

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Ohio)	
Edison Company, The Cleveland Electric)	
Illuminating Company and The Toledo)	
Edison Company for Authority to Establish)	Case No. 23-0301-EL-SSO
A Standard Service Offer Pursuant to)	
§4928.143, Ohio Rev.Code, in the Form of)	
an Electric Security Plan.)	

**DIRECT TESTIMONY OF JOHN SMITH
ON BEHALF OF THE RETAIL ENERGY SUPPLY ASSOCIATION**

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October 23, 2023

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1 **Q1. Please state your name and business address.**

2 A1. John P. Smith, 6555 Sierra Drive, Irving, TX 75039.

3 **Q2. By whom are you employed and in what position?**

4 A2. I am employed by Vistra Corp, as Director Product Management and Partnerships.

5 **Q3. Please describe your professional experience.**

6 A3. From 2019 to present, I have been employed by Vistra Corp. From 2015 to 2019,
7 I was at Crius Energy as Vice President Residential Sales & Marketing. From 2002
8 to 2015, I was in the Telecom industry with various companies including Brightpoint
9 North America, Clearwire, PCS Wireless and Ingram Micro Mobility.

10 **Q4. Have you previously testified before the Public Utilities Commission of Ohio**
11 **(“Commission”)?**

12 A4. Yes. I recently testified in PUCO Case 23-23-EL-SSO.

1 **Q5. What is the purpose of your testimony?**

2 A5. The purpose of my testimony is to address FirstEnergy's¹ proposed energy
3 efficiency and peak demand reduction plan. CRES providers such as my company
4 are already offering many innovative and uniquely tailored product offerings to
5 customers including sustainable options as well as energy efficiency and peak
6 demand product offerings.

7 **Q6. What is your understanding of FirstEnergy's proposed energy efficiency and**
8 **peak demand reduction ("EE/PDR") plan?**

9 A6. FirstEnergy's application proposes a "portfolio of cost-effective energy efficiency
10 and demand response programs, including, but not limited to appliance recycling
11 and rebates, energy education, programs to support energy efficiency for low-
12 income customers, load control, and energy management for business
13 customers."² FirstEnergy indicates it seeks to collect hundreds of millions from
14 customers, without providing all of its customers a choice on whether or not to
15 participate. More specifically, FirstEnergy indicates that its plan has an average
16 annual cost of \$72.1 million and proposes to collect the costs through a
17 nonbypassable charge labeled the Energy Efficiency Cost Recovery Rider, or
18 Rider EEC.³

¹ As used in my testimony, FirstEnergy refers collectively to Ohio Edison Company, The Toledo Edison Company, and the Cleveland Electric Illuminating Company.

² Application at 11.

³ Application at 11, Company witness Miller at 4.

1 For residential customers, FirstEnergy’s EE/PDR portfolio plan includes rebates
2 for energy efficiency appliances, heat pumps, smart thermostats, electric vehicle
3 chargers, water coolers, and induction cooking equipment.⁴ FirstEnergy indicated
4 that for some of these, FirstEnergy might include a rebate for the entire cost of the
5 product.⁵ FirstEnergy indicated that its rebates would be available through a
6 number of channels including customers who are shopping in-store or online.⁶
7 FirstEnergy’s testimony also suggests that the EE/PDR portfolio plan might include
8 the cost of running a website.⁷ To implement this residential EE/PDR program,
9 FirstEnergy indicated that it will look to the market to identify an “implementation
10 vendor” who can manage, market, process incentives, and conduct outreach to
11 various retailers, wholesalers, distributors, and trade allies.⁸ The Company also
12 proposes an education component to provide residential customers with home
13 energy reports and energy efficiency recommendations, and an education
14 component directed at educating school age students.⁹ As part of its education
15 program, FirstEnergy intends to provide messaging to customers to encourage
16 them to voluntarily reduce consumption on peak days. For low-income residential
17 customers, FirstEnergy is proposing that eligible customers will receive energy
18 efficiency measures and upgrades at no additional cost as well as education.¹⁰

⁴ Company Witness Miller at 11.

⁵ *Id.* at 11-12.

