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 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

DIRECT TESTIMONY OF MATTHEW WHITE ON BEHALF OF INTERSTATE GAS SUPPLY, LLC AND THE RETAIL ENERGY SUPPLY ASSOCIATION.

October 23, 2023

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I. Introduction

Q. Please state your name and business address.

A. My name is Matthew White. My business address is 6100 Emerald Parkway, Dublin, Ohio 43016.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of Interstate Gas Supply, LLC. (“IGS Energy” or “IGS”) and Retail Energy Supply Association (“RESA”).

Q. Please describe your work history and educational background.

A. In 2002, I graduated from Ohio University. In 2007, I earned a JD/MBA degree from the College of William & Mary, and began working at the law firm of Chester, Wilcox & Saxbe as an energy and utilities lawyer. At Chester Wilcox, I participated in numerous regulatory proceedings relating to utility matters including natural gas and electric rate cases and electric power siting cases. I also have worked on power and gas sales transactions.

At the beginning of 2011, I was hired into IGS Energy’s rotation program where I spent the next 16 months working in various departments throughout the company learning IGS’ entire business, including the Gas Supply, Marketing, and Risk Departments. In 2012, I began full-time as an attorney in IGS’ Regulatory Affairs Department. In 2014, I was promoted to Manager, Legal and Regulatory Affairs at IGS. In 2015, I was promoted to General Counsel, Legislative and Regulatory Affairs.

I am currently Executive Vice President and Chief Legal Officer for IGS Energy. In my current position I serve on the IGS Executive Team which is responsible for setting and effectuating IGS's overall business strategy. I also oversee all of IGS Energy's legal, regulatory and legislative activities throughout the country, as well as IGS Energy's investment strategy.

Q. Have you previously submitted testimony in any regulatory proceedings?

A. Yes. I have testified before the Public Utilities Commission of Ohio ("Commission" or PUCO") in several cases. I have also submitted written testimony on utility related matters in numerous regulatory proceedings in Pennsylvania, Maryland, Michigan, Kentucky, West Virginia, and Illinois.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to address uncollectible expense as well as FirstEnergy's proposed energy efficiency and peak demand reduction plan.

II. <u>PUCO and OCC Assessments</u>

Q. What are PUCO and OCC assessments?

A. The OCC and PUCO assessment are calculated and charged based on the percentage of KWH each supplier serves in the market. CRES providers must pay the PUCO and OCC assessment based on the amount of electricity they sell. FirstEnergy is also assessed the PUCO and OCC assessment based on total revenue collected—including SSO revenue—but the SSO does not reflect this cost. Rather FirstEnergy is recovering those costs through distribution rates

Q. What is the consequence of the subsidy you have described?

A. Currently, FirstEnergy's SSO price reflects a pass-through of wholesale capacity and energy costs. However, FirstEnergy incurs other costs required to support SSO service, such as PUCO and OCC assessments, but those costs are not reflected in the SSO; instead they are recovered through distribution rates. Without an appropriate allocation of costs to the SSO and a corresponding crediting mechanism, shopping customers pay distribution rates that are greater than they should be, and the SSO price is lower than it should be.

Q. Does subsidizing SSO costs through distribution rates have anti-competitive effects?

A. Yes. The SSO price is a product that all products compete against. To the extent that the SSO is subsidized and artificially low, it harms all other products that must compete against the SSO. Ultimately, subsidizing the SSO leads to less competition in the FirstEnergy service territory and fewer products being available to customers

Q. Is there a direct relationship between SSO sales and the amount FirstEnergy must collect to cover the PUCO and OCC assessments?

A. Yes. For example, consider two scenarios. Under Ohio law, an entity's PUCO and OCC assessments are determined in proportion to the entity's intrastate gross earnings. In the first scenario, assume FirstEnergy collected a total of $600 million: $300 million for distribution and $300 million for the SSO suppliers. In the second scenario, FirstEnergy collected a total of $300 million for distribution because all customers shopped for electricity. All else being equal, in the second scenario, FirstEnergy s PUCO/OCC assessment would be 50% lower due to the reduction in its intrastate revenues. Thus, there is a direct link between the company's electric default service revenues and the amount the company is assessed.

