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

POST HEARING BRIEF OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY

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I. INTRODUCTION

The Companies'[1] fifth electric security plan ("ESP V") demonstrates the Companies' commitment to positively impact their customers and the communities they serve. In developing ESP V, the Companies openly engaged interested stakeholders, listened and incorporated their feedback, and aligned ESP V with provisions the Commission has previously approved. This process resulted in an ESP that promotes reliability of the Companies' distribution system and affordability of the Companies' service, as well as the Companies' commitment to stewardship.

The touchstone for the Commission's approval of an ESP is whether the ESP, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results of a market rate offer ("MRO").[2] The evidentiary record shows that ESP V benefits customers more than an MRO. ESP V supports investment in and maintenance of the Companies' distribution system to contribute to reliable service through more efficient and accurate recovery of the Companies' costs. It includes energy efficiency and demand response programs that are designed to be cost beneficial and empower customers to control their electric bills and mitigate the electric industry's environmental impact in the Companies' service territories. ESP V also includes $52 million in initiatives to protect the Companies' most at-risk customers and facilitate customers' transition to electric vehicles, at no cost to the Companies' customers. These significant customer benefits are not available through an MRO.

In addition to being more favorable than an MRO, the proposed ESP V includes numerous other provisions that are good for customers and support the Companies' objectives of reliability, affordability, and stewardship.

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[1] "Companies" refers to Ohio Edison Company ("OE"), The Cleveland Electric Illuminating Company ("CEI") and The Toledo Edison Company ("TE").
[2] R.C. 4928.143(C)(1).

A. ESP V Supports Distribution Service Reliability.

ESP V includes terms and conditions to support capital investment in and maintenance of the Companies' distribution system and to promote reliable service. Continuation of the Delivery Capital Recovery Rider ("Rider DCR") and Advanced Metering Infrastructure / Modern Grid Rider ("Rider AMI") will facilitate capital investment in the Companies' delivery systems. Rider DCR helps maintain service reliability and offset system degradation, while Rider AMI promotes modernization of the Companies' distribution system to further the development of a reliable and resilient distribution grid.

In addition, the proposed Storm Cost Recovery Rider ("Rider SCR") and Vegetation Management Cost Recovery Rider ("Rider VMC") support the Companies' critical maintenance activities. Rider SCR will better align recovery of the Companies' expenses for major storm restoration work with the timing of that work and the service benefits realized. Rider VMC will assist the Companies' current vegetation management activities and support a proposed enhanced vegetation management program, in which the Companies will accelerate removal of trees and brush, mitigating a leading cause of outages to improve reliability. Riders AMI, DCR, SCR, and VMC allow for timely cost recovery of investments and maintenance work that facilitate the Companies' ability to continue providing reliable service and meeting customer expectations around reliability. These distribution riders illustrate how the Companies developed ESP V to focus on provisions the Commission has previously approved, either for the Companies or for one or more of Ohio's other electric distribution utilities ("EDUs"), with adjustments to account for differences in the Companies' operations.

ESP V also promotes reliability by continuing, with modifications, the Economic Load Response Program Rider ("Rider ELR"), which provides for demand response resources that can be called upon to curtail load during emergency events.

B. ESP V Supports Affordability.

ESP V's terms and conditions promote affordability for customers. ESP V will procure standard service offer ("SSO") generation supply through a competitive bidding process ("CBP"), with proposed enhancements to increase supplier participation and reduce risk, with the goal of providing lower generation costs to customers than otherwise may occur. The Companies also propose rate design and cost recovery proposals to mitigate bill impacts to customers. For example, with regard to transmission service, the Companies have proposed changes to the rate design of the Non-Market-Based Services Rider ("Rider NMB") to better reflect cost causation and help customers manage their costs. Also, the proposed Riders DCR, SCR, and VMC include revenue caps to limit the amounts customers will pay during ESP V and baselines that will reset as part of a base distribution rate case to mitigate continuing increases during the term of ESP V. The proposed modifications to Rider ELR include a phase-down of the tariff credits available to Rider ELR customers to balance rate impacts to participating and non-participating customers. In addition, the Companies' proposed portfolio of energy efficiency and peak demand response ("EE/PDR") programs are intended to help customers save money on their electric bills, including programs targeted at supporting low-income customers, with costs deferred and amortized to mitigate bill impacts.

C. ESP V Supports the Companies' Commitment to Protect the Interests of their Customers, their Communities, and the Environment.

As EDUs, the Companies are uniquely positioned to positively impact their customers, communities, and other stakeholders, and to strive to alleviate the electric industry's environmental impacts. The Companies fully support energy efficiency and recognize the value of EE/PDR programs to their customers. ESP V's proposed portfolio of EE/PDR programs will reduce environmental impacts and help customers save money on their electric bills. In addition, continuation of Rider ELR will support demand response and economic development by incenting the availability of curtailable load for the Companies' large commercial and industrial customers.

The Companies are also proposing to commit $52 million, without recovery from customers, to support low-income customers and to enhance the customer experience by facilitating the transition to electric vehicles. Further, ESP V would streamline and clarify the Companies' tariffs by eliminating eighteen riders and tariff provisions, proposing to add only three riders, and modifying existing riders as well as the Companies' supplier tariffs, to heighten customer understanding of the tariffs and ease concerns about future charges.

D. ESP V Furthers State Policies.

ESP V will achieve the Companies' key objectives of supporting reliability, affordability, and stewardship, thus demonstrating that ESP V is consistent with and advances state policies, as further detailed below. For example, the Companies' proposed distribution riders, enhancements to the SSO competitive bidding process, and modifications to the rate design and recovery of non-market-based transmission costs will ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service.[3] Continuation of the Companies' grid modernization cost recovery rider and implementation of new EE/PDR programs will encourage cost-effective demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, smart grid programs, and implementation of advanced metering infrastructure.[4] In addition, the Companies' proposal to support low-income customers through targeted energy efficiency programs, as well as bill payment assistance programs and a senior citizen discount program at no cost to customers, will

[3] R.C. 4928.02(A).
[4] R.C. 4928.02(D).

protect at-risk populations.[5] Further, ESP V will facilitate the state's effectiveness in the global economy through the transmission cost recovery modifications and energy efficiency programs mentioned above, as well as continuation of the Companies' demand response interruptible service program and commitment to support customers' transition to electric vehicles at no cost to customers.[6]

E. ESP V Should Be Approved Without Modification.

The Companies appreciate the other parties' interest in their ESP V, and the collaborative process undertaken by interested stakeholders to develop the proposal. The Companies believe ESP V, as a package, strikes a reasonable balance of stakeholder interests and the Companies' objectives, and they respectfully request that the Commission approve ESP V's terms and conditions as proposed.

In evaluating other parties' proposed modifications to ESP V, the Companies ask the Commission to consider the impacts of the proposals on the ESP V package, including comparisons to relevant terms and conditions of the current ESP IV. For example, Commission Staff ("Staff") recommends reducing the Companies' aggregate annual revenue caps for Rider DCR by $51 million, during a "Bridge Period" beginning at the start of ESP V on June 1, 2024, and continuing through the effective date of new base distribution rates (the "Bridge Period").[7] The Companies appreciate Staff's support for continuation of Rider DCR, including annual revenue cap increases to account for new investments during the Bridge Period. The Companies also understand and recognize Staff's stated goal of aligning Rider DCR's calculation with that of other Ohio EDUs' similar mechanisms. However, as explained further below, the Companies

[5] R.C. 4928.02(L).
[6] R.C. 4928.02(N).
[7] Direct Testimony of Staff Witness Mackey ("Mackey Testimony) (October 30, 2023) at 3, Staff Ex.8.

respectfully argue that such a significant reduction in cost recovery authorized in the Companies' prior ESPs, including the current ESP IV, is unreasonable, is contrary to the principle of gradualism, and would challenge the Companies' ability to continue investing in their system to support the provision of reliable distribution service.

II. LEGAL STANDARD

EDUs must provide to consumers a "standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service."[8] EDUs may provide an SSO through either an MRO under R.C. 4928.142 or an ESP under R.C. 4928.143. The Companies seek approval of ESP V pursuant to R.C. 4928.143.

Under R.C. 4928.143(C)(1), the Commission shall approve, or modify and approve, an application for an ESP if the Commission finds that the ESP, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO. As explained below, the Companies have met their burden of proving that ESP V is more favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO. Accordingly, the Commission should approve ESP V as proposed.

III. ARGUMENT

The proposed ESP V supports reliable and affordable distribution, transmission, and generation service. It empowers customers to control their electric bills and protect the environment through energy efficiency. At no cost to customers, it protects at-risk populations and enhances the customer experience of investing in electric vehicles and charging equipment.

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[8] R.C. 4928.141(A).

ESP V also takes important steps toward streamlining the Companies' tariffs. The proposed ESP puts customers first, advancing numerous state policies set forth in R.C. 4928.02. Accordingly, ESP V should be approved as proposed.

A. ESP V Promotes Safe and Reliable Distribution Service for Customers.

The Companies' ESP V includes provisions dedicated to supporting the reliability and safety of their distribution system. These include (1) continuation of Rider DCR, with modification, (2) continuation of Rider AMI, (3) establishment of a major storm cost recovery rider, Rider SCR, and (4) establishment of a vegetation management cost rider, Rider VMC, and associated Enhanced Vegetation Management Program. The Commission has recognized that distribution riders – specifically riders supporting distribution capital investment, storm cost recovery, and vegetation management cost recovery – support a focus on reliability that is an asset to ratepayers and a benefit of an ESP over an MRO:

> First, we acknowledge the benefits of the distribution riders such as Riders DCI, DSR, and ESSR. While the costs of the riders are equal under an MRO, the benefit of the riders is a proactive approach to addressing distribution infrastructure. This focus on reliability is an asset to ratepayers, and thus a benefit of the ESP.[9]

1. Continuing Rider DCR, with the Companies' Proposed Modifications, Supports System Reliability with Important Customer Protections.