⁶ *Id.* at 12.

⁷ *See id.* (Customers can receive the rebate through a variety of channels including but not limited to . . . “through an on-line website.”).

⁸ *Id.* at 12.

⁹ *Id.* at 14-15.

¹⁰ *Id.* at 17-18.

1 Finally, for residential customers FirstEnergy proposes an active load
2 management program where it would directly control devices in a customer's
3 home.¹¹ FirstEnergy indicates these controlled devices could include smart
4 thermostats, electric vehicle chargers, and other equipment.¹²

5 For nonresidential customers, FirstEnergy proposes a rebate program for
6 prescriptive equipment, incentives for customer equipment or projects, and energy
7 audits.¹³ The rebate program includes discounts for lighting.¹⁴ Like the residential
8 program, FirstEnergy proposes to look to the market to find an "implementation
9 vendor" to administer, market, and provide the products and services to
10 nonresidential customers.¹⁵

11 **Q7. Do residential customers have a choice of whether to participate and pay for**
12 **FirstEnergy's proposed EE/PDR portfolio plan?**

13 A7. FirstEnergy does not propose residential customers have a choice of whether to
14 pay for the program. Whether a residential customer can participate in the
15 program will depend on whether they qualify for certain programs. For example,
16 only customers that can afford the portion of a smart thermostat not covered by
17 the rebate and which have a smart thermostat compatible with remote load control
18 could participate in the direct load control program. Similarly, only residential

¹¹ *Id.* at 20.

¹² *Id.*

¹³ *Id.* at 22.

¹⁴ *Id.*

¹⁵ *Id.* at 23.

1 customers that have an EV and have the correct type of at-home EV charging
2 infrastructure could participate in the load control demand response program.
3 While I imagine FirstEnergy might send the home energy report to all residential
4 customers, the subset of residential customers with an AMI meter will likely be able
5 to receive more granular information. Other programs are only eligible to certain
6 customers based on income eligibility. In conclusion, not all residential customers
7 will be able to participate in the various aspects of the residential EE/PDR
8 programs but will nonetheless be required to pay for the programs.

9 **Q8. Do nonresidential customers have a choice of whether to participate and pay**
10 **for FirstEnergy's proposed EE/PDR portfolio plan?**

11 A8. FirstEnergy's testimony states that it will develop and offer an opt-out process. For
12 those that opt-out they would not be eligible to receive any benefits. If a
13 nonresidential customer receives any benefits under the EE/PDR portfolio plan,
14 they would not be eligible to opt-out for the duration of ESP V.¹⁶

15 **Q9. How much will FirstEnergy's EE/PDR portfolio plan cost customers?**

16 A9. FirstEnergy indicates that it will cost customers \$288,400,000 over the first 4 years
17 of the proposed ESP, or an average annual cost of \$72.1 million.¹⁷ However, the
18 ESP has an 8-year proposed term. FirstEnergy indicates that it will evaluate the
19 program and may propose to extend the program for the entire ESP term.¹⁸ If the

¹⁶ *Id.* at 25.

¹⁷ *Id.* at 26.

¹⁸ *Id.* at 4.

1 proposed EE/PDR portfolio plan were authorized for the entire 8-year term,
2 customers would be looking at a price tag in excess of half a billion dollars.

3 **Q10. Does FirstEnergy plan to deploy the measures under its EE/PDR portfolio**
4 **plan into the competitive market?**

5 A10. Yes. FirstEnergy indicates it plans to bid permanent energy efficiency savings into
6 PJM's capacity market.¹⁹ FirstEnergy indicates that it intends to retain 20% of the
7 net revenue from the PJM market and credit the remaining 80% against the
8 nonbypassable rider.²⁰

9 **Q11. Do you believe that the Commission should approve FirstEnergy's proposed**
10 **EE/PDR plan?**

11 A11. No. FirstEnergy has proposed to implement products and services available and
12 delivered by the market. Some of these products are items that Vistra and other
13 CRES providers already offer to customers. However, FirstEnergy is not similarly
14 situated to CRES providers like Vistra because it is a monopoly utility with the
15 potential to exercise monopoly power in a competitive marketplace. This would
16 have a chilling effect on suppliers' desire to develop or continue offering the diverse
17 array of products and services that can benefit customers and the grid.