Q. Is it harmful for FirstEnergy to collect the PUCO and OCC assessments as part of the distribution rates?

A. Yes. The recommendation would directly shift costs to shopping customers that are being expressly caused by customers that are on default service. By spreading the cost of the assessments related to the SSO to all distribution customers, the cost of the SSO is reduced, and the cost of distribution rates are increased. Mathematically, the effect of the recommendation would be to lower the cost of service to SSO customers while correspondingly increasing the costs shopping customers must pay for electric service, thus penalizing customers for exercising their right to shop for electric.

The proposal also harms competition. Competitive suppliers must pay the assessments based on their revenue but can only recover the costs of the assessment through their shopping customers. They do not have the ability to recover those costs in base rates. Therefore, a competitive supplier is placed at a cost disadvantage. Effectively Staff's proposal is merely favoring CRES suppliers of the SSO (because they would not have to pay for the assessment) at the expense of other suppliers in the market that do have to pay the assessment.

Finally, customers taking service from competitive suppliers will be charged twice for some portion of the PUCO and OCC assessments, thus adding another injury that is inflicted solely on the supply side of the electric distribution business.

Q. What do you recommend?

A. I recommend requiring FirstEnergy to unbundle the PUCO/OCC assessment expenses related to the SSO revenue. In addition to my objections stated above it is not appropriate to make one class of customers (i.e. shopping customers) pay for the costs directly attributable to another class of customers (i.e. default service). Shopping customers will be subsidizing in distribution rates costs that are directly assignable to the revenue recovered for commodity. Lastly, the effect of the subsidy will have the effect of understating the cost of the default service and provide an unreasonable and unfair price advantage to the default standard offer relative to other sources of retail commodity service.

III. <u>Uncollectible Generation Expense</u>

Q. What amount of uncollectible expense does FirstEnergy collect?

A. As of their last rate case filing, FirstEnergy collected $1,470,275 in uncollectible expense during the test year. [1]

Q. What is bad debt expense?

A. Each customer receives a monthly electric bill. A portion of the bill relates to FirstEnergy's distribution and transmission charges and a portion relates to generation charges from either the SSO or a CRES provider. Sometimes

[1] *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and for Tariff Approvals*, Case No. 07-551-EL-AIR, et al. Schedule C-3.12

customers do not pay their bills and FirstEnergy must write off a portion or all of the bill as "bad debt" that cannot be collected. FirstEnergy will write off the portion that relates to distribution and transmission charges for all customers (shopping and non-shopping), but FirstEnergy only writes off the portion that relates to generation charges if the customer is served under the SSO.

Q. What portion of uncollectible expense is associated with the SSO generation?

A. The portion of uncollectible expenses associated with the SSO generation is a cost to support a competitive offering and should not be collected through distribution rates. FirstEnergy should neither collect the SSO-related bad debt nor the overhead and administrative costs incurred to collect that debt. Such costs should be allocated to SSO customers consistent with Ohio law, policy, and principles of cost causation.

Q. Do CRES providers incur the same type of costs?

A. Yes. CRES providers also incur bad generation debt expenses and expend dollars and resources to service this debt. CRES provider must reflect these costs directly in the prices they charge customers. Yet, all distribution customers (including shopping customers) pay for the bad debt associated with the competitive SSO. Thus, CRES provider customers would be paying not only for their own generation product, but they are also paying to support SSO generation service through distribution rates. When SSO costs are collected through non-bypassable distribution rates, shopping customers effectively pay twice for service.