Rider DCR enables the Companies to maintain system reliability by supporting the Companies' capital investment in the distribution system and by offsetting degradation of plant-in-service. The Companies propose to continue Rider DCR with modifications.

Rider DCR provides the Companies the opportunity to earn a return of and on plant-in-service associated with distribution, transmission, general, and intangible plant which was not

[9] *In the matter of the application of Duke Energy Ohio, Inc. for authority to establish a standard service offer pursuant to R.C. 4928.143 in the form of an electric security plan, account modifications, and tariffs for generation service*, Case No. 17-1263-EL-SSO, Opinion and Order, ¶290 (Dec. 19, 2018).

included in the rate base from the Companies' last distribution rate case, plus associated taxes, using the most recent authorized rate of return.[10] Plant in-service included in Rider DCR is offset by accumulated depreciation reserve, accumulated deferred income taxes and applicable excess deferred income taxes resulting from the Tax Cuts and Jobs Act.[11] Any capital additions that are recovered elsewhere in the Companies' rates are excluded from Rider DCR.[12]

Rider DCR is subject to annual revenue caps, to which the Companies have proposed an important modification. To better align customers' costs with the Companies' operational performance, the Companies propose that the amount of the annual aggregate Rider DCR revenue cap increase will depend on the Companies' reliability performance results from the prior year.[13] For purposes of the revenue cap determination, the Companies will rely on their individual Customer Average Interruption Duration Index ("CAIDI") and System Average Interruption Frequency Index ("SAIFI") results.[14] If all six of these CAIDI and SAIFI reliability standards are met in a given year, the aggregate revenue cap increase in the next year will be $21 million; if five of six are met in a given year, the aggregate revenue cap increase in the next year will be $19 million; if four of six are met, the aggregate revenue cap increase in the next year will be $17 million.[15] If the Companies do not meet at least four of their six CAIDI or SAIFI standards, the aggregate revenue cap increase will be $15 million.[16]

The proposed annual aggregate revenue cap increases of $21 million that would apply if

[10] Direct Testimony of Brandon S. McMillen ("McMillen Testimony") at 3 (Apr. 5, 2023), Companies Ex. 3.
[11] *Id.*
[12] *Id.*
[13] *Id.* at 4.
[14] *Id.*
[15] *Id.* at 5.
[16] *Id.*

all six reliability standards are met are based on the Companies' actual revenue requirements.[17] The annual aggregate revenue cap increases of $15 million that would apply if the Companies do not achieve at least four of their reliability standards is approximately equal to the Companies' average annual increases in depreciation and property tax expenses during the same five-year period.[18] In addition, the individual company annual revenue caps will continue to be the following percentages of the aggregate revenue caps: OE = 50%, CEI = 70%, and TE = 30%.[19]

Consistent with the prior ESPs authorizing or continuing Rider DCR, the revenue caps will continue to be applied cumulatively from Rider DCR's inception.[20] For any year that the Companies' spending would result in cumulative revenue requirements in excess of the cumulative revenue cap, the overage will be recovered in the following cap period subject to that period's cap.[21] For any year the cumulative revenue collected under Rider DCR is less than the cumulative revenue cap allowance, as established above, then the difference between the revenue collected and the cap will increase the level of the subsequent period's cap.[22]

In addition to being subject to annual revenue caps, Rider DCR will continue to be updated and reconciled quarterly and subject to annual audits conducted by an independent, third-party auditor selected by the Commission.[23] Staff and other stakeholders will continue to be afforded an opportunity to review these quarterly updates to Rider DCR and to actively participate in the annual Rider DCR audit process.[24]

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[17] *Id.* at 5-6. The Companies' aggregate revenue requirement, based on rate base values as of November 30, 2017, was $275 million and was $383 million based on rate base values as of November 30, 2022, which is an average annual increase of approximately $21 million over the five-year period.
[18] *Id.* at 6. The Companies' depreciation and property tax expense increased from $474 million as of November 30, 2017, to $545 million as of November 30, 2022.
[19] *Id* at 5.
[20] *Id.* at 5.
[21] *Id.*
[22] *Id.*
[23] *Id.* at 4.
[24] *Id.*

a. ***Rider DCR, Which Is Authorized by R.C. 4928.143(B)(2)(h), Supports the Reliability of the Companies' Distribution System.***

Rider DCR has been, and continues to be, a critical rate recovery mechanism that supports distribution investments, enabling the Companies to offset system degradation and maintain safe and reliable service to customers.[25] Rider DCR supports ongoing capital investment through reduced regulatory lag for cost recovery, allowing the Companies to continue taking a proactive approach toward maintaining their distribution infrastructure.

The Commission has repeatedly recognized Rider DCR's value to customers by approving it in the Companies' prior ESPs. The Commission first approved Rider DCR in the Companies' second ESP in Case No. 10-388-EL-SSO ("ESP II"), making Rider DCR effective as of January 1, 2012. Subsequently, the Commission reapproved and continued Rider DCR, with modifications, in the Companies' third ESP in Case No. 12-1230-EL-SSO ("ESP III") and the Companies' fourth ESP in Case No. 14-1297-EL-SSO ("ESP IV").[26]

Rider DCR is authorized by R.C. 4928.143(B)(2)(h), which expressly permits an ESP to include provisions regarding "distribution infrastructure." Indeed, the Commission has approved Rider DCR as authorized by R.C. 4928.143(B)(2)(h) in past ESPs, recognizing the benefits of such riders.[27] The Commission has held that the continuation of Rider DCR "supports reliable service."[28] Thus, Rider DCR has a well-established record of promoting reliability on the

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[25] *See id.* at 7.
[26] *Id*. at 3.
[27] *See In the matter 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 Section 4928.143, Revised Code, in the form of an electric security plan*, Case No. 12-1230-EL-SSO ("ESP III"), Second Entry on Rehearing, 23 (Jan. 30, 2013).
[28] ESP III, Opinion and Order at 56.

Companies' distribution system.

b. Rider DCR Includes Customer Protections That Would Not Be Available in a Base Rate Case.

Rider DCR is critical to the Companies' ability to maintain a safe and reliable distribution system, and it also provides customer protections that would not otherwise be available. First, Rider DCR will continue to provide transparency to customers through quarterly updates and rigorous annual audits.[29] Since its initial inception on January 1, 2012, the Companies have filed quarterly updates to Rider DCR, and the Commission has conducted annual audits of Rider DCR through the appointment of an independent, outside auditor selected by the Commission.[30] Annual audits include an independent, comprehensive, and rigorous review of Rider DCR to verify that the amounts for which recovery is sought are not unreasonable in light of the facts and circumstances known to the Companies at the time such expenditures were made.[31] Quarterly updates and annual audits promote transparency by enabling stakeholders to review and verify the Companies' costs and to actively participate in the annual audit process.[32]

Additionally, unlike in a rate case, which includes a broader review of all costs, quarterly updates and audits are focused specifically and exclusively on Rider DCR investments, resulting in a more thorough review.[33] Quarterly updates and annual audits will also afford the Commission, customers, and other interested parties a regular and recurring opportunity to review and verify the reasonableness of Rider DCR investments, which would not necessarily occur if those investments were recovered in base rates.[34] Thus, Rider DCR facilitates timelier and more focused review of distribution investments than would otherwise occur if the costs were recovered only in base rate

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[29] McMillen Testimony at 4, 6-7.
[30] *Id.* at 4.
[31] *Id.*
[32] *See id.*at 7.
[33] *See id.* at 7-8.
[34] *See id.*

cases.[35]

Second, Rider DCR better aligns the costs customers pay with the Companies' actual investments. Rider DCR is updated and reconciled each quarter, so customers are only paying for the Companies' actual costs, subject to applicable revenue caps.[36] Further, the audits described above may result in reconciliations, including the opportunity for refunds, or credits to customers, which would not be available if the Companies' distribution investments were solely recovered in base rates.[37]

Third, Rider DCR, as proposed, contains several features designed to mitigate bill impacts and promote gradualism in rates.[38] Rider DCR will be subject to annual revenue caps, limiting the amount of costs that can be recovered from customers in a given year.[39] These revenue caps, in conjunction with regular rider updates, spread revenue increases out over time, rather than risking rate shock when increased through a distribution rate case.[40] Thus, the continuation of Rider DCR will ensure that any change in rates remains predictable and gradual over the ESP term.[41]

Further, the proposed revenue caps will be based on the Companies' actual revenue requirements and will be directly tied to the Companies' reliability performance.[42] Thus, the Companies' proposal requires them to share in the risk of reliability performance by allowing the

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[35] *Id.* at 7.
[36] *Id.*
[37] *Id.* Further, once the Companies' May 2024 base rate case is approved, the Companies anticipate that the rate base and revenue caps for Rider DCR will be re-set to zero and that all applicable inputs for Rider DCR will be updated going forward.
[38] *Id.*
[39] *Id.* at 4-6.
[40] *See In the matter of the application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for authority to provide for a standard service offer pursuant to R.C. 4928.143 in the form of an electric security plan*, Case No. 14-1297-EL-SSO ("ESP IV"), Fifth Entry on Rehearing, ¶ 250 (Oct. 12, 2016 ("Finally, Rider DCR promotes gradualism. It is well established that, over the long run, recovery of the costs of distribution investments will be equivalent through Rider DCR or through base distribution rates. However, Rider DCR ensures that revenue increases are spread out over time, rather than risking rate shock when increased through a distribution rate case.").
[41] *See id.* at ¶249; *see also,* ESP III, Second Entry on Rehearing at 22-23.
[42] McMillen Testimony at 4-5.

