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 Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan.	)))))))	Case No. 23-301-EL-SSO

Direct Testimony of

Greg R. Meyer

On Behalf of the
Office of the Ohio Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215

October 23, 2023

TABLE OF CONTENTS

PAGE

I. INTRODUCTION AND OVERVIEW

Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A1. Greg R. Meyer. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017.

Q2. WHAT IS YOUR OCCUPATION?

A2. I am a consultant in the field of public utility regulation and a Principal with the firm of Brubaker & Associates, Inc. ("BAI"), energy, economic and regulatory consultants.

Q3. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A3. I graduated from the University of Missouri in 1979 with a Bachelor of Science Degree in Business Administration, with a major in Accounting. Subsequent to graduation I was employed by the Missouri Public Service Commission ("MO PSC"). I was employed with the MO PSC from July 1, 1979 until May 31, 2008.

I began my employment at the MO PSC as a Junior Auditor. During my employment at the MO PSC, I was promoted to higher auditing classifications. My final position at the MO PSC was an Auditor V, which I held for approximately ten years.

As an Auditor V, I conducted audits and examinations of the accounts, books, records and reports of jurisdictional utilities. I also aided in the planning of audits and investigations, including staffing decisions, and in the development of staff positions in which the Auditing Department was assigned. I served as Lead Auditor and/or Case Supervisor as assigned. I assisted in the technical training of other auditors, which included the preparation of auditors' workpapers, oral and written testimony.

During my career at the MO PSC, I presented testimony in numerous electric, gas, telephone and water and sewer rate cases. In addition, I was involved in cases regarding service territory transfers. In the context of those cases listed above, I presented testimony on all conventional ratemaking principles related to a utility's revenue requirement. During the last three years of my employment with the MO PSC, I was involved in developing transmission policy for the Southwest Power Pool as a member of the Cost Allocation Working Group.

In June of 2008, I joined the firm of BAI as a Consultant. Since joining the firm, I have presented testimony and/or testified in the state jurisdictions of Arkansas, Florida, Idaho, Illinois, Indiana, Iowa, Maryland, Missouri, Montana, New Mexico, Ohio, Utah, Washington, Wisconsin and Wyoming. I have also appeared and presented testimony in Alberta and Nova Scotia, Canada. In addition, I have filed testimony at the Federal Energy Regulatory Commission ("FERC"). These cases involved addressing conventional ratemaking principles focusing on the utility's revenue requirement. The firm BAI provides consulting services in the field of energy procurement and public utility regulation to many clients including industrial and institutional customers, some utilities and, on occasion, state regulatory agencies.

More specifically, we provide analysis of energy procurement options based on consideration of prices and reliability as related to the needs of the client; prepare rate, feasibility, economic, and cost of service studies relating to energy and utility services; prepare depreciation and feasibility studies relating to utility service; assist in contract negotiations for utility services, and provide technical support to legislative activities.

In addition to our main office in St. Louis, the firm also has branch offices in Corpus Christi, Texas; Detroit, Michigan; Louisville, Kentucky and Phoenix, Arizona.

Q4. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A4. My testimony is presented on behalf of Office of the Ohio Consumers' Counsel ("OCC").

Q5. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO ("PUCO" OR "THE COMMISSION")?

A5. Yes.

Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A6. The purpose of my testimony is to respond to various provisions of the Electric Security Plan V ("ESP V" or "Plan") by the Ohio Edison Company ("OE"), the Cleveland Electric Illuminating Company ("CEI") and the Toledo Edison Company ("TE"), (Collectively, "FirstEnergy" or "the Companies"). Specifically I will discuss the following:

- Rider SCR – Storm Cost Recovery Rider;
- Rider VMC – Vegetation Management Cost Recovery Rider;
- Rider DCR – Delivery Capital Recovery Rider;
- Rider AMI – Advanced Metering Infrastructure/Modern Grid Rider;
- Rider NMB – Non-Mark-Based Services Rider; and
- Electric Security Plan vs. Market Rate Offer ("MRO") Test.

II. CASE OVERVIEW

Q7. PLEASE DESCRIBE THE ESP V PROPOSED BY FIRSTENERGY.

A7. The ESP V is an eight-year plan for FirstEnergy to provide electric service to customers. The Plan includes generation, transmission and distribution service. The main objectives of the Plan, according to FirstEnergy, are to focus on reliability, affordability and stewardship. According to the testimony of Mr. Santino L. Fanelli, to achieve the objectives, ESP V includes provisions and programs to provide reliable service to customers, mitigate bill impacts and positively impact customers, their service territories and the environment.

Q8. HOW DOES ESP V ADDRESS RELIABILITY?

A8. FirstEnergy discusses the continuation of certain Riders and the introduction of new riders to address reliability. Specifically, FirstEnergy seeks to continue Rider AMI to recover the costs of meter replacements. FirstEnergy also requests the continuation of Rider DCR. Rider DCR recovers the costs of non-grid capital investments. In addition to those two existing Riders, FirstEnergy is also proposing to establish two new Riders, namely SCR and VMC Riders. Rider SCR would support FirstEnergy's storm restoration work and Rider VMC addresses FirstEnergy's vegetation management activities.

Q9. HOW DOES ESP V ADDRESS CUSTOMER AFFORDABILITY?

A9. FirstEnergy is proposing changes to the Competitive Bid Processes ("CBP") that they claim will produce lower generation costs. FirstEnergy also referenced that certain Riders, namely that Riders DCR, SCR, and VMC have proposed revenue caps. According to FirstEnergy, these revenue caps address customer affordability. Finally, FirstEnergy has proposed to implement energy efficiency and demand response programs that will help customers use energy more efficiently and, thus, save on their electric bills.

Q10. WHAT SUPPORT DOES FIRSTENERGY CLAIM TO SHOW THAT ESP V WILL PROMOTE STEWARDSHIP?

A10. FirstEnergy discusses the following areas that they claim promote stewardship:

- FirstEnergy's energy efficiency and demand response programs;
- Reducing the number of riders and tariff provisions; and
- Funds to support low-income customers.

In the following sections of my testimony, I will address many of the programs and claimed benefits of ESP V, starting by providing background on special regulatory mechanisms generally and then delving into the specifics of the ESP V.

III. SPECIAL REGULATORY MECHANISMS

Q11. PLEASE DESCRIBE YOUR UNDERSTANDING OF A SPECIAL REGULATORY MECHANISM.

A11. A special regulatory mechanism is a process that allows the utility to defer (for possible later collection from consumers) or change the collection timeframe of an expense or revenue stream. Typically, a utility's cost of service is measured at one specific point in time and considers all relevant factors of the utility operations. Special regulatory mechanisms permit certain portions of the utility operations to recognize cost or revenue changes outside the current rate case environment. Special regulatory mechanisms also allow for the recovery of an expense incurred during the test year to be collected over an extended period of time. I have listed a sample of special regulatory mechanisms I have addressed in prior utility rate cases:

- Fuel Adjustment Clauses;
- Gas Cost Recovery Clauses;
- Accounting Authority Orders;
- Amortization/Normalizations;
- Vegetation Management Programs;
- Trackers;
- Infrastructure Recovery Programs;
- Revenue Requirement Factor-up provisions – Commission expenses, bad debts; and
- Consumer Protection Plans.

