged for transmission services based on monthly kW or kVA, which represents a customer's peak 30-minute demand throughout the course of the month. There is almost no energy management technique or technology that allows a customer to effectively manage their monthly billed demand. Consequently, hospitals already have no control to curtail or reduce their monthly billed demand and thus reduce their transmission obligation. However, NSPL-based billing can provide such opportunities to Ohio hospitals, just as it has to Ohio manufacturers.

There are many creative ways to approach load management beyond the curtailment of chillers and HVAC systems. Many manufacturers are investing in distributed energy resources (DER) as cost-effective ways of reducing their load on the transmission system. These investments in onsite generation such as solar, wind, combined heat and power (CHP), or energy storage, work to reduce a facility's load while facility operations are otherwise unaffected.

Hospitals and other customers could similarly manage their loads. Hospitals are almost universally equipped with backup generators to provide power in case of a grid outage or grid stress event. Additionally, these generators are often leveraged as DER assets and bid into PJM's capacity demand response programs. Hospitals and other customers have the ability to make informed investment decisions about these assets that would allow them to better utilize reliability assets that they already invest in.

---

[39] *Id.*

Additionally, because NSPLs are set for a year, a customer will know exactly what their transmission costs will be for the next year. This provides decreased volatility as compared to Rider NMB's monthly billed demand, and since the transmission costs will better follow cost causation under NSPL-based billing, issues of year-to-year reconciliation should be mitigated.

III. CONCLUSION

As explained by various parties, eliminating Rider NMB for all customers will provide numerous benefits to FirstEnergy customers, including an improved alignment with cost causation. Allowing customers to control their transmission costs by managing their NSPL benefits those specific customers, all of FirstEnergy's other customers by lowering one of the largest components of their energy bills, and the state itself by facilitating Ohio's competitiveness in the global economy. Therefore, for all of the reasons discussed above and in the initial comments, OMAEG recommends that the Commission issue an order adopting Exeter's preferred Recommendation #1, or, alternatively, Exeter's alternate Recommendations #2A through #2D.

Respectfully submitted,

/s/ Kimberly W. Bojko
Kimberly W. Bojko (0069402) (Counsel of Record)
Emma Y. Easley (0102144)
Carpenter Lipps LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4124
bojko@carpenterlipps.com
easley@carpenterlipps.com
(willing to accept service by email)

Counsel for the Ohio Manufacturers' Association Energy Group

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on September 1, 2023 upon the parties listed below.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

edanford@firstenergycorp.com;
rhiannon.howard@ohioago.gov;
amy.botschnerobrien@ohioago.gov;
mkurtz@BKLlawfirm.com;
kboehm@BKLlawfirm.com;
jkylercohn@BKLlawfirm.com;
stacie.cathcart@igs.com;
evan.betterton@igs.com;
michael.nugent@igs.com;
jrb@smxblaw.com;
mkl@smxblaw.com;
dproano@bakerlaw.com;
ahaque@bakerlaw.com;
eprouty@bakerlaw.com;
connor.semple@occ.ohio.gov;
angela.obrien@occ.gov;
dparrma@brickergraydon.com;
rmains@brickergraydon.com