Companies the opportunity for a higher annual cap increase only in years when they meet CAIDI and/or SAIFI reliability standards.[43]

The more efficient recovery of investments and the customer protections provided by Rider DCR are benefits of ESP V that are not otherwise available under an MRO.

c. Rider DCR Supports Distribution Investments that Maintain Safe and Reliable Service.

Rider DCR supports distribution investments to maintain safe and reliable service to customers as well as the Companies' continuing ability to meet customer expectations regarding reliability.[44] The Companies regularly invest in their distribution systems to prevent and limit the duration of outages due to system degradation, system growth, and demand,[45] and they expect to continue making capital investments in their distribution system during the term of ESP V at levels comparable to their historic investment levels.[46] These investments are critical to continue providing safe and reliable service to customers and satisfying customer expectations.[47]

The Companies face many challenges in meeting their reliability standards, including diverse service territories with varying geographic features, tree-caused outages, supply chain issues, and anticipated load growth.[48] While the Companies have a strong track record of delivering reliable service,[49] investments in and maintenance of their distribution system are necessary to sustain that performance.[50] It will be challenging for the Companies to continue their strong reliability track record without ESP V's Rider DCR proposal.[51] Indeed, TE and CEI are

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[43] *Id.* at 7.
[44] Direct Testimony of Amanda Richardson ("Richardson Testimony") at 13 (Apr. 5, 2023), Companies Ex. 9.
[45] *Id.*
[46] *Id.* at 13.
[47] *Id.*
[48] *Id.* at 8-9.
[49] ESP V Application ("App."). at ¶4 (Apr. 5, 2023), Companies Ex. 1; Richardson Testimony at 4-5.
[50] Richardson Testimony at 9.
[51] Evidentiary Hearing Transcript ("Tr.") Vol. VII at 1380-1381; *see also* Richardson Testimony at 3, 8-9, 13-14.

projected not to meet their CAIDI standards in 2023.[52]

Rider DCR helps the Companies overcome challenges to providing reliable service by facilitating capital investment in the Companies' delivery systems.[53] The Companies have several initiatives planned for the coming years to maintain and/or enhance the reliability of their system.[54] These investments are necessary for maintaining reliability, and timely cost recovery through Rider DCR is critical to supporting the Companies' ability to make those investments.[55]

Because Rider DCR is authorized by R.C. 4928.143, directly supports reliability of the Companies' distribution system, and includes important customer protections, the Commission should approve Rider DCR as proposed, without modification.

d. ***Rider DCR Should Continue to Include Recovery of the Same Categories of Investments Currently Authorized.***

Staff recommends reducing the Companies' aggregate annual revenue caps for Rider DCR by $51 million throughout the Bridge Period by limiting Rider DCR to only include FERC Accounts 360-374.[56] While the Companies appreciate Staff's support for continuing Rider DCR and Staff's goal of aligning Rider DCR's calculation with that of other Ohio EDUs' similar mechanisms,[57] this proposed modification should be rejected. Staff's proposal would eliminate nearly 15% of the Companies' Rider DCR revenue. Such a significant reduction in the Companies' currently authorized cost recovery contradicts Rider DCR's long-established terms and conditions, discontinues recovery of costs never found to be unreasonable, and prevents the Companies from recovering these costs for the duration of the Bridge Period. In addition, such a significant reduction in Rider DCR's revenue caps would challenge the Companies' ability to continue

[52] Tr. Vol. VII at 1381.
[53] App. At ¶17.
[54] Richardson Testimony at 11-13.
[55] *Id*. at 13.
[56] Direct Testimony of Staff Witness Healey at 9-10 (Oct. 30, 2023), Staff Ex. 10.
[57] *See* Mackey Testimony at 6 (Oct. 30, 2023).

investing in their system to support the provision of reliable distribution service.

This proposed modification would discontinue the Companies' ability to recover the costs of certain investments made since May 31, 2007 in their distribution system that are classified as transmission, general, and intangible plant. Staff's proposal would reverse the authorization that has been in place since Rider DCR's inception in 2012 and abruptly end recovery of seventeen years of investments in the distribution system.

Staff acknowledges that there have been no changes to the costs eligible for inclusion in Rider DCR since it was originally approved.[58] Most recently in the Companies' ESP IV case, the Commission again found it reasonable for the Companies to continue including these investments in Rider DCR, approving and extending Rider DCR in its current form.[59] Further, the Commission recently approved a unanimous settlement continuing the Companies' ESP IV, including Rider DCR, for its remaining term through May 31, 2024.[60] The proposed modification would depart from over a decade of regulatory precedent.

In addition, the proposed modification would discontinue the Companies' ability to recover costs of certain investments in their distribution system even though there has been no finding that the costs are unreasonable. The costs of these investments support the provision of distribution service and today are recoverable through base distribution rates and Rider DCR. There is no dispute that the investments that would be excluded from Rider DCR directly serve distribution customers. At hearing, Staff agreed that those investments include, among other things,

[58] Tr. Vol. XIV at 2395.
[59] *See* ESP IV, Opinion and Order, at 93 (Mar. 31, 2016) ("However, in light of the proposed distribution rate freeze, it is necessary and appropriate to continue the existing Rider DCR mechanism, which allows the Companies to recover reasonable investments in plant in service associated with distribution, subtransmission, and general and intangible plant, which was not included in the rate base of the Companies' last distribution rate case.").
[60] *See In the matter of the quadrennial review required by R.C. 4928.143(E) for the electric security plans of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 20-1476-EL-UNC, et al., Opinion and Order (Dec. 1, 2021).

transmission voltage transformers and wires, line shops, garages, buildings where distribution employees work, service vehicles, information technology systems, and other essential parts of the distribution system.[61]

Rider DCR has been subject to rigorous annual audits twelve times since inception.[62] These audits entail thorough reviews of all plant in-service activity from the prior year, including detailed transactional testing and site visits, as well as interviews with the Companies' personnel and reviews of the Companies' policies and practices.[63] In these audits, there has never been a finding that the inclusion of transmission, general, and intangible plant in Rider DCR was unreasonable.

Despite the reasonableness of these costs of investing in the distribution system, the proposed modification will prevent the Companies from having an opportunity to recover these costs during the Bridge Period, due to Commission-approved base distribution rate freezes. The Companies have been operating under a base rate freeze since 2009, before Rider DCR was implemented. In the Companies' ESP IV case, the Commission again found the base rate freeze to be beneficial to customers to promote rate stability.[64] More recently, the Commission approved a unanimous stipulation committing the Companies to file their next base rate case in May 2024 (the "2021 Settlement").[65] The 2021 Settlement prohibits the Companies from filing a base rate case before May 2024 except in the case of emergency.[66] While the Companies would have an

[61] Tr. Vol. XIV at 2402-2406.
[62] *See* Case Nos. 11-5428-EL-RDR, 12-2885-EL-RDR, 13-2100-EL-RDR, 14-1929-EL-RDR, 15-1739-EL-RDR, 16-2041-EL-RDR, 17-2009-EL-RDR, 18-1542-EL-RDR, 19-1887-EL-RDR, 20-1629-EL-RDR, 21-1038-EL-RDR, and 22-892-EL-RDR.
[63] Tr. Vol. I at 104; Tr. Vol. III at 462.
[64] *See* ESP IV, Opinion and Order, at 92 (Mar. 31, 2016) ("The key provisions in the Stipulation related to distribution rates is the continuation of the base rate freeze for eight years under ESP IV. The extension of the distribution rate freeze will promote stable rates, as base distribution rates will not rise during the term of ESP IV.").
[65] *See* Case No. 20-1476-EL-UNC, et al., Opinion and Order, at 11 (Dec. 1, 2021).
[66] *See* Case No. 20-1476-EL-UNC, et al., Stipulation and Recommendation, at 14 (Nov. 1, 2021); Case No. 20-1476-EL-UNC, et al., Opinion and Order, at 18 (Dec. 1, 2021).

opportunity to seek recovery of the costs of these investments in their upcoming May 2024 base rate case, they would lose $51 million in revenue per year during the Bridge Period.

The 2021 Settlement addressed any concerns with excessive earnings as a result of ESP IV, including Rider DCR and other terms and conditions. The 2021 Settlement provided $306 million in benefits to all the Companies' customers, including $210 million in rate reductions over the period December 31, 2021 through December 31, 2025, continuing well beyond ESP IV's expiration and into the Bridge Period. The 2021 Settlement balanced these benefits with other interests. For instance, the 2021 Settlement continued ESP IV, including Rider DCR in its current form. Staff's proposal to add $51 million in annual rate reductions over the 2024-2025 time period, with no opportunity for the Companies to recover their costs in the interim, would disrupt the 2021 Settlement's compromise.

Finally, the proposed modification would frustrate the Companies' ability to continue making investments in their distribution system that are critical to the Companies' ability to provide reliable distribution service. Examples of the types of investments the Companies have made and would otherwise plan to make include: (1) replacement of distribution wood poles; (2) new substations to provide outage load transfer capability and relieve capacity constraints; (3) breaker replacements to address reliability and employee safety issues; (4) cable replacements; (5) underground ducted electrical system replacements; (6) new transformers to restore load during substation transformer failures, emergencies, or maintenance activities; and (7) proactive condition-based replacement programs targeting substation and underground network facilities to prevent long duration outages.[67] If the Companies' recovery under Rider DCR is reduced immediately by $51 million per year, it will compromise the Companies' ability to continue

[67] Richardson Testimony at 10-12.

making these types of investments which provide significant value to customers.

For the above reasons, Rider DCR should continue in its current form through the ESP V term. The Companies recognize the objective of trying to align capital investment recovery riders among Ohio EDUs. In evaluating this proposed modification, however, the timing of achieving this goal should account for the factors identified above.