Note that this is a partial list. There are many more special regulatory mechanisms in effect for different utilities across the United States. The riders that are proposed under the ESP V should be understood in this context.

Q12. WHY ARE THESE SPECIAL REGULATORY MECHANISMS INCLUDED IN A UTILITY'S PORTFOLIO?

A12. Some of these special regulatory mechanisms are used because of the nature of expenses involved and the potential impact for consumers' rates. For example, amortizations are commonly used to spread the collection of a certain expense from consumers over several years. As an illustration, rate case expense may be amortized over a four-year period to match the expected timeframe when the utility is likely to seek another rate increase. In this instance, the special ratemaking mechanism is preferable to collecting the rate case expenses from consumers over one-year when they are incurred and then having to adjust rates again after the rate case expenses have been collected.

Amortizations also can address the situation where an expense is incurred in the test year but would not be incurred again the year(s) rates are in effect. In the rate case example, a large portion of the rate case expenses could be incurred during the test year of the case. Those same expenses would not be incurred again the year rates from the rate case are in effect. The amortization method allows for the collection of those costs from consumers even though they will not be a recurring expense of the utility.

Accounting Authority Orders ("AAO") are another form of a special regulatory mechanism. An AAO allows the deferral of extraordinary expenses for potential collection from consumers in a future rate case. An example of an AAO would be the deferral of costs incurred by the utility to repair the utility system from the effects of an extraordinary storm. Instead of requiring the utility to quickly file a rate case to address the collection of these expenses from consumers, the utility is allowed to defer those costs for possible collection in the utility's next rate case. In other words, the storm costs are deferred for possible future recovery in consumer rates.

Other special regulatory mechanisms are allowed because the regulator has determined that the costs are uncontrollable by the utility and, therefore, more current collection of these costs from consumers are appropriate. A prime example of this situation is the adoption by many regulatory commissions of purchased gas recovery adjustment clauses ("PGA"). A PGA generally allows a utility to change rates in between rate cases for changes in the gas costs incurred to serve utility retail consumers.

Other special regulatory mechanisms are adopted by regulatory commissions to address concerns expressed by utilities regarding regulatory lag. Regulatory lag is the amount of time in between when a cost is incurred by the utility and the expense is collected from the consumers. For example, several utilities have argued that new plant investment creates regulatory lag since the utility loses money from the time the utility places an investment in-service until the time that plant is included in rate base in a rate case.

Note that regulatory lag can be both positive and negative for the utility. Positive regulatory lag exists when a certain cost decreases and there is a time gap before that decreased cost for the utility is reflected in consumer rates. A prime example of positive regulatory lag is the decline in legacy rate base once rates are established in a rate case. Legacy rate base is predominantly comprised of Plant In-Service, Accumulated Depreciation Reserve and Accumulated Deferred Income Taxes. The net balance from summing these three items will decline each year after rates are established from what was included in consumer rates. It is imperative to capture this decline in rate base if other aspects of the rate base are to be singled out for recovery outside the context of a rate case. If such offsets are not captured, the profits of the utility will be greatly enhanced with no benefit provided to consumers.

Q13. DO YOU BELIEVE THAT SPECIAL REGULATORY MECHANISMS ARE GENERALLY MORE BENEFICIAL TO UTILITY SHAREHOLDERS THAN UTILITY CONSUMERS?

A13. Yes, without a doubt. I recognize that certain regulatory mechanisms are needed to allow a utility to collect costs from consumers for the provision of service. For example, the extraordinary storm example I previously discussed. But, for the most part, the special regulatory mechanisms I have seen proposed by utilities are for the overall benefit of the utility shareholders and provide for more certainty in cost recovery.

Q14. ***ARE YOU AWARE OF ANY COMMISSION'S CONCERNS WITH THE USE OF TRACKER/RIDERS?***

A14. Yes. I am aware that the MO PSC has discussed the use of tracker/riders in the following Commission Orders:

- In the MO PSC Case No. ER-2012-0166, the MO PSC stated the following:

  "In general, the Commission remains skeptical of proposed tracking mechanisms. There is a legitimate concern that a tracker can reduce a company's incentive to aggressively control costs."

- In Case No. ER-2014-0258, the MO PSC clarifies that:

  "Tracker mechanisms can be useful regulatory tools in the correct circumstances, but they should be used sparingly because they can reduce the incentive of the utility to closely control its costs."

Q15. ***DO YOU AGREE WITH THE CONCERNS EXPRESSED BY THE MO PSC?***

A15. Yes, I do. Reliance on an excessive number of trackers, riders and other special regulatory mechanisms decreases a utility's incentive to manage all aspects of its business in a cost effective manner.

Q16. ***APPROXIMATELY HOW MANY RIDERS/TRACKERS AND OTHER TARIFF PROVISIONS DOES FIRSTENERGY CURRENTLY HAVE IN EFFECT?***

A16. According to the Attachment SLF-1, attached to the Direct Testimony of Mr. Fanelli, FirstEnergy currently has an average of 54 riders apiece and nine tariff provisions for each of its Ohio utilities. In addition, FirstEnergy is proposing to add three more riders in ESP V. It should be noted that FirstEnergy is proposing to discontinue a few riders in ESP V.

Q17. PLEASE COMMENT ON THE NUMBER OF RIDERS FIRSTENERGY HAS IN EFFECT.

A17. FirstEnergy has an abundance of riders in effect. The number of riders in effect for FirstEnergy is the most riders I have seen for any utility I have audited in my career. As discussed above, an abundance of riders will reduce the incentive for cost control by the utility, to the detriment of consumers. Furthermore, an abundance of riders decreases the scope of rate cases when all relevant factors should be audited for determining just and reasonable rates to charge to consumers.

With an abundance of riders, review of utility costs may be curtailed since collection from consumers is shifted away from base rates. An abundance of riders will be more beneficial to shareholders and will not provide the heightened consumer protection of utility cost control.

Given the abundance of riders in FirstEnergy's tariffs, the Commission should review each rider, both individually and as part of the overall rate structure, to determine if it is truly needed to provide safe and adequate service at just and reasonable rates. The Commission should determine who is benefitting the most from each rider. If it is found that the riders are predominantly benefitting FirstEnergy's shareholders, a decreased return on equity should be ordered by the Commission.

IV. STORM COST RECOVERY RIDER ("SCR")

Q18. HAVE YOU READ FIRSTENERGY WITNESS MS. JULIETTE LAWLESS' TESTIMONY THAT ADDRESSES RIDER SCR?

A18. Yes, I have.

Q19. ARE YOU SUPPORTIVE OF RIDER SCR IN THE ESP V?

A19. No, I am not.

Q20. PLEASE DISCUSS YOUR OPPOSITION TO RIDER SCR.

A20. Rider SCR engages in single issue ratemaking. Storm cost recovery should be included in the base rates of FirstEnergy and not be allowed the special regulatory treatment that FirstEnergy seeks. Currently, FirstEnergy has the ability to request accounting authority to seek the recovery of major storm costs. In this way, FirstEnergy would be required to analyze its total operations to determine if seeking accounting authority is required.

With the proposed Rider SCR, FirstEnergy would simply be allowed to record major storm costs without the necessity to determine the impact on its total operations. The SCR Rider essentially becomes an insurance policy for exact storm cost recovery without analyzing the total operations of FirstEnergy.