18 FirstEnergy's program is also problematic because it eliminates residential
19 customer choice over the type of products and services they would like to receive
20 as they would be forced to participate in the program. Moreover, this forced

¹⁹ *Id.* at 30.

²⁰ *Id.*

1 payment requirement is regardless of a residential customer's individual need for
2 EE/PDR measures, their potential individual ability to participate in the measures
3 offered to residential customers, and importantly, the affordability of the program
4 to individual residential customers. Unlike FirstEnergy's proposed method of
5 delivering products to customers, CRES providers and other market participants
6 can deliver sustainable products and services, including EE/PDR, to customers
7 who value the product, can utilize the product, and can afford the specific product
8 or service they desire. Market participants must demonstrate value to residential
9 customers to obtain their business, and competitive market forces will require
10 market participants to continually better themselves at identify the products and
11 services residential customers desire, provide value, and are affordable.
12 Additionally, even residential customers who want to further sustainability goals
13 may not want to spend their discretionary income on the specific EE/PDR
14 measures proposed in FirstEnergy's EE/PDR portfolio plan. Some may value
15 spending their discretionary household budget on having their energy supplied
16 entirely from renewable resources, other may want to use their discretionary
17 household income on purchasing an electric vehicle, and some may want to spend
18 their discretionary income on EE/PDR measures not included in FirstEnergy's
19 proposed portfolio plan. Finally, as the Commission has recognized, there are
20 many residential customers that are struggling and simply cannot afford to bear
21 the cost of expansive utility run EE/PDR plans.²¹

²¹ *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 at (Oct. 4, 2023) ("In these difficult times, the Commission is acutely mindful of the range of residential household budgets, particularly

1 **Q12. Can you identify some of the innovative market programs offered by Vistra**
2 **to assist customers in their individual sustainability efforts?**

3 A12. Yes. Vistra is continuously innovating to make it easier for customers to use clean
4 energy and make sustainable choices with our unique and compelling offers. One
5 of Vistra's retail electric brands, TXU Energy, has seen a 15x growth in residential
6 customers going 100% renewable. Some of the residential offers from Vistra are
7 Free Nights and Solar Days, Green-Up and Pure Solar, and Rooftop Solar. The
8 Free Nights and Solar Days plan uses 100% wind power at night and 100% solar
9 during the day. This plan is currently offered in Texas by TXU Energy and can be
10 expanded to Ohio. Under the Green-Up and Pure Solar plans, customers can add
11 100% green to their plan for a fixed price each month, providing price certainty and
12 transparency to customers so that they do not have to wonder how much they are
13 paying to go green. Finally, through a Rooftop Solar plan we offer customers the
14 opportunity to participate in net metering through Vistra. However, this plan
15 depends on the distribution utility's capabilities and settlement of the net metering
16 generation with PJM.

17 Vistra also offers numerous energy efficiency solutions to customers, which
18 include the GreenBack Program and Energy Audits. GreenBacks are rebate
19 dollars that help business customers fund new energy efficiency projects or offset
20 the cost of existing sustainability efforts. These can be used for projects like
21 installing LED lights or electric vehicle charging systems, or HVAC equipment

Dominion's low-income customers and moderate-income customers whose income is above the eligibility requirements for various income assistance programs. We find that subsidization of the costs of these programs across Dominion's footprint acts as a burden on the Company's ratepayers.").

1 upgrades. For customers who are not sure where to begin or which efficiency
2 project will have the greatest impact, we offer energy audits to customers. We
3 work with third-party auditors to provide assessments for customers and create an
4 action plan. Depending on the programs available, these audits can be completed
5 for reduced or even no cost. For example, the Ohio Department of Development
6 will cover 75% of the audit for manufacturing companies. The remaining 25% is
7 the customer's responsibility, but any GreenBack dollars the customer is eligible
8 for can be used to defray the cost.