As an alternative, the Companies suggest limiting Rider DCR to FERC Accounts 360-374 only after the effective date of new base distribution rates. During the Bridge Period, the Companies would continue including the costs of investments outside of FERC Accounts 360-374 in Rider DCR, though those balances could remain frozen at May 31, 2024 levels so there is no growth beyond the ESP IV term. This would allow the Companies to continue recovering the costs of these investments, subject to annual audits and applicable revenue caps, until they can be included in base distribution rates. Once new base distribution rates go into effect, Rider DCR would re-set to zero and thereafter would only include FERC Accounts 360-374, consistent with other utilities, with annual revenue cap increases of $15 million to $21 million for the remaining ESP V term.

This alternative would also support more gradual rate impacts for customers by avoiding a situation where the costs are removed from rates during the Bridge Period and then moved back into rates in the base distribution rate case. Indeed, the Companies are unaware of prior instances where similar treatment has been authorized. The Companies' recommended alternative, by providing for continued cost recovery of these investments in Rider DCR through the Bridge Period, is more consistent with traditional utility regulation and gradualism than Staff's proposal.

If the Commission deems it necessary to take further measures to reduce customer bills during the Bridge Period, the Companies can commit to work with Staff to evaluate other potential bill reductions that will not impact the Companies' ability to invest in the distribution system, such as cost-based revenue reductions. Examples could include bill reductions corresponding to lower purchased power expense resulting from future SSO procurements, or reduced depreciation expense.

2. Continuing Rider AMI, Consistent with Its Current Terms and Conditions, Supports Ongoing Investments in Grid Modernization.

The Companies propose to continue Rider AMI for the term of ESP V to continue supporting the Companies' grid modernization initiatives. Currently, Rider AMI recovers costs associated with the Ohio Site Deployment of the Smart Grid Modernization Initiative in Case No. 09-1820-EL-ATA ("SGMI"), as well as the costs of the Companies' first phase of their grid modernization business plan, approved in Case No. 16-481-EL-UNC, *et al*. ("Grid Mod I").[68] Pursuant to ESP IV, Rider AMI is authorized to remain in effect until all costs of any approved portion of the Companies' grid modernization business plan are fully recovered.[69]

The Companies propose to continue Rider AMI, under its current terms and conditions, for the term of ESP V.[70] Under this proposal, unless otherwise directed by the Commission, cost recovery for Grid Mod I through Rider AMI will continue, consistent with current Commission authorization.[71] Rider AMI would also be used to recover costs of additional approved grid modernization programs.[72] Consistent with prior practice, the terms and conditions regarding cost recovery of any subsequently approved grid modernization programs via Rider AMI will be subject to Commission review and approval in the respective cases authorizing those programs.[73] Finally, Rider AMI will continue to be subject to quarterly updates and reconciliation as well as

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[68] McMillen Testimony at 9.
[69] *Id.*
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] *Id.* at 10.

annual audits by Commission Staff, consistent with the audit process approved in ESP IV and Grid Mod I.[74]

a. ***Rider AMI, Which Is Authorized by R.C. 4928.143(B)(2)(h), Supports Both the Reliability and Modernization of the Companies' Distribution System.***

Rider AMI directly supports the Companies' investments in grid modernization programs, which have been designed to support enhanced reliability of the Companies' distribution system.[75] In approving Rider AMI in ESP IV, the Commission recognized its value, finding that Rider AMI is supported by Ohio policy and is consistent with "efforts to make the grid more reliable and cost effective for customers."[76] Rider AMI remains vital as the Companies continue to advance their grid modernization efforts. Rider AMI supports investments that make more granular usage data available to customers and market participants, encouraging cost-effective, timely, and efficient access to such data and promoting customer choice.[77]

Because Rider AMI supports reliability and grid modernization, it is expressly authorized by R.C. 4928.143(B)(2)(h), which provides that an ESP may include "provisions regarding distribution infrastructure and modernization incentives."[78] Thus, the continuation of Rider AMI should be approved.

b. ***Rider AMI Includes Customer Benefits and Protections That Would Not Be Available in a Base Rate Case.***

In addition to supporting reliability and modernization of the Companies' distribution system, Rider AMI includes consumer protections and benefits. Rider AMI supports enhanced transparency to customers, the Commission, and other interested parties through quarterly updates

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[74] *Id.*
[75] Richardson Testimony at 13.
[76] ESP IV, Opinion and Order at 96.
[77] McMillen Testimony at 10.
[78] R.C. 4928.143(B)(2)(h).

and rigorous, annual audits that allow for the issuance of customer refunds, where applicable.[79] As part of the annual audits, the Companies are required to demonstrate that the investments included in Rider AMI are both prudent and used and useful.[80] These safeguards give customers and the Commission a regular and recurring opportunity to review and verify the reasonableness of Rider AMI rates.[81] Further, continuation of the annual audit process will allow for more timely review of Rider AMI investments than may otherwise occur if the Companies' grid modernization investments were recovered in base rates.[82] Rider AMI also provides the opportunity for an audit focused specifically and exclusively on the costs included in Rider AMI, as opposed to having those costs included as part of a broader review of all costs in a base rate case.[83]

Further, Rider AMI's quarterly updates better align the costs customers pay with the Companies' investments. Quarterly updates also help promote gradualism in customer rates by providing that customers experience more frequent, but smaller, increases in rates than may otherwise occur.[84] These consumer protections, as well as the more efficient recovery of investments described above, are benefits of ESP V that would not be available under an MRO.

Rider AMI is expressly authorized under R.C. 4928.143, includes important customer protections, and supports increased reliability of the Companies' distribution system. For these reasons, the Commission should approve the continuation of Rider AMI, without modification.

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[79] McMillen Testimony at 10.
[80] *See In the matter of the filing by Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company of a grid modernization business plan,* Case No. 16-481-EL-UNC, *et al*., Stipulation and Recommendation at 12 (Nov. 9, 2018), Supplemental Stipulation and Recommendation at 3 (Jan. 25, 2019), Opinion and Order at ¶91 (July 17, 2019).
[81] McMillen Testimony at 10.
[82] *Id*. at 10.
[83] *Id*.
[84] *Id*.

3. **The Proposed Rider SCR Will Support Critical Storm Restoration Activities.**

Under ESP V, the Companies are proposing to continue their current storm cost deferral mechanism and implement a new rider, Rider SCR, to recover major storm costs. Rider SCR will support the Companies' critical storm restoration efforts that help provide safe and reliable service to customers. Rider SCR's terms and conditions are reasonable, consistent with the storm riders already approved for other Ohio EDUs and should be approved as proposed.

The Commission has previously granted the Companies authority to defer actual major storm damage expenses[85] and has extended this authority through the Commission's decisions in the Companies' ESP II, ESP III, and ESP IV proceedings.[86] Under the deferral mechanism, actual storm damage expenses are compared to the test year levels in base distribution rates, and the difference, whether positive or negative, is deferred with carrying charges/credits applied at the current approved cost of long-term debt.[87] Consistent with what the Commission has historically approved,[88] for purposes of the deferral, major storms are defined as an event that is anticipated to last longer than 12 hours (using local crews) including the time required to pre-stage personnel for the event.[89] The Companies propose to continue the current storm deferral, under the same terms and conditions previously approved.

The Companies would use Rider SCR to recover from (or return to) customers the Companies' storm deferral amounts. Rider SCR will mitigate the regulatory lag on recovery of major storm expenses and support the Companies' storm restoration efforts, promoting the

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[85] *In the Matter 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 Nos. 07-0551-EL-AIR *et. al.,* ("2007 Rate Case"), Opinion and Order, at pp. 42-45 (January 1, 2009).
[86] *See e.g.,* ESP II, Opinion and Order (August 25, 2010); ESP III, Opinion and Order (July 18, 2012); ESP IV, Opinion and Order (March 31, 2016).
[87] Direct Testimony of Juliette Lawless ("Lawless Testimony") at 3 (Apr. 5, 2023), Companies Ex. 7.
[88] *See e.g.,* ESP II, Opinion and Order (Aug. 25, 2010).
[89] Lawless Testimony at 3.

Companies' ability to maintain reliability.[90] The Companies propose that the initial Rider SCR revenue requirement include amortization of the current storm balance over a period of five years.[91] Rider SCR will be applied on a per kWh basis for residential and lighting customers and applied on a per billing demand basis for commercial and industrial customers.[92]

Additionally, the Companies propose to cap the annual incremental storm damage expense recovered for each Company individually as follows: $16 million for OE, $17 million for CEI; and $2 million for TE.[93] Any incremental storm damage expense in excess of the caps will be deferred and recoverable the following year, subject to the annual cap.[94] Rider SCR will also be subject to annual regulatory review and audit, including timely reconciliation.[95]

a. The Companies' Proposal to Continue their Current Storm Deferral Mechanism and Implement Rider SCR to Recover Major Storm Costs is Reasonable and Beneficial to Customers.

The proposed Rider SCR will provide critical support for the Companies' storm restoration efforts while ensuring major storm expenses incurred by the Companies better align with the timing of storm restoration work and the service benefits realized therefrom. Rider SCR will support the Companies' storm restoration efforts and ability to maintain a safe and reliable distribution system, by mitigating the regulatory lag on recovery of major storm expenses.

The Commission previously granted the Companies authority to defer actual major storm damage expenses[96] and has extended this authority as part of the Companies' ESP II, ESP III, and

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[90] *Id.* at 4.
[91] *Id.* at 6.
[92] *Id.* at 5; Attachment JL-1; Attachment JL-2.
[93] *Id.* at 5.
[94] *Id.* at 5.
[95] *Id.* at 4.
[96] 2007 Rate Case, Opinion and Order at 42-45.