Q21. WOULD THE RECOVERY OF STORM COSTS BE MORE APPROPRIATELY ADDRESSED IN A RATE CASE?

A21. Yes, in a base rate case a normalized level of storm costs can be established. If a major storm occurs, the utility would have the opportunity to compare storm costs included in base rates to that level of current storm costs and determine if an AAO should be sought.

Q22. ARE YOU AWARE THAT FIRSTENERGY HAS INDICATED THAT THEY WILL FILE A RATE CASE IN 2024?

A22. Yes, that is my understanding. That rate case would be the correct time to address the recovery of storm costs by proposing a normalized level of storm costs in base rates that consumers pay.

Q23. IN THE PROPOSED RIDER SCR, REVENUE CAPS WERE PROPOSED BASED ON THE LARGEST MAJOR STORM COST DIFFERENTIAL EXPERIENCED BY EACH UTILITY. PLEASE RESPOND TO THOSE REVENUE CAPS.

A23. The revenue caps are the largest differential between the storm costs included in base rates and actual storm costs occurring between 2016 and 2022. I have prepared Table GRM-1 that shows the proposed revenue caps for each of the FirstEnergy utilities.

TABLE GRM-1

Revenue Caps in Context

Line	Utility	Revenue Cap[1]	Revenue Cap as % of Total Revenues[2]	Revenue Cap as % of Total O&M Expenses[2]
1	OE	$ 16 Million	1.13%	1.87%
2	CEI	$ 17 Million	1.59%	2.73%
3	TE	$ 2 Million	0.43%	0.66%

Sources:
[1]Attachment JL-3
[2]Calculated using FERC Form 1, pages 114-117

Q24. HOW WERE THESE REVENUE CAPS DETERMINED?

A24. The revenue caps were determined based on the greatest difference between storm costs included in base rates and the actual storm costs incurred for a calendar year. The revenue caps were determined based on information dating back to 2016 shown in Attachment JL-3.

Q25. DO YOU BELIEVE THESE REVENUE CAPS REPRESENT SIGNIFICANT IMPACTS TO EITHER OPERATIONS AND MAINTENANCE ("O&M") EXPENSES OR REVENUES FOR EACH UTILITY?

A25. No. Table GRM-1 shows the relationship between the revenue cap and the revenues and O&M expenses for each utility.

As can be seen from Table GRM-1 the revenue cap which represents the largest differential between storm costs included in base rates and actual storm cost recovery does not impose a significant impact on either the revenue or O&M expenses for each utility.

Q26. BASED ON THE RESULTS FROM TABLE GRM-1, DO YOU BELIEVE RIDER SCR SHOULD BE APPROVED?

A26. No. Given that the storm recovery costs differential is not significant to either the utilities' overall revenue or expenses, I recommend that storm cost recovery be considered an issue in the upcoming rate case in 2024. In that rate case, a normalized level of storm costs can be established and if a major storm occurs, the utility can evaluate its operating results and, if needed, request accounting authority to defer (for possible later collection from consumers) the actual storm costs.

Q27. FIRSTENERGY IS PROPOSING TO AMORTIZE STORM DEFERRAL BALANCES OVER FIVE YEARS. DO YOU AGREE THIS ISSUE NEEDS TO BE ADDRESSED IN ESP V?

A27. No, I disagree that this issue needs to be addressed in ESP V. I would recommend that the issue of storm deferral costs can be addressed in FirstEnergy's next general rate case filed in May 2024. The issue can be fully investigated and an appropriate normal recovery can be established. During the pendency of the rate case, the authorization to defer storm costs can be addressed and the proper amortization period, as well as the prudency of storm cost recovery. This issue is more appropriately addressed in rate cases.

V. VEGETATION MANAGEMENT COST RECOVERY ("VMC)

Q28. HAVE YOU REVIEWED THE TESTIMONY OF FIRSTENERGY WITNESS BRANDON MCMILLEN DISCUSSING RIDER VMC?

A28. Yes, I have.

Q29. PLEASE DESCRIBE FIRSTENERGY'S PROPOSED RIDER VMC.

A29. Rider VMC is being proposed to recover incremental vegetation management expenses compared to a baseline level established in base distribution rates charged to consumers. According to FirstEnergy, Rider VMC is intended to reduce regulatory lag for vegetation management expenses.

Q30. ARE YOU SUPPORTIVE OF RIDER VMC AS PART OF ESP V?

A30. No.

Q31. PLEASE DISCUSS YOUR OPPOSITION TO RIDER VMC.

A31. As discussed previously with Rider SCR, Rider VMC engages in single issue rate making. Given the abundance of riders in FirstEnergy's current portfolio, there is no need to establish a new rider. The VMC program can be included in FirstEnergy's upcoming rate case.

Q32. ARE THERE ANY OTHER REASONS WHY THE VEGETATION MANAGEMENT ISSUE SHOULD BE CONSIDERED IN THE UPCOMING RATE CASE INSTEAD OF THIS ELECTRIC SECURITY PLAN?

A32. Yes. According to the rebuttal testimony of FirstEnergy's witness Shawn Standish, there will be significant savings associated with the VMC program. However, I could not find any reference in Mr. Standish's testimony on how those savings were going to be passed through to consumers. I have prepared Table GRM-2 that shows the current level of vegetation management costs, the projected level of enhanced vegetation management costs and the projected cost savings by year for the ESP V period.

Table GRM-2

VMC Cost Versus Savings ($ Millions)

Year	Minimum Regulatory Costs[1]	Additional Reliability Improvements[1]	Projected Cost Savings[2]
Year 1	$ 51.7	$ 46.8	$ -
Year 2	$ 53.3	$ 47.8	$ 7.9
Year 3	$ 54.9	$ 48.9	$ 27.0
Year 4	$ 56.5	$ 50.0	$ 55.6
Year 5	$ 58.2	$ 26.0	$ 85.9
Year 6	$ 60.0	$ 26.4	$ 117.9
Year 7	$ 61.8	$ 26.8	$ 136.6
Year 8	$ 63.6	$ 27.3	$ 156.4
Total	$ 460.0	$ 300.0	$ 587.3

Sources:
1.Direct Testimony of Shawn T. Standish Page 12.
2. Ohio Edison Company Attachment STS-3

As can be seen from Table GRM-2, there are significant savings identified by FirstEnergy from the expanded vegetation management program, with the most significant savings occurring in later years of the proposed eight-year electric security plan. At a minimum, given these savings, it could be argued that FirstEnergy should spend the increased vegetation management costs without seeking special regulatory treatment in Rider VMC.

Q33. HOW WOULD YOU PROPOSE TO ADDRESS VEGETATION MANAGEMENT EXPENSES?

A33. I would propose that vegetation management expenses should be addressed in FirstEnergy's next rate case to be filed in May 2024. In that rate case, a normalized level of vegetation management expenses and a mechanism to recognize the cost savings resulting from the enhanced vegetation management program can be established, which assures that consumers will receive the benefits of the vegetation management program which they are being asked to fund.

Q34. IN FIRSTENERGY'S TESTIMONY, COULD YOU FIND ANY DISCUSSION BY FIRSTENERGY TO REDUCE RIDER VMC FOR THE COST SAVINGS?