9 Vistra also offers numerous Energy Management Solutions. These Energy
10 Management solutions include an Energy Dashboard, Peak Notifications, and
11 Demand Response with GridBeyond. Regarding the Energy Dashboard, Vistra
12 offers large business and commercial customers access to our Energy Dashboard,
13 which is an innovative digital platform to help customers track and identify trends
14 in their energy usage and manage the associated costs. The Energy Dashboard
15 includes facility benchmarking, invoice management, weather normalization, and
16 GHG and emissions reporting. Further, Vistra's Peak Notification program offers
17 forecasts to help identify when peak hours could occur. Customers can then use
18 the notifications to reduce their load at critical times during peak summer months,
19 which can result in lower electricity costs for the next 12 months. Vistra has
20 partnered with GridBeyond to deliver targeted and controlled load reduction using
21 on-site control hardware powered by artificial intelligence. The partnership
22 incorporates any on-site industrial equipment or permitted generation assets to
23 maximize demand and cost savings through optimized use of flexible loads.

1 Vistra further offers residential customers a smart thermostat program in Texas
2 through TXU Energy and TriEagle Energy. Under one of the programs, customers
3 are provided a discounted or free smart thermostat and are then enrolled in a
4 managed demand program focused on responding to load reduction calls from
5 ERCOT (similar to PJM's emergency demand response program). Another
6 program that is offered by TXU Energy and TriEagle Energy is the Bring Your Own
7 Thermostat (BYOT). The BYOT offers customers an incentive to enroll their
8 compatible smart thermostat into a managed demand program. The BYOT
9 program focuses on saving customers money by shifting usage away from times
10 of higher energy market prices.

11 Vistra also has programs designed to assist its customers in the EV space.
12 Dynergy, a Vistra Company, has deployed an innovative multi-faceted approach to
13 help electrify school buses in Texas. Dynergy has partnered with Nuvve to
14 implement the initiative in Texas. Nuvve is the global leader in V2g technology,
15 with a platform that dynamically manages power among electric vehicle batteries
16 and the grid to deliver value to school districts, accelerate the adoption of ESBs,
17 and support the world's transition to clean energy.

18 Finally, Vistra offers storage solutions including very large scale storage solutions.
19 Specifically, Vistra has developed utility-scale energy storage projects, and in
20 2022, Vistra began construction on the third phase of its Moss Landing Energy
21 Storage Facility which has added 350 MW to what is already the largest battery
22 energy storage system in the world. This expansion brings the site's total capacity
23 to 750 MW/3,000 MWh. While this facility is located in California, Vistra is ready

1 and willing to develop energy storage and renewable generation projects in the
2 state of Ohio.

3 **Q13. With all the sustainability products and services offered to FirstEnergy's**
4 **customers, do you see a need for FirstEnergy to be the point of contact for**
5 **its customers on sustainability issues?**

6 A13. No. Companies like Vistra, as well as other CRES providers and market
7 participants, are capable of offering and delivering unique products to customers,
8 including residential customers, that meet their individual sustainability goals. This
9 includes 100% green energy retail electricity contracts, customer-sited renewable
10 generation, customer-sited storage, customer-sited dynamic load management
11 tools. Other businesses are also offering customer-sited tools to assist customers
12 with the deployment of EVs and EV chargers.

13 As the monopoly electric distribution utility, FirstEnergy's role should be ensuring
14 that it maintains and upgrades its distribution network so that the electricity can
15 adequately and reliably be distributed to FirstEnergy's customers. FirstEnergy can
16 support the deployment of customer-led sustainability through transparent price
17 signals (e.g., coincident demand charges or on-peak and off-peak wires charges)
18 that incentivize customers to reduce demand during times of system peaks thereby
19 saving on the need to build additional distribution, transmission, and generation
20 capacity.

21 Additionally, customer participation in any given product or service, including the
22 measures in the EE/PDR portfolio plan, should be driven by competitive forces of

1 demand. This is important, because utility run programs do not always have a
2 good track record of delivering products and services that customers actually
3 desire. For example, FirstEnergy has implemented a time-varying rate for SSO
4 customers. FirstEnergy has reported that as of August 2023 only 114 residential
5 customers were enrolled in the SSO time varying rate. For nonresidential
6 customers on the SSO during the period of the current ESP, FirstEnergy has
7 reported that there were a total of 2 nonresidential customers that participated in
8 a time varying rate in June 2016, and zero nonresidential customers participated
9 after June 2016 in an SSO time-varying rate.