ESP IV.[97] As with these prior cases, the Companies' authority to defer such expenses should be extended through the term of ESP V.

Similarly, Rider SCR is authorized by R.C. 4928.143(B)(2)(h), which authorizes an ESP to include provisions related to distribution service and infrastructure. In fact, the Commission has approved this category of rider, designed to recover major storm costs, for the other Ohio EDUs.[98] By supporting the Companies' storm restoration efforts, Rider SCR will directly improve the safety and reliability of the Companies' distribution system, for the benefit of all customers.

b. ***Rider SCR Will Provide Important Customer Protections that Would Not Otherwise Be Available in a Base Rate Case.***

Rider SCR will provide benefits to customers that would otherwise not be available in an MRO and base distribution rate case. In fact, the Commission, in approving other major storm cost recovery riders, has found that major storm cost recovery riders are reasonable and beneficial.[99] Rider SCR will ensure customers pay only for actual major storm damage expenses the Companies incur and will better align recovery with the timing of storm restoration work and

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[97] *See e.g., In the matter of the application of Ohio Edison Company, the Cleveland Illuminating Company, and the Toledo Edison Company for authority to establish a standard service offer pursuant to Section 4928.143, Revised Code, in the form of an electric security plan (*"ESP II"), Opinion and Order (August 25, 2010); ESP III, Opinion and Order (July 18, 2012); ESP IV, Opinion and Order (March 31, 2016).

[98] *See In the matter of the application of Ohio Power 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. 16-1852-EL-SSO, et al., Opinion and Order (April 25, 2018) (in which the Commission approved AEP Ohio's Storm Damage Recovery Rider); *see also In the matter of the application of Duke Energy Ohio, Inc. for authority to establish a standard service offer pursuant to R.C. 4928.143 in the form of an electric security plan, accounting modifications, and tariffs for generation service,* 17-1263-EL-SSO, et al., Opinion and Order (Dec. 19, 2018) (in which the Commission approved Duke Energy Ohio's Distribution Storm Rider); *see also In the matter of the application of the Dayton Power and Light Company d/b/a AES Ohio for approval of its electric security plan,* 22-900-EL-SSO, et al., Opinion and Order (Aug. 9, 2023) (in which the Commission approved AES Ohio's Storm Cost Recovery Rider).

[99] *See e.g., In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Officer Pursuant to §4928.143, Revised Code, in the Form of an Electric Security Plan,* Case No. 11-346-EL-SSO, et al., Opinion and Order, at pp. 42-47 (August 9, 2012); *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Account Modifications and Tariffs for Generation Service,* Case No. 14-841-EL-SSO, et al., Opinion and Order, at 74-75 (April 2, 2015); *In the Matter of the Application of Dayton Power and Light Company for Approval of its Electric Security Plan,* Case No. 08-1094-EL-SSO.

service benefits realized.[100]

Rider SCR will also provide enhanced transparency through annual updates and rigorous annual audits that allow for the issuance of customer refunds, if applicable.[101] A focused annual audit of major storm damage costs allows Staff and stakeholders an opportunity for more frequent and timely examination of these expenses than base distribution rate cases.[102] Moreover, a focused annual audit provides Staff and stakeholders an opportunity to specifically and exclusively focus on deferred major storm damage expenses as opposed to those costs being included in a broader review of all costs in a base distribution rate case.[103] Rider SCR also includes the opportunity for timely credits to customers in the event that actual expenses are lower than applicable baseline amounts, which may not otherwise be available in a base distribution rate case.[104]

Additionally, Rider SCR, as proposed, will mitigate bill impacts and help insulate customers from rate shock.[105] As described above, Rider SCR will be subject to annual caps, limiting the amount of costs that can be recovered from customers in a given year.[106] Recovery of the Companies' current storm deferral amount will be amortized over five years, spreading out costs in a way that ensures rate increases remain gradual.[107] These safeguards will help ensure that rates remain predictable and gradual over the term of ESP V.

Following the Companies' 2024 base rate case, the Companies plan to update any applicable inputs to the Rider SCR calculation including, but not limited to, baseline storm expense, cost of long-term debt, revenue allocations, removal of any deferral balances placed in

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[100] Lawless Testimony at 7.
[101] *Id.*
[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] *Id.* at 6.
[106] *Id.* at 5.
[107] *Id.* at 6.

base rates, and annual revenue caps.[108]

Rider SCR is authorized under R.C. 4928.143, will directly support the Companies' storm restoration efforts and reliability, and provide for important customer protections. Therefore, the Companies respectfully request the Commission grant the Companies authority to continue the major storm deferral, under the same terms and conditions previously approved, and establish Rider SCR consistent with the Companies' proposal.

4. The Companies' Proposed Rider VMC and Associated Enhanced Vegetation Management Program Support Important Maintenance Activities and Reliability of the Distribution System.

The Companies propose a new rider, Rider VMC, to support their current vegetation management practices, as well as a new Enhanced Vegetation Management Program (the "Enhanced Program"), to help promote the provision of safe and reliable service to customers.

Rider VMC will recover incremental vegetation management operations and maintenance ("O&M") expenses compared to the baseline levels[109] recovered in base distribution rates.[110] Total vegetation management O&M expense recovered via Rider VMC will be capped at $759.8 million[111] for ESP V's entire eight-year term.[112] Rider VMC will also be subject to annual regulatory update, audit, and reconciliation, including but not limited to increases or customer refunds, based upon audit results.[113] The Companies' proposed Rider VMC and Enhanced Program are reasonable and benefit customers, as described further below.

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[108] *Id.* at 5.
[109] Based on records available to the Companies, the test year of their most recent base distribution rate case included vegetation management O&M expense of approximately $30 million.
[110] McMillen Testimony at 19.
[111] Based on the total estimated costs provided in the Direct Testimony of Shawn T. Standish (Apr. 5, 2023), Companies Ex. 8 ("Standish Testimony").
[112] McMillen Testimony at 21.
[113] *Id.*

a. ***Rider VMC Is Authorized by R.C. 4928.143(B)(2)(h) and Supports the Reliability and Safety of the Companies' Distribution System.***

The proposed Rider VMC will foster proactive vegetation management practices and reliability by mitigating regulatory lag in the Companies' recovery of vegetation management O&M expense and supporting the Companies' proposed Enhanced Program.[114]

Since 2014, the Companies have experienced an increase in tree-caused outages of 104%,[115] as well as significant increases in SAIFI. In 2019, the Companies began to more closely track the reasons for tree-caused outages. This review determined that most of the tree-caused outages in the Companies' territories were attributable to off-right-of-way ("off-ROW") trees, making up approximately 80% of the identified outages.[116]

The Companies' proposed Enhanced Program will address the Companies' most frequent cause of outages and improve reliability for all customers.[117] Under the eight-year Enhanced Program, the Companies will expand the scope of priority tree identification and removal,[118] focusing on removing on- and off-corridor trees, removing overhang, and controlling brush in the distribution clearing zone more proactively.[119] Ultimately, this approach is estimated to result in substantial reliability benefits, amounting to a six to seven percent estimated reduction in the Companies' average SAIFI and CAIDI standards.[120]

Not only will Rider VMC support the Companies' implementation of the Enhanced Program, but it will also enable timely recovery of the Companies' incremental vegetation

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[114] *Id.* at 19.
[115] Standish Testimony at 6; Table 1.
[116] *Id.* at 7; Table 2.
[117] *Id.* at 9.
[118] The proposed scope would include priority trees that would not otherwise be classified as an immediate threat under the regulatory minimum requirements but may pose a threat to the system prior to the next scheduled maintenance work.
[119] Standish Testimony at 9.
[120] *Id*. at 13.

management expenses, further bolstering the Companies' ability to proactively manage vegetation-caused outages within their service territories. In light of these benefits to the Companies' distribution system, Rider VMC squarely falls within the provisions of an ESP authorized under R.C. 4928.143(B)(2)(h). Indeed, the Commission has authorized similar vegetation management cost recovery riders as part of other Ohio EDUs' ESPs, recognizing the reliability benefits of such riders in each case.[121]

Thus, because the Companies' Rider VMC proposal is authorized under R.C. 4928.143(B)(2)(h) and will support the Companies' ability to provide reliable service and satisfy customers' reliability expectations, the Commission should approve Rider VMC and the Enhanced Program without modification.

b. ***Rider VMC Includes Important Customer Protections and Benefits that Would Not be Attainable in a Base Rate Case.***

The benefits of Rider VMC are not limited to the reliability benefits described above. In fact, as with other of the Companies' riders, Rider VMC provides customer protections unique to rider mechanisms. Rider VMC will help ensure that recovery of the Companies' vegetation management expenses better aligns with the work being done and the service benefits realized.[122] Additionally, Rider VMC will provide enhanced transparency to customers through annual updates, annual audits, and reconciliation, including but not limited to increases or customer

[121] *See In the matter of the application of Ohio Power 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. 16-1852-EL-SSO, et al., Opinion and Order, ¶196 (April 25, 2018) (approving AEP Ohio's Enhanced Service Reliability Rider); *see also In the matter of the application of Duke Energy Ohio, Inc. for authority to establish a standard service offer pursuant to R.C. 4928.143 in the form of an electric security plan, accounting modifications, and tariffs for generation service,* Case No. 17-1263-EL-SSO, et al., Opinion and Order, ¶290 (Dec. 19, 2018) (approving Duke Energy Ohio's Electric Service Reliability Rider); *see also In the matter of the application of the Dayton Power and Light Company d/b/a AES Ohio for approval of its electric security plan,* Case No. 22-900-EL-SSO, et al., Opinion and Order, ¶184 (Aug. 9, 2023) (approving AES Ohio's Proactive Reliability Optimization Rider).
[122] McMillen Testimony at 22.