A34. No, I could not. That is why I am proposing to address this issue in the context of a rate case where all of the factors affecting an enhanced vegetation program can be addressed.

Q35. DOES THE RATE CASE APPROACH OVERALL BENEFIT CUSTOMERS?

A35. Yes, I believe it does. By normalizing vegetation management expenses, the incentive for cost control on behalf of FirstEnergy is much greater than collecting vegetation management costs through Rider VMC. In addition, the rate case would allow parties to establish certain performance standards for having circuits trimmed within a certain time frame. Vegetation management reporting would allow regulators to stay apprised of the utility performance in this area.

Q36. IF THE COMMISSION CONTINUES TO BELIEVE RIDER VMC IS APPROPRIATE, DO YOU HAVE ANY RECOMMENDATIONS?

A36. Yes, I would strongly recommend that the savings identified be a component of the vegetation expense recovery. It is simply not fair to collect vegetation management costs from consumers through a rider without properly recognizing the cost savings to consumers that have been identified by FirstEnergy.

VI. DELIVERY CAPITAL RECOVERY RIDER ("DCR")

Q37. HAVE YOU READ THE DIRECT TESTIMONY OF MR. MCMILLEN PERTAINING TO RIDER DCR?

A37. Yes, I have.

Q38. ARE YOUR ARGUMENTS ABOUT APPROVING RIDER DCR IDENTICAL TO THE ARGUMENTS YOU PRESENTED IN ADDRESSING RIDERS SCR AND VMC?

A38. Yes, they are and I will not repeat those opposing arguments again.

Q39. HOW LONG HAS RIDER DCR BEEN IN EFFECT FOR FIRSTENERGY?

A39. Rider DCR was established in FirstEnergy's second electric security plan ("ESP II"). The effective date of Rider DCR was January 1, 2012.

Q40. DO YOU HAVE ANY ADDITIONAL COMMENTS REGARDING INFRASTRUCTURE TRACKERS/RIDERS LIKE RIDER DCR?

A40. Yes, I do. Infrastructure trackers/riders are prevalent throughout the electric industry. However, those trackers/riders should have a finite life. In that regard, I would recommend that the Commission perform an extensive review of the necessity for this special infrastructure mechanism and determine if Rider DCR should continue for the entire ESP V planning horizon. A cost benefit analysis should be required of FirstEnergy to continue Rider DCR. At the conclusion of ESP V, Rider DCR will have been in effect for 20 years. Rider DCR should not become a permanent rider for FirstEnergy.

Q41. DO YOU HAVE ANY SPECIFIC RECOMMENDATIONS ABOUT HOW THE RIDER DCR MECHANISM SHOULD OPERATE?

A41. Yes. If the PUCO approves Rider DCR, then the following terms and conditions should be adopted to increase consumer protection. The goal should be to make the rider's terms and conditions as clear and transparent as possible. I have been informed that the PUCO has been moving in this direction in recent ESP cases. This is a worthy goal for two reasons. First, the capital expense riders become more well-defined and less open to subjective interpretation. If the language of a rider mechanism is too generalized, utility companies could interpret it in subtle ways that increase their revenues beyond what was intended. Second, more standardized rider language results in more uniform treatment of consumers throughout Ohio. This also makes the auditing process more efficient. For example, if an auditor makes a recommendation as to how a rider process could be improved, then the recommendation could be adopted in rider audits for other utility companies.

Q42. DO YOU HAVE ANY RECOMMENDATION FOR DEFINING THE TERMS AND CONDITIONS OF HOW THE RIDER DCR MECHANISM WOULD OPERATE?

A42. Yes. I recommend that the methodology for how the rider mechanism would operate should be spelled out in clear and simple language, as follows:

> The Rider [DCR] revenue requirement shall be limited to: (i) a return on distribution rate base using the weighted average cost of capital approved in the most recent base electric distribution rate case, grossed up for prevailing tax rates; (ii) depreciation expense; and (iii) property taxes on the incremental rate base (i.e., net plant less Accumulated Deferred Income Taxes ("ADIT")) accumulated since the date certain in the Rate Case, grossed up for commercial activity taxes.

This language is consistent with how the PUCO has defined the capital riders in recent ESP cases such as: *In re AES Ohio ESP IV,* Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77, page 25 (Aug. 9, 2023) and *In re Duke ESP IV*, Case No. 17-1263-EL-SSO, Opinion & Order at ¶ 114, pages 39-40 (Dec. 19, 2018).

Q43. DO YOU HAVE ANY RECOMMENDATION AS TO WHETHER THE RIDER DCR MECHANISM SHOULD BE LIMITED TO SPECIFIC FERC ACCOUNTS?

A43. Yes. The rider mechanism should identify the specific FERC accounts covered by the rider in clear language, as follows:

> Capital costs included in Rider DCR shall be those recorded in FERC Accounts 360 through 374, provided such costs are not recovered elsewhere, such as in Rider AMI. Rider DCR shall be computed by comparing the current rate base associated exclusively with plant accounts recorded in the FERC accounts noted above to the rate base related to the same accounts as included in the overall rate base approved in the most recent base electric distribution rate case.

This is similar to the language used in recent ESP cases such as: *In re AES Ohio ESP IV*, Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77, page 25 (Aug. 9, 2023) and *In re Duke ESP IV*, Case No. 17-1263-EL-SSO, Opinion & Order at ¶ 114, pages 39-40 (Dec. 19, 2018).

Q44. WHY IS SUCH LANGUAGE NEEDED TO PROTECT FIRSTENERGY CONSUMERS?

A44. FirstEnergy Corp. owns a subsidiary transmission company, American Transmission Service, Inc. ("ATSI"), which provides transmission service in Ohio and Pennsylvania. ATSI is implementing a multi-year program known as Energizing the Future, which it describes as "a multi-year initiative designed to upgrade FirstEnergy's transmission system with advanced equipment and technologies that will reinforce the power grid and help reduce the frequency and duration of customer outages."[1]

Under the FERC Uniform System of Accounts ("USoA"), Account Nos. 350-359 are classified as plant accounts for transmission plant, as shown in the Table of Contents:

> 300–399 Plant accounts
> 3. Transmission Plant
> 350 Land and land rights.

[1] FirstEnergy Corp. News Release, *FirstEnergy Building New Transmission Line in Northeast Ohio* (November 30, 2022).

351 [Reserved]
352 Structures and improvements.
353 Station equipment.
354 Towers and fixtures.
355 Poles and fixtures.
356 Overhead conductors and devices.
357 Underground conduit.
358 Underground conductors and devices.
359 Roads and trails.
359.1 Asset retirement costs for transmission plant.

If the FirstEnergy Utilities own any distribution plant, which supports ATSI's transmission business and is classified under these FERC USoA transmission accounts, then the costs should not be collected from consumers through Rider DCR. The capital riders for other Ohio utility companies only cover Accounts 360-374 and Rider DCR should be limited in the same manner for FirstEnergy consumers.

Q45. HOW SHOULD O&M BE TREATED IN RIDER DCR?

A45. O&M should be excluded from Rider DCR except to the extent that the FERC USoA rules allow for O&M to be capitalized as part of a distribution plant project recorded in Accounts 360-374. In addition, in AEP's pending *ESP V* case, the settlement excludes costs for physical security upgrades. I recommend the following language:

> Except for O&M which is capitalized and recorded under FERC Accounts 360 through 374, O&M shall be excluded from the rider. FirstEnergy shall not use Rider DCR to collect O&M physical security upgrade costs.