Q. What is the effect of shopping customers paying these costs to both FirstEnergy and their CRES provider?

A. First, shopping customers are subsidizing the generation costs of non-shopping customers. This is an unfair and unreasonable penalty on shopping customers. Second, without an appropriate allocation of costs to the SSO, shopping customers pay distribution rates that are greater than they should be, and the SSO price is lower than it should be. It establishes an artificially low SSO rate because it does not recover the true actual costs necessary to administer SSO service. Therefore, to the extent that the SSO is subsidized and artificially low, it harms all other products that must compete against the SSO. Ultimately, subsidizing the SSO leads to less competition in the FirstEnergy service territory and fewer products being available to customers.

Q. What is your recommendation regarding the uncollectible generation expenses?

A. I recommend removing all uncollectible generation expenses related to the SSO from distribution rates. This includes the uncollectible expenses, as well as the administrative an overhead costs to service the bad debt.

IV. <u>FirstEnergy Energy Efficiency and Demand Response Proposals</u>

Q. Please summarize FirstEnergy's Energy Efficiency and Demand Response Proposals

A. FirstEnergy proposes a four-year energy efficiency and peak demand reduction plan (EE/PDR) recovered through the Energy Efficiency Cost Recovery Rider

(Rider EEC). They are proposing four residential and one commercial/industrial program. The programs for residential include: a residential rebate program, an energy efficiency education program, a low-income energy efficiency program, and a demand response program. For commercial/industrial FirstEnergy proposes an energy solutions for business program. FirstEnergy witnesses Miller describe this plan and these initiatives in their testimony.

Q. How is FirstEnergy proposing to recover the costs of the program?

A. FirstEnergy proposed to collect the EE/PDR program costs through the Energy Efficiency Cost Recovery Rider ("Rider EEC"). FirstEnergy proposes that the rider be conditionally nonbypassable. For residential customers, FirstEnergy proposes that the rider be entirely nonbypassable. For nonresidential customers, FirstEnergy proposes that the rider start out nonbypassable and FirstEnergy witness Miller states that FirstEnergy will develop and offer an opt-out process to large customers.

Q. Does FirstEnergy have an annual cost of these programs?

A. FirstEnergy estimates these programs will have an annual cost of $72.1 Million for four years. FirstEnergy also states that it will evaluate the initial 4 years of the EE/PDR programs and decide on whether to propose to extend, expand, contract, or terminate the programs

Q. What is electric "distribution" service?

A. "Distribution" is the non-competitive retail electric service of physically delivering electricity to end-use consumers. Utility "distribution" facilities are commonly understood to include low-voltage wires, transformers, poles, and related plant and equipment.

Q. Do all of the initiatives described in the energy efficiency/demand response programs relate to distribution?

A. No. The energy efficiency and demand response programs cannot reasonably be characterized as "distribution" services. As I discuss in greater detail later, these proposals fall within the definitions of "competitive retail electric service" and/or a "nonelectric product or service" within the meaning of R.C. 4928.17.

Q. Would FirstEnergy's provision of competitive services be consistent with Ohio energy policy?

A. No. R.C. 4928.02 reflects a policy that EDUs should operate as "wires only" companies in providing noncompetitive distribution services, and that competitive services should be provided through the competitive market. FirstEnergy's proposals turn this policy on its head. Statutes and regulations intended to ensure just, reasonable, and competitively-neutral standard service offerings are being exploited to subsidize FirstEnergy's entry into competitive services.

Q. Are you aware of any Ohio legislation that has impacted energy efficiency?

A. Yes. Ohio's prior EE/PDR mandates took effect in 2009 pursuant to SB 221 passed in 2008. SB 221 set an EE mandate through 2025, and set a PDR mandate through 2018. In 2014, the General Assembly passed SB 310, which among others things, required transparency to customers of the costs of the EE/PDR mandates, modified the EE/PDR mandated benchmarks, placed a 2-year pause on the mandate escalations and extended the mandate end dates by two years, required the PUCO to count additional savings that had previously not been counted towards compliance, and allowed certain large nonresidential customers to opt-out of the EE/PDR mandates and the utilities cost-recovery mechanisms. In 2019, the General Assembly again intervened to change the law with respect to the EE/PDR mandates by providing additional out-out opportunities for customers and directing the Commission to end the EDU run EE/PDR portfolio plans once certain achievement criteria had been reached (cumulative EE savings of 17.5%). In Case No.16-574-EL-POR, et al. the Commission concluded that the benchmarks had been met and directed the EDUs to wind down the EE/PDR plans by the end of December 2020.[2]