refunds, based upon audit results.[123] The annual updates and audits of Rider VMC will also allow for more timely review of expenses than may otherwise occur between base rate cases. Moreover, such procedures will enable the Commission to focus its review specifically on the Companies' vegetation management expenses, as opposed to reviewing them as part of a broader review of all costs in a base rate case.[124]

Further, Rider VMC's proposed design will mitigate bill impacts and promote gradualism in rates. Rider VMC will ensure that customers are only paying the Companies' actual incurred vegetation management expenses, including providing timely credits in the event that actual expenses are lower than the applicable baseline amounts.[125] Recovery under Rider VMC will also be subject to an overall cap, limiting the amount of costs recovered from customers over ESP V's term. This cap, in conjunction with the annual update and audit process, will allow any increases in customer rates to remain predictable and gradual throughout the ESP V term. Rate impacts will be further mitigated following the Companies' anticipated 2024 base rate case, when all applicable inputs for Rider VMC will be updated.[126]

As demonstrated above, Rider VMC will provide numerous additional benefits to customers that would not be achieved in a base rate case.

c. ***The Companies' proposed Enhanced Vegetation Management Program Will Provide Additional Substantial Benefits to the Companies' Distribution System, to Customers, and to the Environment.***

The Companies' proposed Enhanced Program will provide additional benefits including safer conditions for employees and the general public, positive environmental impacts, and long-

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[123] *Id*. at 21.
[124] *Id*. at 21, 22.
[125] *Id*. at 22.
[126] *Id*. at 19.

term vegetation management cost savings for customers.[127]

First, the Enhanced Program will create safer work conditions for the Companies' employees and contractors, as well as safer conditions for the public.[128] The Enhanced Program will reduce the density of brush surrounding the Companies' facilities, making them easier and safer to access and control.[129] Less dense brush will also reduce hazard exposure, both electrical and non-electrical, to employees and contractors during inspections and storm restoration work[130] and to the general public, should a major outage occur due to storm or other damage.[131]

Second, the Enhanced Program will positively impact the local environment. Based on research from one of the oldest continuous, internationally recognized vegetation management research projects in existence (the Pennsylvania State Game Lands 33 Research Project), the Enhanced Program will maintain right-of-way in an ecologically beneficial manner.[132] Specifically, the Enhanced Program will lead to diverse early successional plant communities that benefit insects, animals, birds, and other wildlife.[133] Thus, the Enhanced Program will better align the Companies' practices with environmental best management practices to help support the local ecological communities.[134]

Third, the Enhanced Program will create long-term cost savings for customers.[135] Under the Enhanced Program, the Companies' vegetation management costs are expected to decrease by 21%, or $22 million, in year five of ESP V, and by another 24%, or $22 million, in year nine.[136]

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[127] Standish Testimony at 8.
[128] *Id.*
[129] *Id.* at 13.
[130] *Id.*
[131] *Id.* at 14.
[132] *Id.* at 16.
[133] *Id.*
[134] *Id.*
[135] *Id.* at 8.
[136] *Id.* at 14.

The Enhanced Program is also expected to result in a reduction of future storm O&M expenses, estimated at $2 to $3 million per year beginning in year five.[137] Further, the Enhanced Program is estimated to provide cost savings to customers from reliability improvements of $963 million nominally, or $574 million on a net present value, over the next ten years.[138]

Rider VMC is expressly authorized under R.C. 4928.143 and will provide substantial benefits to customers, including supporting implementation of the proposed Enhanced Program. For these reasons, the Commission should approve Rider VMC, and the associated Enhanced Program, as proposed.

B. ESP V Supports Reliable and Reasonably Priced SSO Generation Service.

ESP V will provide for the competitive supply of generation through a tried-and-true competitive bid process that has consistently produced competitive market-based prices for generation supply to non-shopping customers.[139] Additionally, the Companies have proposed several modifications that will build upon and enhance the success of the Companies' CBP.

1. The Companies' Proposed CBP is Reasonable, Consistent with Prior Practice, and Includes Enhancements Designed to Benefit Customers.

a. The CBP Will Result in Fair and Competitive Procurements.

ESP V will enable the Companies to continue providing generation supply to non-shopping customers for the period June 1, 2024, through May 31, 2032. The Companies will use a CBP designed and implemented by an experienced, independent auction manager, Charles River

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[137] *Id.*
[138] *Id.* at 15.
[139] In order to ensure the Companies have sufficient time to meet their SSO obligations by ESP V's start date of June 1, 2024, the Companies requested Commission authority in this ESP V proceeding to conduct two auctions, consistent with the Companies' current CBP, prior to that date. *See* The Companies' Motion for Interim Relief to Conduct SSO Auctions (Dec. 13, 2023). On January 10, 2024, the Commission issued an Entry granting the Companies' Motion for Interim Relief with modifications.

Associates ("CRA").[140] The CBP will use a descending clock auction format,[141] which is the same auction format that has been used in all of the Companies' prior ESPs.[142] The Companies' CBP will continue to use a staggered and laddered schedule of procurements and a mix of products designed to smooth generation prices.[143] The procured product will be "an hourly load-following full requirements tranche of the Companies' entire SSO load."[144] The Companies will maintain their long-standing practice of using a "slice of system" approach,[145] where "a tranche is defined as one (1) percent, or a slice, of the Companies' total SSO load obligation for energy, capacity, ancillary services, and certain other transmission services."[146]

The CBP includes comprehensive procedures to assure auctions are fair and competitive.[147] For example, all bidders complete the same application and qualification process,[148] and the descending-price clock auction format allows any supplier who has satisfied the application criteria to participate.[149] Bidders are not required to own generation, and no preference is given to those that do.[150] "All bidders are bidding on standardized supply contracts and are subject to identical financial and credit requirements and criteria."[151] The same information is equally available to all bidders before and during the auctions.[152] These procedures are designed to drive bidder participation, which in turn yields clearing prices for customers that are representative of

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[140] Direct Testimony of Robert J. Lee ("Lee Testimony") at 2:11-5:6 (Apr. 5, 2023), Companies Ex. 6.
[141] *Id.* at 28-30; Attachment RJL-4 at 10, 16-24. Single product procurements will also include a possible sealed-bid round. *Id*. at 33.
[142] *Id.* at 33. "Participation in each of the CBP auctions conducted to date as part of the Companies' ESP I, ESP II, ESP III, and ESP IV has been broad and competitive. And the results of every auction in the ESPs above have been accepted by the Commission." *Id*. at 39.
[143] Tr. Vol. IV at 783-784.
[144] Lee Testimony at 20.
[145] *Id*. at 36; Tr. Vol. IV at 755.
[146] Lee Testimony at 20-21.
[147] *Id*. at 28, 31-32.
[148] *Id*. at 24-27; *see also*, Attachments RJL-2 and RJL-3.
[149] Lee Testimony at 31.
[150] *Id*.
[151] *Id*.
[152] *Id*. at 31, 22-23.

the market and that facilitate the price to compare.[153]

The proposed CBP format is designed to promote open, fair, and transparent competitive solicitations.[154] It includes a number of features tailored to achieving these goals, including (1) taking reasonable precautions with respect to confidential information,[155] (2) encouraging participation among bidders,[156] (3) providing bidder information sessions, FAQs, and educational materials,[157] (4) promoting competitive bidding with starting prices that are intended to attract bidders,[158] and (5) promoting supplier diversity through the use of load caps.[159] Further, the proposed CBP is consistent with state policy goals.[160]

b. ***The Companies' Modifications to the CBP will Enhance the Process and Benefit Customers.***

To improve their CBP, the Companies are proposing several modifications designed to encourage supplier participation and mitigate risks, ultimately benefiting customers through lower generation costs than otherwise may occur. These changes include (1) implementing a volumetric risk cap ("VRC"), (2) eliminating 36-month products from auctions, (3) establishing a capacity proxy price ("CPP") mechanism, (4) improving supplier collateral requirements, and (5) implementing several administrative improvements to the auction process. Each of these proposed modifications will provide unique benefits, resulting in an improved and more effective CBP.

(i) The VRC Will Incentivize Bidder Participation and Lead to More Competitive SSO Pricing.

The Companies propose to implement a VRC on load migration back to SSO service.[161]

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[153] *See, e.g.*, Tr. Vol. IV at 756-757; 782-783.
[154] Lee Testimony at 18-20.
[155] *Id*.
[156] *Id*.
[157] *Id*.
[158] *Id*.
[159] *Id*. at 37.
[160] *Id*. at 18-20.
[161] Lee Testimony at 6.

Under this proposal, each tranche will be set to an initial "benchmark" level equal to the daily Peak Load Contribution ("PLC") per tranche as of the first day of the relevant delivery period.[162] For two-year contracts, this initial benchmark would be subject to an annual scaling update based on PJM's PLC target value for the zone at the start of the new planning year.[163] For each tranche, an SSO supplier's volumetric exposure will be limited to a maximum of 20 MW above the benchmark value.[164] Supplier responsibility will be assessed daily by comparing the daily PLC per tranche with the associated benchmark value.[165] The Companies will manage load in excess of the VRC physically through an automated process where PJM would perform the calculations for energy and capacity at real time market prices as well as transmission, ancillary services, and all prior period true ups.[166] The costs of procuring power associated with this excess load migration will be reconciled via the Companies' existing SSO recovery mechanism, as discussed in Section B.2, below.[167]

The Companies' VRC proposal responds to load migration concerns, including those previously raised by suppliers in other proceedings.[168] The VRC will reduce SSO suppliers' load quantity risk in the case of significant customer migration back to SSO service.[169] This lowered risk will allow SSO suppliers to reduce risk premiums they may currently be including in their bids and should incentivize enhanced participation and more aggressive and competitive bidding between suppliers, resulting in lower prices for SSO customers.[170] The Companies' Maryland

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[162] *Id.*; Tr. Vol. IV at 741-742.
[163] Lee Testimony at 6.
[164] *Id.* at 6-7.
[165] *Id.* at 7.
[166] *Id.*
[167] Direct Testimony of Dhara Patel ("Patel Testimony") at 3 (Apr. 5, 2023), Companies Ex. 4.
[168] Lee Testimony at 8.
[169] *Id.* at 7.
[170] *Id.* at 7-9.

affiliate has successfully utilized a similar mechanism.[171] The VRC will have no impact on customers' ability to shop, and it should rarely be triggered, given the continual evolution of the regulatory framework related to governmental aggregation in Ohio.[172]

(ii) Elimination of 36-month products will lead to increased bidder participation and lower SSO prices.