This would be consistent with the treatment of O&M in other ESP cases, such as: *In re AEP ESP V,* Case No. 23-23-EL-SSO, Stipulation at page 20 (Sept. 6, 2023) and *In re AES Ohio ESP IV*, Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77, page 25 (Aug. 9, 2023).

Q46. HOW SHOULD PROPERTY TAXES BE TREATED IN RIDER DCR?

A46. FirstEnergy should not over-collect property tax expense from consumers in Rider DCR. This could be avoided by using the following language:

> The depreciation reserve used to calculate property taxes shall be adjusted to eliminate the cumulative amortization of the excess depreciation reserve and the net plant to which the property tax is applied.

OCC and PUCO Staff advocated this position in the *AEP ESP 3,* Case No 13-2385-EL-SSO, Opinion & Order at page 44 (Feb. 25, 2015). As Rider DCR could be adjusted again prior to the PUCO's Order in the May 2024 base distribution rate case, this language would be an important consumer protection to prevent FirstEnergy from over-collecting property tax expense.

Q47. HOW SHOULD DEPRECIATION RATES BE TREATED IN RIDER DCR?

A47. My understanding is that FirstEnergy was required to complete a new depreciation study by 2023. The PUCO should require FirstEnergy to file the new depreciation study in the upcoming base distribution rate case to be filed by May 2024. The PUCO should approve new depreciation rates in that case and FirstEnergy should be required to incorporate the new deprecation rates in Rider DCR. This recommendation could be implemented with the following language:

> In the May 2024 distribution rate case, FirstEnergy shall file the 2023 Depreciation Study and adjust its depreciation rates accordingly. Rider DCR shall incorporate the depreciation rates approved by the PUCO in the most recent base distribution rate case.

Q48. HOW SHOULD ACCUMULATED DEFERRED INCOME TAX ("ADIT") BALANCES BE TREATED IN RIDER DCR?

A48. FirstEnergy should adjust the ADIT balances in the upcoming May 2024 base distribution rate case, consistent with the balances resulting from the Tax Cuts and Jobs Act of 2017.

The Blue Ridge Audit Report in Case No. 22-892-EL-RDR explained at page 11 that a dispute has existed between Blue Ridge and FirstEnergy since 2019, as to whether the total ADIT offset in rate base correctly reflects the Excess Deferred Income Tax ("EDIT") balances from the Tax Cut and Jobs Act of 2017. FirstEnergy should follow this recommendation by Blue Ridge. The PUCO should protect consumers by resolving this dispute with the following suggested language:

> In the May 2024 distribution rate case, FirstEnergy shall adjust the ADIT balances to reflect the Excess Deferred Income Tax balances resulting from the Tax Cuts and Jobs Act of 2017, as ordered in: *In re FirstEnergy Implementation of Matters Relating to the Tax Cuts and Jobs Act of 2017,* Case No. 18-1604-EL-UNC, Opinion and Order (July 17, 2019). The adjustments to the ADIT balances shall be credited to consumers as an offset to the DCR revenue requirement.

This would be consistent with the auditor's recommendation in: *In re Rider DCR Audit for 2022,* Case No. 22-892-EL-RDR, Audit Report at 11 (May 23, 2023). This could also be consistent with the PUCO's treatment of this issue in: *In re AES Ohio ESP IV*, Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77 (Aug. 9, 2023).

To be very clear, the ADIT issue should be addressed in FirstEnergy's 2024 rate case. I am generally opposed to using riders/trackers to collect unrelated expenses.

Q49. HOW SHOULD THE PRE-TAX RETURN AND GROSS-UP RATE BE CALCULATED IN RIDER DCR?

A49. I recommend that the methodology for calculating the pre-tax return and gross-up rate should be clearly defined, as follows:

> The pre-tax return on rate base shall be calculated using the after-tax weighted-average cost of capital from the most recent rate case, grossed up for the 21 percent federal income tax rate.

This would be consistent with the settlement in: *In re AEP ESP V,* Case No. 23-23-EL-SSO, Stipulation at page 11 (Sept. 6, 2023) and with the PUCO's approach in: *In re Duke ESP IV,* Case No. 17-1263-EL-SSO, Opinion & Order at ¶ 114, page 40 (Dec. 19, 2018).

Q50. HOW SHOULD INCENTIVE COMPENSATION BE TREATED IN RIDER DCR?

A50. It is my understanding that the PUCO's past practice has been to eliminate incentive compensation tied to financial performance. The PUCO should spell out in Rider DCR the extent to which incentive compensation should be excluded. This would be consistent with the PUCO's approach in: *In re AES Ohio ESP IV,* Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77, page 27 (Aug. 9, 2023).

Q51. HOW SHOULD THE REVENUE CAPS BE ESTABLISHED FOR RIDER DCR?

A51. The PUCO should synchronize the revenue caps with the upcoming May 2024 base distribution rate case. The existing revenue caps should remain in effect until the base distribution rate case is decided. The new revenue caps should not begin until after the known and measurable date certain cutoff in the 2024 distribution rate case.

Q52. DO YOU HAVE ANY RECOMMENDATION AS TO WHETHER THE RIDER DCR REVENUE CAPS SHOULD BE TIED TO RELIABILITY PERFORMANCE?

A52. Yes. The additional spending on Rider DCR should lead to greater reliability. The PUCO should require FirstEnergy to work with the parties to establish a methodology for quantifying the reliability benefits that will be provided through the additional funding from the DCR rider. FirstEnergy will incorporate those improvements in its next reliability standards case. The Rider DCR revenue caps should ratchet down if FirstEnergy does not achieve these reliability improvements.

Q53. HOW SHOULD THE AMOUNT OF THE RIDER DCR ANNUAL REVENUE CAP INCREASES BE CALCULATED?

A53. The revenue cap should provide for maximum of 3% annual increases. Any greater level of revenue caps would harm consumers because it would tend to eliminate FirstEnergy's incentive to control costs.

Q54. SHOULD ANY UNUSED SPACE UNDER THE RIDER DCR REVENUE CAPS BE APPLIED TO FUTURE YEARS?

A54. No. The purpose of revenue cap increases is to mitigate any impact from rising costs during the current year. If FirstEnergy has unused revenue cap space, there is no reasonable expectation that costs will increase at a higher rate during the next year, such that additional revenue cap space would be needed. Allowing unused cap space to carry-over would harm consumers because it would tend to eliminate FirstEnergy's incentive to control costs. This could be addressed if the PUCO adopts the following provision:

> DCR revenue collected from consumers less than the cap in a given year shall not increase caps for future years.

This would be consistent with the PUCO's approach in: *In re AES Ohio ESP IV,* Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77 (Aug. 9, 2023).

Q55. SHOULD THE RIDER DCR REVENUE CAPS BE HARD CAPS?

A55. Yes. The Rider DCR revenue caps should be hard caps. It would be unjust for FirstEnergy to receive a deferral for spending in excess of the revenue caps. This would harm consumers because it would tend to eliminate FirstEnergy's incentive to control costs. This could be addressed if the PUCO adopts the following provision:

> If the Rider DCR investments exceed the amount of the revenue cap, then PISCC, property tax expense and depreciation expense shall not be accrued or collected for any investment amounts in excess of the revenue cap.