Q. Has there been any Commission orders that has addressed energy efficiency?

A. Yes, there has been several recent Commission orders that address energy efficiency. From my understanding, In Columbia of Ohio's most recent gas rate case[3], in accepting the stipulated cut-back on demand-side management programs (including energy efficiency), the PUCO highlighted the competitive market, stating "[i]t is time to look to competitive markets to play a more significant role in the provision of energy efficiency in this state," and cited testimony from an

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[2] *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2017 through 2019*, Case No. 16-743-EL-POR, et al. (Entry June 14, 2021).
[3] *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 21-637-GA-AIR, et al. (Opinion and Order January 26, 2023).

opposition party that nothing in the stipulation prevents a customer from getting DSM services from a competitive supplier (paragraphs 56, 171, 206). Additionally, in a Dominion Energy of Ohio application[4] for an alternative rate plan to continue and expand its energy efficiency program, the Commission denied Dominion's appliance to continue their DSM/EE programs (outside of low-income programs) finding that:

> *" The Commission is not convinced by the record of this case that there continues to be a need for expansive, utility-sponsored DSM/EE programs as presented in Dominion's application. Further, since this application was filed, the landscape of Ohio's economy has changed significantly. Ohio, along with the rest of the nation, endured a pandemic, causing supply shortages and a spike in inflation, including increases in the cost of electricity and natural gas. In these difficult times, the Commission is acutely mindful of the range of residential household budgets, particularly Dominion's low-income customers and moderate-income customers whose income is above the eligibility requirements for various income assistance programs. We find that the subsidization of the costs of these programs across Dominion's footprint acts as a burden on the Company's ratepayers."*
> (Italics added for emphasis)

Further, the Commission directed Dominion to explore engaging with competitive retail natural gas suppliers (CRNGS) to assist in the widespread distribution of

[4] *In the Matter of the Application of the East Ohio Gas Company DBA Dominion Energy Ohio for Approval of an Alternative Form of Regulation to Continue and to Expand its Demand-Side Management and Energy Efficiency Programs*, Case No. 21-1109-GA-ALT (Opinion and Order October 4, 2023).

smart thermostats to choice eligible customers. Lastly, in AES Ohio's latest ESP, the Commission approved a Stipulation that removed several proposals from the EDU's application (EV, EE/PDR, and active demand management services) that would have been forced upon customers through monopoly power products and services otherwise available in the competitive marketplace.

Lastly, in AEP Ohio's latest rate case the Commission refused to modify the Stipulation to incorporate a DSM program stating that "the future of energy efficiency programs in this state, in light of Am. Sub. H.B. 6, will be best served by reliance on market-based approaches such as those available through PJM and CRES providers. [5]

Q Are there products and services available in the marketplace that can meet an individual customer's sustainability goals?

A. Yes. As the Commission has recognized, there are countless avenues for FirstEnergy's customers to purchase energy efficiency products that reduce overall energy consumption as well the amount of energy consumed during times of peaks on the electrical grid. RESA witness Smith testifies to some of the types of energy efficiency, peak demand reduction, load management, and other sustainability products offered by suppliers and the marketplace. IGS also offers customers, and the marketplace in general, a variety of products and services to meet the sustainability demands of customers. This includes 100% renewable

[5] *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates* Case No. 20-585-EL-AIR, et al (Opinion and Order November 17, 2021) citing *In re Duke Energy Ohio, Inc.*, Case No. 20-1013-EL-POR, Entry (June 17, 2020) at ¶ 9

retail electric supply contracts, onsite solar solutions for residential and nonresidential customers, LED lighting, and we have also installed CHP generation for a municipality that that is used as a place of shelter with power during emergency events.