The Companies are also proposing to reduce the maximum contract term available through the CBP from 36-months to 24-months.[173] The Companies' prior auction schedules have included a mix of 12, 24, and 36-month products.[174] However, the 36-month contract typically garners the fewest bidders.[175] In anonymous surveys conducted by CRA, several suppliers expressed a preference for shorter-duration contracts, all else equal.[176] Eliminating the 36-month contract from the Companies' CBP will better align auction products with bidder preferences, resulting in more competitive bidding and, ultimately, lower SSO prices for customers.[177] In addition, longer-duration contracts are often associated with more risk because they require bidders to forecast market conditions much further into the future, which translates into higher risk premiums included in suppliers' bids.[178] Reducing the longest available product to 24-months will reduce the risk faced by suppliers, allowing them to lower risk premiums, to the benefit of customers.[179]

(iii) The Companies' Proposed CPP Mechanism Will Allow Auctions to Proceed Even If the PJM Capacity Price is Unknown, and It Is Consistent with Recent Commission Directives.

The Companies propose to establish a CPP mechanism to help manage the risk of future

[171] *Id.*
[172] *Id.* at 9.
[173] *Id.* at 10.
[174] *Id.*
[175] *Id.*
[176] *Id.*
[177] *Id.*
[178] *Id.*
[179] *Id.*

disruptions in the PJM base residual auction ("BRA") process.[180] The CPP mechanism would allow the Companies to proceed with SSO auctions and procure products for which BRA prices are not yet available.[181] If the BRA is unavailable, the CPP would act as a proxy price for capacity that bidders would use for product valuation.[182] The CPP would be calculated using the average of the two most recent PJM capacity year values, consistent with the approaches taken in other jurisdictions.[183] The CPP will also include a true-up mechanism to make parties whole for any difference between the proxy price and the actual BRA.[184] Any true-ups would be reconciled in the Companies' current SSO recovery mechanisms, as described in section B.2. below.[185] For each billing month where a CPP was used, an additional line item on the supplier invoice will show the true-up amount expressed in dollars.[186] By allowing the Companies to maintain SSO auction schedules, regardless of any BRA uncertainty or timing issues,[187] the CPP will preserve the price smoothing benefits to customers of staggering and laddering.

A CPP mechanism has been successfully implemented in other PJM states, with positive supplier feedback,[188] and is also consistent with the Commission's recent decision in Case No. 23-781-EL-UNC. In that case, the Commission found that action to mitigate uncertainty surrounding PJM's capacity market is now necessary.[189] The Commission further directed the EDUs to work in conjunction with their auction managers to develop a proxy price and true-up mechanism that

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[180] *Id.*
[181] *Id.*
[182] *Id.*
[183] *Id.* at 13.
[184] *Id.* at 11.
[185] Patel Testimony at 3.
[186] Lee Testimony at 12.
[187] *Id.* at 11-13.
[188] *Id.* at 12.
[189] *In the matter of the proposed modifications to the electric distribution utilities' standard service offer procurement auctions,* Case No. 23-781-EL-UNC, Finding and Order at ¶32 (Dec. 13, 2023).

can be used where no actual BRA price has been established.[190] The Companies' CPP proposal was developed in conjunction with its SSO auction manager, is reasonable, will create certainty for the Companies, SSO auction participants, SSO suppliers, and customers, and satisfies the Commission's directive for the Companies to establish a CPP mechanism.

(iv) The Companies' Proposed Modifications to Supplier Collateral Requirements Will Protect Customers.

In addition to the above CBP enhancements, the Companies are proposing five changes to their supplier collateral mechanisms to further reduce risk for customers and the Companies.

First, the Companies propose adding an Independent Credit Requirement per Tranche ("ICRT").[191] The ICRT will be a separate and distinct collateral mechanism from the Mark-to-Market ("MTM") collateral requirement.[192] Similar to the collateral structure used by Duke Energy Ohio and AEP Ohio, the ICRT will be a fixed collateral requirement per tranche that declines over time as the supplier works through its supply obligation.[193]

Second, the Companies propose to modify the MTM collateral requirement.[194] For prior ESPs, the MTM calculation was based on changes in forward prices after the auction date and did not explicitly include a change in exposure for movements in the level of load.[195] For ESP V, the Companies are proposing changes to the Master Supply Agreement ("MSA") explicitly addressing margin calls due to changes in load levels.[196]

Third, while unsecured credit will continue to be offered to qualified suppliers, and those qualified suppliers will not be required to post actual cash collateral until their exposure exceeds

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[190] *Id.* at ¶ 35.
[191] Lee Testimony at 13.
[192] *Id.*
[193] *Id.*
[194] *Id.* at 14-15.
[195] *Id.* at 14.
[196] *Id.*

their unsecured limit, the Companies propose to reduce the maximum unsecured credit limits.[197] A qualified supplier's unsecured credit limit will continue to be a function of the supplier's credit rating and tangible net worth.[198] The proposed change will not alter the general availability of unsecured credit, which will continue to be offered to qualified suppliers.[199]

Fourth, and relatedly, when a supplier's credit ratings are split, the Companies propose to use the lowest rating, rather than the highest, in the maximum credit limit calculation.[200]

Fifth, the Companies are proposing to eliminate First Mortgage Bonds as an acceptable form of security due to liquidity concerns related to these bonds.[201]

The five proposed changes described above are all designed to reduce risk for both customers and the Companies.[202] Specifically, the proposed ICRT will reduce customers' and the Companies' risk exposure associated with an SSO supplier's default.[203] While fixed collateral requirements, such as the MTM, safeguard customers from movements in energy markets from the date of the auction through any supplier default, the ICRT will protect customers from the point of default forward.[204] Similarly, the proposed modification to the MTM methodology will limit risk exposure, particularly with respect to the risk of customer migration.[205] Finally, by strengthening collateral requirements, the other three proposed changes will further reduce customers' and the Companies' risk exposure.[206]

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[197] *Id.*
[198] *Id.*
[199] *Id.*
[200] *Id.*
[201] *Id.*
[202] *Id.*
[203] *Id.* at 13.
[204] *Id.*
[205] *Id.* at 14.
[206] *Id.*

(v) The Companies' Proposed Administrative Changes to Their CBP Are Reasonable.

Lastly, the Companies propose several administrative changes to simplify the CBP. These changes include: (1) adopting a single MSA for each supplier for the full ESP V term, (2) no longer requiring ink signatures or notarization of applications, (3) no longer requiring bidders relying on foreign guarantors to post additional pre-bid security, (4) relaxing the restrictions on back up bidding during auctions by allowing the auction help desk to take back up bids over the phone lines or via email (instead of requiring bidders to use a fax-based process), and (5) allowing the auction manager, in consultation with the Companies and Staff, to make changes to the auction schedule, if circumstances warrant.[207] These changes will simplify the overall process, with no impact to customers, making it easier for suppliers to participate in the CBP.[208]

For the foregoing reasons, the Companies respectfully request that the Commission approve their proposed CBP plan, as well as the proposed enhancements to their CBP plan, without modification.

2. The Companies Are Not Proposing Changes to Their SSO Riders (GEN, GCR, AER, NDU).

The Companies are not proposing any changes to the previously approved riders that recover costs related to the provision of SSO service.[209] The SSO related riders include the Generation Service Rider ("Rider GEN"), the Generation Cost Reconciliation Rider ("Rider GCR"), the Alternative Energy Resource Rider ("Rider AER"), and the Non-Distribution Uncollectible Rider ("Rider NDU") (collectively, the "Generation Riders").[210]

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[207] *Id.* at 15-16.
[208] *Id.* at 15.
[209] Patel Testimony at 2-3.
[210] *Id.* at 2.

Rider GEN is updated annually and recovers the costs of the Companies' purchase power expense resulting from the CBP for SSO customers.[211] The Companies actual purchase power expenses and Rider GEN revenues are reconciled in Rider GCR, while Rider NDU recovers non-distribution uncollectible expenses associated with the provision of SSO service.[212] Rider AER recovers the costs of securing compliance with alternative energy resource requirements, including renewable energy credit costs, any reasonable costs of administering requests for proposals, and applicable carrying costs.[213]

Riders GCR, AER, and NDU are reconciled and updated quarterly and are subject to reconciliation based on the results of annual audits, confirming that customers are only paying for actual SSO expenses incurred in a timely manner.[214] In ESP V, the costs of procuring power associated with the VRC will be reconciled through Rider GCR. Additionally, the costs of any true-ups between the CPP and actual capacity prices would be reconciled in Rider GCR until an interim filing for Rider GEN is approved that reflects the actual capacity price.[215]

The Generation Riders were all previously approved in ESP I and reauthorized in subsequent ESPs.[216] The Companies respectfully request that these Generation Riders once more be continued under the same terms and conditions.