This would be consistent with the approach taken in: *In re Columbia Gas PHMSA Rider,* Case No. 23-46-GA-ALT, Joint Stipulation and Recommendation at pages 1.2 and 1.41 (Sept. 6, 2023).

Q56. SHOULD THE RIDER DCR ACCRUALS END WHEN THE RIDER ENDS?

A56. Yes. The accruals for post-in-service carrying costs ("PISCC"), property tax expense and depreciation expense should end when the rider ends. This could be followed by a distribution base rate case.

> Accruals for the PISCC, property tax and depreciation expenses related to Rider DCR for investments placed in service by December 31st of the final year of the current ESP shall end as of December 31st and shall not continue to be accrued after that date.

This would be consistent with the approach taken in: *In re Columbia Gas PHMSA Rider,* Case No. 23-46-GA-ALT, Joint Stipulation and Recommendation at page 1.2 (Sept. 6, 2023).

Q57. SHOULD RIDER DCR INCLUDE INVESTMENTS FUNDED BY GRANT PROGRAMS?

A57. No. The DCR should not fund investments already funded by the All Ohio Future Fund or the Grid Innovation Program ("GIP") of the federal Infrastructure Investment and Jobs Act ("IIJA"). This could be addressed if the PUCO adopts the following provision:

> Any investment funded by grants received under the All Ohio Future Fund created by R.C. § 126.62 or the Grid Innovation Program ("GIP") of the federal Infrastructure Investment and Jobs Act ("IIJA") will be excluded from the DCR to the extent of such grant funding.

This would be consistent with the approach in: *In re AEP ESP V,* Case No. 23-23-EL-SSO, Stipulation at page 18 (Sept. 6, 2023).

Q58. SHOULD RIDER DCR INCLUDE A SUNSET PROVISION?

A58. Yes. Rider DCR should include a sunset provision, such that the rider adjusts to $0 if FirstEnergy fails to file its next distribution base rate case by an agreed date. This could be addressed it the PUCO adopts the following provisions:

> Should FirstEnergy fail to file a new base distribution rate case on or before May 31, 2024, then the DCR will sunset and the DCR rate shall be set to zero on June 1, 2024. Should FirstEnergy fail to file a following new base distribution rate case on or before May 31, 2028, then the DCR will sunset and the DCR rate shall be set to zero on June 1, 2028.

This would be consistent with the approach in: *In re AES Ohio* ESP *IV,* Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77, page 27 (Aug. 9, 2023).

Q59. SHOULD RIDER DCR INCLUDE A FILING SCHEDULE AND AUDIT REQUIREMENT?

A59. Yes. This would be consistent with PUCO practice. This could be addressed as follows:

> FirstEnergy shall file quarterly updates on or about the first of February, May, August, and November, with rates charged to consumers being effective 60 days after filing unless otherwise suspended by the Commission. The filings shall be subject to review, as well as an annual audit with the expenses relating to such audits being deferred and collected from consumers through the DCR. Annual audits will include but not be limited to:
>
> 1. On-site inspections of new capital assets;
> 2. Tracking capital expenses from continuing property records, invoices, and other supporting documentation to the used and useful assets and vice versa;
> 3. Verification of proper accounting and computation of annual property tax expense;
> 4. Verification of proper accounting and computation of state, local, and federal income tax expense, as well as taxes other than income;
> 5. Verification of proper accounting for DCR resources;
> 6. Verification with FERC Form 1; and
> 7. Verification that the costs were prudently incurred and related to a project that is used and useful.

This would be consistent with the approach in: *In re AES Ohio ESP IV*, Case No. 22-900-EL-SSO, Opinion & Order at ¶ 77, page 28 (Aug. 9, 2023).

Q60. SHOULD FIRSTENERGY BE REQUIRED TO PROVIDE PRIOR NOTICE OF CHANGES IN ACCOUNTING POLICIES?

A60. Yes. This could be addressed as follows:

> Any changes to FirstEnergy's capitalization policy that affect its jurisdictional revenue requirement shall be identified in a quarterly filing, along with a quantification of the impact of such changes on the revenue requirement for Rider DCR. New or modified capitalization policies are subject to Commission approval, which approval shall occur sixty days after the quarterly filing in which they are identified, unless otherwise suspended by the Commission.

This would be consistent with the approach in: *In re Duke ESP IV*, Case No 17-1263-EL-SSO, Opinion & Order at ¶ 113, pages 38-39 (Dec. 19, 2018).

Q61. SHOULD FIRSTENERGY BE REQUIRED TO PROVIDE AN ANNUAL WORK PLAN FOR RIDER DCR?

A61. Yes. This would be consistent with existing practice and would allow Staff and consumer input to help identify the most cost-effective solutions to reliability problems. This could be addressed as follows:

> FirstEnergy shall work with Staff and OCC to develop an annual plan to emphasize proactive distribution maintenance that will focus spending on where it will have the greatest impact on maintaining and improving reliability for customers. The plan shall specifically include identification of those expenditures that will help reduce customers' minutes interrupted. The plan shall be submitted to Staff and OCC annually starting on or about the first of November.

This would be consistent with the approach in *Duke ESP IV*, Case No 17-1263-EL-SSO, Opinion & Order at ¶ 119, page 41 (Dec. 19, 2018).

Q62. HOW SHOULD OVER-COLLECTIONS BE HANDLED?

A62. The PUCO should require FirstEnergy to flow back any over-collections from consumers under Rider DCR as a bill credit for the next Rider DCR filing period.

Q63. SHOULD THE RIDER DCR TARIFF INCLUDE "SUBJECT TO REFUND" LANGUAGE?

A63. Yes. The PUCO has not decided the House Bill 6 investigation cases and, to the extent that any House Bill 6 costs spill into Rider DCR, these costs should be collected subject to refund.

Q64. LASTLY, ARE THERE ANY OTHER RECOMMENDATIONS YOU HAVE FOR RIDER DCR?

A64. Yes, consistent with arguments I presented in Duke Energy Ohio related to Rider CEP (Capital Expenditure Program), natural gas rate case, Case No. 22-507-GA-AIR, I recommend that a depreciation offset be utilized when calculating the return component of Rider DCR. Rider DCR allows FirstEnergy to charge customers in-between rate cases for new investment placed in-service. As discussed previously, this special regulatory mechanism requires FirstEnergy consumers to pay for new investment without looking at all of the relevant factors of FirstEnergy's operations. Rider DCR captures the main costs of placing new investments in rate base (return on investment, depreciation and property taxes.)

Q65. HAS RIDER DCR ALLOWED FOR SIGNIFICANT INVESTMENT IN PLANT IN-SERVICE?

A65. Yes. As previously mentioned, Rider DCR has been in effect since January 1, 2012.

Q66. PLEASE DISCUSS THE DEPRECIATION OFFSET AS IT WOULD PERTAIN TO RIDER DCR.

A66. The depreciation offset would account for the depreciation from legacy plant that was included in FirstEnergy's previous rate case or, for that matter, the upcoming May 2024 rate case. The depreciation offset properly recognizes that the legacy net plant from FirstEnergy's last rate case has declined during the period of time that Rider DCR investments have been placed in-service. The depreciation offset is used to reduce the return component of the newly invested DCR plant.