Q. Do you have any concerns that the utility is seeking to compete with suppliers that also provide these products for customers?

A. Yes. Allowing FirstEnergy, a monopoly utility, to offer a competitive product in the market will push other energy efficiency and demand response products out of the market, unnecessarily harming competition to the detriment of customers. Whenever FirstEnergy leverages its distribution monopoly, to offer a competitive product in the market, it is a deterrent for other suppliers to offer that service, because those suppliers do not have an advantage of a subsidized rate-base.

Q. Why would it be problematic to allow FirstEnergy to market to customers?

A. FirstEnergy is a monopoly service provider in the business of the distribution of electricity and all electric distribution companies start out with all the customers and the exclusive means to leverage that relationship via the bill and bill inserts, etc. Suppliers begin with no customers and must devote significant effort to winning customers away from default service and enroll them. The same is true for products such as the energy efficiency and demand response offerings here, to a certain extent, because the utility has the monthly bill—and guaranteed cost recovery—as a means of communication that every customer will open every month. No supplier has that advantage, and it is inherently unfair and anti-competitive for FirstEnergy or any distribution company to use that advantage to capture market share discriminates against other participants in the market. Indeed, the Ohio legislature has recognized the inherent harm of a utility monopoly from participating in competitive offerings and has prohibited such offering in statute.

Q. What do you recommend?

A. I recommend that the Commission deny FirstEnergy's proposal to implement an energy efficiency and demand response plan. CRES providers and big box stores like Home Depot, Lowes, and Best Buy are already providing energy efficiency programs and opportunities for individuals in FirstEnergy's service territory. Further, CRES providers and energy efficiency retailers are best situated to educate customers and provide incentives to increase awareness and participation in energy efficiency.

Q. Please explain RESA and IGS's concerns regarding the use of data obtained through the proposed home energy audits.

A. RESA and IGS are concerned about the use of data to perform analytics and offer recommendations on how to reduce overall energy consumption. It would be fundamentally unfair and place the retail electric market at a distinct disadvantage if FirstEnergy and its network of vendors, contractors, etc. were the only ones who had access to that data, or if they had greater degree of access. It would simply undercut the retail electric market and those who provide energy efficiency services and products who do not have access to such data. FirstEnergy should not be permitted to capture customer data that is available in its role as a public utility and use it to provide value-added services to customers that are more appropriately offered in the competitive market. Because FirstEnergy would be offering these services at no cost to customers, using ratepayer-funded subsidies, the value of these services in the market would be minimized. To the extent that other entities would attempt to offer these services as a value-added product to other products or to sell these services to customers, FirstEnergy's use of data obtained through energy audits to offer similar services would adversely affect those efforts. The Commission should not permit FirstEnergy to use ratepayer funds to skew the private market for data analytics services.

Alternatively, data obtained through energy audits could be made available to other interested parties. This does not appear to be a feature of FirstEnergy's Plan. A variety of options for energy efficiency products is as valuable as a variety of options for electric and gas supply. At a minimum, the Commission should prohibit FirstEnergy from providing data obtained through energy audits to any affiliate or providing data to any vendor that is not one of its implementation entities described in the testimony of Company witness Miller.

Q. Do you have an alternate recommendation regarding the energy efficiency rebates and demand response program?

A. Yes, If the Commission finds FirstEnergy's energy efficiency and demand response programs reasonable, I recommend the Commission limit the programs to low-income customers and any type of smart-thermostat programs should look towards the competitive market to implement.

Q. Does this conclude your testimony?

A. Yes, but I reserve the right to supplement.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Matthew White on Behalf of Interstate Gas Supply, LLC and Retail Energy Supply Association.* was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on October 23, 2023. The Commission's e- filing system will electronically serve notice of the filing of this document upon the following parties listed below.

/s/ Stacie Cathcart

Stacie Cathcart