10 In the competitive space, Vistra and other market participants must strive to deliver
11 products and services to customers based on actual demand of customers and to
12 implement and run the programs in a manner that customers' actually value. For
13 example, as part of our BYOT smart thermostat program we have done extensive
14 research and analysis regarding the degree to which participating customers
15 notice temperature adjustments on their thermostats and are willing to tolerate the
16 temperature adjustment. All else equal, on a 110 degree Summer day in Texas
17 we might not adjust the thermostat as much as we would on a 90 degree day.
18 Variations in the amount of degree change on a thermostat are also driven by the
19 time of day we might call upon the enrolled thermostats. To implement a load
20 reduction event on the thermostats enrolled in our program we work with a third
21 party vendor. There are multiple vendors available in the marketplace that a
22 market participant such as a CRES provider could partner with. The company we
23 partnered with has developed its own software and IT tools so that they can control

1 a portfolio of different thermostats manufactured by different brands. We pay a fee
2 to the vendor we have partnered with based on the number of thermostats we have
3 enrolled with them. Participation in this program is voluntary from both an
4 enrollment perspective and the customer's ability to override any thermostat
5 changes, so we have to work diligently to ensure that our program matches with
6 customers' expectations and desires and that we are able to provide value to
7 customers.

8 **Q14. Would any of the offerings in the proposed EE/PDR portfolio plan potentially**
9 **conflict with market offered products and services?**

10 A14. Yes. As I explained earlier, FirstEnergy proposes to control offering permanent
11 demand reductions associated with the installation of energy efficiency products
12 into PJM's competitive capacity auction, while also retained 20% of the market
13 revenue.

14 In addition, any active demand managed product controlled by FirstEnergy
15 certainly has the potential to interfere, or eliminate, the ability of the market to
16 deliver certain products and services. FirstEnergy proposes an active load
17 management program where it would directly control devices in a customer's
18 home. FirstEnergy identified these as including smart thermostats, electric vehicle
19 charges, and other equipment.²² Initially, there might be technology, hardware,
20 and contractual issues with multiple companies trying to enroll and gain remote
21 control for the same thermostat, electric vehicle charger, or other undefined

²² Company Witness Miller at 20.

1 devices. There are also fundamental market issues with multiple entities seeking
2 to control the same device for different purposes. Vistra is able to fund its BYOT
3 smart thermostat program through market revenue in Texas. By shifting usage
4 from hours with higher energy market prices we are able to save money that is in
5 turn used to generate the incentives paid to the enrolled customers. If another
6 entity was also controlling the thermostat and had different operating parameters,
7 it could potentially and materially interfere with the program and market savings.
8 Take for example a design parameter that has a goal to reduce consumption
9 during distribution system peaks through precooling so that the house is using less
10 energy during the distribution system peak hour. That type of design call might
11 shift usage away from a distribution system peak hour, but it could also shift load
12 to hours of higher energy prices. This issue would apply to FirstEnergy managing
13 any aspect of a customer's demand. FirstEnergy's Application and testimony do
14 not identify how its entrance into this competitive space could be accomplished
15 without disrupting, or potentially eliminating, market run load management
16 programs now and in the future.

17 **Q15. What are your conclusions regarding FirstEnergy's ESP Application?**

18 A15. The Commission should not approve FirstEnergy's expansive EE/PDR portfolio
19 plan that comes with a price tag in the hundreds of millions of dollars.

20 **Q16. Does this conclude your testimony?**

21 A16. Yes.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Direct Testimony of John Smith* was served upon the following parties of record this 23rd day of October 2023, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Matthew Pritchard
Matthew R. Pritchard

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Case No(s). 23-0301-EL-SSO

Summary: Testimony Direct Testimony of John Smith on behalf of the Retail Energy Supply Association electronically filed by Mr. Matthew R. Pritchard on behalf of Retail Energy Supply Association.