Q67. DO YOU SUPPORT THE DEPRECIATION OFFSET BEING INCLUDED AS PART OF RIDER DCR?

A67. Absolutely. To protect consumers, the depreciation offset is necessary to keep FirstEnergy's shareholders from enjoying enhanced profits from the new investment, subject to Rider DCR collection from consumers.

Q68. COULD YOU PROVIDE AN EXAMPLE SHOWING HOW PROFITS COULD BE ENHANCED WITHOUT A DEPRECIATION STUDY?

A68. Yes. Assume the following conditions:

- FirstEnergy just completed a rate case with rates effective January 1, 2023.
- In that rate case, it was determined that FirstEnergy had Gross Plant In-Service of $120,000,000 and Net Plant In-Service of (Original Plant In-Service less Accumulated Depreciation Reserve) of $100,000,000.

- FirstEnergy's annual depreciation included in rates was 5%, or $6,000,000.
- FirstEnergy invested in new plant and filed a Rider DCR request after one-year of new rates effective from the rate case totaling $20,000,000.
- FirstEnergy's rate of return is 10%.

Given these assumptions, if FirstEnergy filed Rider DCR charges after the first year to recover the $20 million of new investments, the effect of the depreciation offset can be seen in the tables below.

Table GRM-3

Scenario 1 - No Depreciation Offset

Line	Description	Amount
1	Existing Net Plant in Service	$100,000,000
2	Assumed Rate of Return	10%
3	Return Included in Existing Rates (Line 1 x Line 2)	$10,000,000
4	New Rider DCR Investment	$20,000,000
5	Assumed Rate of Return	10%
6	Return on New Rider DCR Investment (Line 4 x Line 5)	$2,000,000
7	Total Return (Line 3 + Line 6)	$12,000,000

As can be seen from Table GRM-3, without a depreciation offset the costs to consumers would be $12 million.

Table GRM-4

Scenario 2 - With Depreciation Offset

Line	Description	Amount
1	Existing Net Plant in Service	$100,000,000
2	Assumed Rate of Return	10%
3	Return Included in Existing Rates (Line 1 x Line 2)	$10,000,000
4	Existing Gross Plant in Service	$120,000,000
5	New Rider DCR Investment	$20,000,000
6	Assumed Depreciation of 5% on Existing Gross Plant (Line 4 x 5%)	$6,000,000
7	Rider DCR Investment Net of Depreciation Offset (Line 5 - Line 6)	$14,000,000
8	Assumed Rate of Return	10%
9	Return on New Rider DCR Investment Net of Depreciation Offset (Line 7 x Line 8)	$1,400,000
10	Total Return (Line 3 + Line 9)	$11,400,000

Table GRM-4 shows the charges to consumers with the depreciation offset to be $11.4 million.

Table GRM-5

Scenario 2 Mimics Rate Case Treatment of Plant

Line	Description	Amount
1	Existing Net Plant	$100,000,000
2	Existing Gross Plant	$120,000,000
3	Less: A Year of Depreciation Expense at 5% Rate	(6,000,000)
4	Plus: New Rider DCR Investment	20,000,000
5	Net Rate Base Under Scenario 2 (Line 1 + Line 3 + Line 4)	$114,000,000
6	Assumed Rate of Return in Scenario 2	10%
7	Return on Rate Base After One Year (Line 5 x Line 6)	$11,400,000

Table GRM-3 shows what the costs would be to consumers if measured one-year from the rate effective date of a FirstEnergy rate case. Table GRM-4 shows that the depreciation offset more closely approximates the cost to consumers as shown in Table GRM-5. The depreciation offset is necessary to protect consumers from paying too much and restricting the harmful effects of enhanced profits to FirstEnergy's shareholders.

As can be seen from the above example, in exchange for allowing FirstEnergy to charge customers in-between rate cases for new Rider DCR investment, it is only fair for consumers to offset the return component of the Rider DCR investment by the depreciation offset. By adopting the depreciation offset, consumers are only required to provide the true return on legacy and new investments. If the depreciation offset is not utilized, FirstEnergy's shareholders will recognize enhanced profits of $600,000 in this example. The depreciation offset is needed to protect consumers by preventing enhanced profits for FirstEnergy's shareholders. Therefore, the OCC supports the depreciation offset for Rider DCR.

It should also be noted that Rider DCR investments have been made since January 2012. Those investments will continue to decline in value during the period of new Rider DCR filings. It is only fair to consumers to capture that decline in value in-between rate cases to offset increased Rider DCR charges from new investment. If the PUCO accepts this depreciation offset, then the language proposed in the response to Question 41 should be amended to include such an offset.

VII. ADVANCED METERING INFRASTRUCTURE RIDER ("AMI")

Q69. HAVE YOU REVIEWED THE DIRECT TESTIMONY OF MR. MCMILLEN AS IT ADDRESSES RIDER AMI?

A69. Yes, I have.

Q70. PLEASE DESCRIBE RIDER AMI?

A70. Rider AMI allows for the recovery of costs associated with the Ohio Site Development of the Smart Grid Modernization Initiative, as well as any costs of additional grid modernization programs. Currently, FirstEnergy is allowed to collect grid investments approved by the Commission in Grid Mod I. FirstEnergy has filed for approval of Grid Mod II.

Q71. ARE YOU SUPPORTIVE OF RIDER AMI?

A71. No, I am not.

Q72. PLEASE DISCUSS THE REASONS FOR YOUR OPPOSITION.

A72. Similar to my previous arguments regarding proposed riders, Rider AMI engages in single issue ratemaking. Rider AMI should be addressed in the upcoming FirstEnergy rate case. Additionally, Rider AMI provides another infrastructure rider mechanism to collect costs from consumers separately from Rider DCR that I have previously addressed. In the upcoming rate case, the replacement of customer meters can be addressed in detail. Replacing meters can be easily accomplished in the context of a base rate case. FirstEnergy has not provided compelling arguments why the Rider AMI is necessary.

Q73. IN RIDER AMI, IS FIRSTENERGY PROPOSING A REVENUE CAP AS A CONSUMER PROTECTION?

A73. No, since Rider AMI is essentially another special infrastructure program, there exists the real possibility that the consumer protections sought in Rider DCR will be undermined since Rider AMI has no revenue cap. In Rider DCR, the revenue cap is intended to protect consumers, yet Rider AMI is another infrastructure mechanism with no revenue cap. When combined, FirstEnergy consumers could be required to pay rates in excess of the revenue cap simply by having two infrastructure mechanisms.

Q74. IS THERE AN ADJUSTMENT THAT YOU WOULD PROPOSE IF THE METER REPLACEMENT PROGRAM CONTINUES?

A74. Yes, to the extent the meter replacement program generates stranded investments, I would propose that FirstEnergy not be allowed to collect a return on and of those stranded investments. By allowing a return on and of those stranded investments, FirstEnergy's shareholders would be recognizing a profit return on and a return of two meters when only one meter is providing service, and when only one meter would be considered "used and useful." FirstEnergy's consumers should only be required to provide a return on and of one meter serving the premises. In this case if Rider AMI is approved, I would recommend that the Commission require FirstEnergy to show that it is not seeking to charge consumers for recovery of any stranded investments.

Q75. ARE YOU AWARE OF ANY LAWS THAT ADDRESS THE RECOVERY OF STRANDED INVESTMENTS?

A75. It is my understanding, per the advice of counsel, that the Ohio Revised Code indicates that only plant that is used and useful as of the date certain may be included in rate recovery. Specifically, the Ohio Revised Code section 4909-15(A) states:

> (A) The public utilities commission, when fixing and determining just and reasonable rates, fares, tolls, rentals, and charges, shall determine:
>
> (1) The valuation as of the date certain of the property of the public utility used and useful or, with respect to a natural gas, water-

> works, or sewage disposal system company, projected to be used and useful as of the date certain, in rendering the public utility service for which rates are to be fixed and determined. The valuation so determined shall be the total value as set forth in division (C)(8) of section 4909.05 of the Revised Code, and a reasonable allowance for materials and supplies and cash working capital as determined by the commission.

Under a plain reading of this statutory language, it appears that rates may not include any consideration of plant that is neither used nor useful as of the date certain. Given that language, my recommendation would be to exclude recovery for stranded AMI investments from any approved Rider AMI.

VIII. NON-MARKET BASED SERVICES RIDER ("NMB")

Q76. DO YOU HAVE ANY RECOMMENDATIONS FOR FIRSTENERGY'S RIDER NMB PROPOSAL?

A76. Yes. I recommend that the Pilot Rider NMB should be eliminated as recommended by Exeter in Case No. 22-391-EL-RDR and that the PUCO reject FirstEnergy's new Rider NMB proposal. Consistent with Exeter's recommendation from Case No. 22-391-EL-RDR that, if Rider NMB is continued, then I recommend that it should not be expanded beyond the scope of the current Pilot Rider NMB program.

IX. ESP VS. MRO TEST

Q77. HAVE YOU REVIEWED THE TESTIMONY OF FIRSTENERGY WITNESS MR. FANELLI'S DISCUSSIONS RELATING TO THE ESP VS. MRO TEST?

A77. Yes, I have.

Q78. DO YOU AGREE WITH THE CONCLUSION MR. FANELLI DETERMINED THAT THE ESP WAS MORE FAVORABLE THAN THE EXPECTED RESULTS THAT WOULD APPLY UNDER AN MRO?

A78. I do not.

Q79. PLEASE EXPLAIN YOUR REASONING WHY YOU BELIEVE THE ESP TEST FAILED.

A79. In his testimony Mr. Fanelli states, that the provision of Standard Service Offers' pricing will not be different between the ESP V and an MRO as the Companies will use a competitive process to procure generation service. Mr. Fanelli states that the ESP V has several provisions that will provide benefits that would not be realized under an MRO.

Mr. Fanelli lists the benefits he claims will be realized under the ESP V:

- Energy efficiency and demand response programs that will provide between $139 million and $524 million, including avoided energy, capacity, transmission and distribution costs.
- First Energy commits to spend $52 million on programs designed to support low-income customers and enhance the customer experience, forgoing recovery of these expenses from consumers.
- Riders DCR, AMI, SCR, and VMC.

However Mr. Fanelli fails to recognize that these claimed benefits also could be accomplished in the upcoming rate case to be filed in May 2024. I have not seen any testimony that the benefits from the ESP V plan could not be accomplished in a base rate case filing. To pass the test, one would expect detailed testimony describing benefits that could not be achieved through other regulatory means. In this case, there is no such evidence.

Q80. DO YOU BELIEVE THE BENEFITS THAT ARE ATTRIBUTED TO ESP V COME WITH A PRICE TO FIRSTENERGY'S CONSUMERS?

A80. Absolutely. FirstEnergy seems to ignore the fact that under its proposed ESP V, FirstEnergy's consumers will be required to pay for energy efficiency programs, demand response programs and the multiple riders, in-between base rate cases. These charges will add costs to the bills of FirstEnergy's consumers without a review of all the relevant factors of FirstEnergy's operations.

Not only can many, if not all, of these benefits be captured through other traditional regulatory proceedings (base rate case), but ESP V requires FirstEnergy to pay in advance for these benefits than they otherwise would have to under traditional regulation. That comes at a cost to consumers which is not recognized in the utilities' ESP vs. MRO comparison.

Q81. DO YOU BELIEVE FIRST ENERGY'S ESP V VS MRO TEST CONCLUSIONS ARE MISGUIDED?

A81. Yes, I do. I would contend that if all factors including rate impacts are considered, the ESP V vs. MRO test fails, contrary to the position of FirstEnergy.

Q82. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A82. Yes, it does. However, I reserve the right to supplement my testimony if additional testimony is filed, or if new information or data in connection with this proceeding becomes available.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Greg R. Meyer on Behalf of the Office of the Ohio Consumers' Counsel* was served via electronic transmission to the persons listed below on this 23rd day of October 2023.

/s/ John Finnigan
John Finnigan
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

SERVICE LIST

thomas.lindgren@ohioago.gov
amy.botschnerobrien@ohioago.gov
rhiannon.howard@ohioago.gov
mkurtz@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
rdove@keglerbrown.com
nbobb@keglerbrown.com
Stacie.Cathcart@igs.com
Evan.Betterton@igs.com
Michael.Nugent@igs.com
cgrundmann@spilmanlaw.com
slee@spilmanlaw.com
todd.schafer@outlook.com
mjsettineri@vorys.com
glpetrucci@vorys.com
aasanyal@vorys.com
dparram@brickergraydon.com
rmains@brickergraydon.com
dromig@nationwideenergypartners.com
brian.gibbs@nationwideenergypartners.com
paul@carpenterlipps.com
mpritchard@mcneeslaw.com
awalke@mcneeslaw.com
tdougherty@theOEC.org
ctavenor@theOEC.org

bknipe@firstenergycorp.com
cwatchorn@firstenergycorp.com
talexander@beneschlaw.com
mkeaney@beneschlaw.com
khehmeyer@beneschlaw.com
dproano@bakerlaw.com
ahaque@bakerlaw.com
eprouty@bakerlaw.com
pwillison@bakerlaw.com
dstinson@brickergraydon.com
gkrassen@nopec.org
josephmeissner@yahoo.com
trhayslaw@gmail.com
leslie.kovacik@toledo.oh.gov
bojko@carpenterlipps.com
easley@carpenterlipps.com
mkl@smxblaw.com
jrb@smxblaw.com
little@litohio.com
hogan@litohio.com
ktreadway@oneenergyllc.com
jdunn@oneenergyllc.com
trent@hubaydougherty.com
emcconnell@elpc.org
cpirik@dickinsonwright.com
todonnell@dickinsonwright.com
kshimp@dickinsonwright.com
eowoyt@vorys.com

Attorney Examiners:
megan.addison@puco.ohio.gov
greg.price@puco.ohio.gov
jacqueline.st.john@puco.ohio.gov

whitt@whitt-sturtevant.com
katherine.hollingsworth@lasclev.org
sjagers@ohiopovertylaw.org
mwalters@proseniors.org
knordstrom@theOEC.org
dmanor@ablelaw.org
jlang@calfee.com
mbarbara@calfee.com
jpetroff@lawforlabor.com
jmcinerney@lawforlabor.com
rnader@communitylegalaid.org