C. ESP V's Proposal to Continue Rider NMB, with Modifications, Supports Reasonable Prices for Transmission Service.

The Companies propose to (1) continue, with modification, Rider NMB for the term of

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[211] *Id.*
[212] *Id.*
[213] *Id.*
[214] *Id.*
[215] *Id*. at 3.
[216] *See e.g., 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 Section 4928.143, Revised Code, in the Form of an Electric Security Plan,* Case No. 08-935-EL-SSO ("ESP I"), Second Opinion and Order (March 25, 2009); ESP II, Opinion and Order (August 25, 2010); ESP III, Opinion and Order (July 18, 2012); ESP IV, Opinion and Order (March 31, 2016).

ESP V, as authorized by 4928.143(B)(2)(g) and (2) eliminate the Rider NMB Pilot program (the "NMB Pilot" or the "Pilot"). The Companies' proposal will result in rate design changes that will better align costs with cost causers and help customers better manage and control their transmission service charges.

Rider NMB was originally authorized in the Companies' ESP II and reauthorized, with modification, in ESP III and ESP IV.[217] Additionally, in ESP IV, the Commission approved the Rider NMB Pilot program,[218] which was intended to explore whether certain customers could benefit from opting out of Rider NMB and obtain, directly or indirectly through a CRES provider, all transmission and ancillary services through PJM, or whether the administrative burden to the Companies, and cost and risk to customers, would render this option impractical.[219]

Rider NMB is a revenue neutral, charge that recovers costs of non-market-based services imposed on the Companies by the Federal Energy Regulatory Commission ("FERC") or PJM Interconnection, L.L.C. ("PJM"),[220] including Network Integration Transmission Service ("NITS") and Regional Transmission Expansion Plan ("RTEP") costs.[221] Rider NMB is updated and reconciled annually, subject to review and approval by the Commission.[222]

Rider NMB is a non-bypassable charge, unless the customer participates in the Rider NMB Pilot.[223] The Rider NMB Pilot program is available to a defined group of eligible customers, including those who receive a Commission-approved reasonable arrangement,[224] who shop for

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[217] *See e.g.,* ESP II, Opinion and Order (Aug. 25, 2010); ESP III, Opinion and Order (July 18, 2012); ESP IV, Opinion and Order (March 31, 2016).
[218] ESP IV, Opinion and Order (March 31, 2016).
[219] ESP IV, Fifth Entry on Rehearing, ¶310 (Oct. 12, 2016).
[220] Lawless Testimony at 7-8.
[221] *Id.* at 8.
[222] *Id.*
[223] *Id.*
[224] *Id.* at 9.

non-market-based services through a CRES provider.[225] The Rider NMB Pilot program was recently modified to require the Companies to establish a manual billing option for participants that wanted to remain in the Pilot but receive SSO service from the Companies.[226]

After the filing of ESP V, Exeter Associates, Inc. completed an independent audit of the Rider NMB Pilot program (the "Exeter Audit Report"), which now awaits further action from the Commission.[227] The Exeter Audit Report found that there was an opportunity to improve cost-causation in the treatment of non-market-based services costs.[228] Additionally, the Exeter Audit Report recommended eliminating Rider NMB, either for all customers or a subset of customers, and incorporating non-market-based services costs either through services obtained from a CRES provider for shopping customers or built into the SSO auction for non-shopping customers.[229]

The Companies propose to continue Rider NMB for the term of ESP V, subject to the proposed modification discussed below. Rider NMB will continue to be revenue neutral as well as subject to annual update, audit, and reconciliation, including the opportunity to provide refunds to customers, where applicable.[230] As a pass-through mechanism subject to reconciliation, Rider NMB ensures that customers are only paying for actual costs incurred without any additional mark-up. The Companies agree with the Exeter Audit Report's recommendation to improve cost causation in the assignment and recovery of non-market-based services costs, and their proposal in ESP V aligns with this objective.

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[225] ESP IV, Opinion and Order (March 31, 2016).
[226] Lawless Testimony at 9; *see also In the Matter of the Application for Establishment of a Unique Arrangement for Toshi CMC, LLC.,* Case No. 21-1205-EL-AEC, Entry, ¶¶ 25-27 (Nov. 2, 2022).
[227] *In the Matter of the Review of the Non-Market-Based Services Rider Pilot Program Established by Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company,* Case No. 22-391-EL-RDR ("Rider NMB Audit" aka "Exeter Audit Report"), Audit Report (July 17, 2023), OELC Ex. 27.
[228] Rider NMB Audit, Audit Report at 1.
[229] Rider NMB Audit, Audit Report at 4.
[230] Lawless Testimony at 11.

1. The Proposed Rider NMB Rate Design Supports Alignment of Cost Responsibility with Cost Causation.

The Companies recognize there are many different views among the parties regarding Rider NMB and its rate design. The Companies appreciate the feedback they received during pre-filing meetings on this topic and have attempted to design a reasonable proposal that they believe addresses much of the feedback received.

In ESP V, the Companies propose to modify Rider NMB to include two separate rates, NMB 1 and NMB 2.[231] NMB 1 will be applicable to all residential and lighting customers as well as commercial and industrial customers who do not have interval or advanced meters.[232] NMB 1 will be calculated using the current Rider NMB allocation and rate design and continue to be charged on an energy or monthly peak demand basis.[233] NMB 2 will be applicable to commercial and industrial customers who have interval or advanced meters,[234] and will be charged based on a customer's Network Service Peak Load ("NSPL").[235]

These modifications to the Rider NMB rate design are reasonable. First, the proposed NMB 2 rate will better align non-market-based services costs with the cost causers, promoting the fundamental principle of cost-causation.[236] This is because the proposed Rider NMB 2 rates will be billed based on a customer's NSPLs, which is consistent with the way PJM assigns most non-market-based services costs.[237] Second, NMB 2 will provide eligible customers with an opportunity to manage their Rider NMB costs by controlling their NSPLs.[238] This behavior could in turn lower the overall costs assigned to the Companies, a benefit which would then be passed

[231] Lawless Testimony at 11; Attachment JL-4.
[232] Lawless Testimony at 11.
[233] *Id.*
[234] *Id.* at 10.
[235] *Id.* at 11.
[236] *Id.* at 10; Direct Testimony of Edward B. Stein ("Stein Testimony") at 11 (Apr. 5, 2023), Companies Ex. 10.
[237] Stein Testimony at 11.
[238] *Id.* at 10, 11.

on to all of the Companies' customers.[239] Third, the proposed NMB 2 rate design may also incentivize customers to reduce their overall usage during peak periods, which would support reliability on the Companies' distribution system, to the benefit of all customers. Finally, implementation of NMB 2 will help enable customers to easily switch between shopping for generation and returning to the SSO without any impact to Rider NMB.

The Companies' proposed Rider NMB rate design changes would be effective April 1, 2025.[240] This delayed implementation of the proposed Rider NMB rates is a reasonable transition period that will allow the Companies time to develop and implement the necessary changes in their billing system and provide customers who currently have advanced or interval meters an opportunity to manage their NSPLs before the NMB 2 rates go into effect.[241]

In light of these benefits, the Companies' proposal to implement the NMB 2 rate for all commercial and industrial customers with advanced or interval meters is reasonable and should be approved by the Commission, without modification.

2. **The NMB Pilot Program is No Longer Needed.**

As mentioned above, the purpose of the NMB Pilot program was to study the potential administrative burden of the Pilot in relation to its benefits.[242] Because the proposed new Rider NMB 2 rate essentially replaces the current NMB Pilot program and applies to an expanded group of customers, the Rider NMB Pilot program will no longer be needed in ESP V.[243] Therefore, the Companies propose to eliminate the Rider NMB Pilot program, including applicable reasonable arrangements, effective April 1, 2025.[244]

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[239] Rider NMB Audit, Report at 43.
[240] Lawless Testimony at 11.
[241] Tr. Vol. VI at 1240.
[242] Lawless Testimony at 8.
[243] *Id.* at 10.
[244] *Id.* at 12.

The elimination of the current NMB Pilot and corresponding rate design changes discussed above are expected to reduce administrative burdens as well. The Commission directive to implement a manual billing option for the NMB Pilot required the Companies to develop additional internal controls, increasing the administrative burdens of the Pilot.[245] These administrative burdens will only increase as more participants are permitted to join the Rider NMB Pilot program.[246] In contrast, the elimination of the NMB Pilot will alleviate not only the burden associated with the manual billing option but will also resolve other administrative burdens, including the need to track Rider NMB Pilot participants and the need for participants to procure NMB services costs via CRES providers.[247]

For the reasons discussed above, the Companies respectfully request that the Commission approve their Rider NMB proposal, without modification.

D. ESP V Includes Robust Provisions Designed to Promote Energy Efficiency and Demand Response.

In addition to providing a comprehensive portfolio of programs to support generation, distribution, and transmission service, ESP V also includes several provisions designed to promote energy efficiency and demand response in the Companies' service territories. These provisions include (1) continuation of Rider ELR, with modification and (2) a comprehensive portfolio of EE/PDR programs, including options in which all classes of customers may participate.

1. Continuing Rider ELR, with Modifications, Will Support Demand Response, Economic Development, and Affordability.

The Companies propose to continue their current Rider ELR program, subject to several modifications intended to improve the efficiency and affordability of the program. Originally

245 Tr. Vol. VI at 1227.
246 *Id.*
247 Lawless Testimony at 10, 12.

authorized by the Commission in ESP I and subsequently continued with modifications in ESP II, III, and IV, Rider ELR is a longstanding, tariff-based interruptible program designed to support demand response and economic development throughout the Companies' service territories.[248] Customers participating in Rider ELR commit their curtailable load to the Companies and are then subject to emergency curtailment events called by either the Companies or PJM.[249] As an incentive, Rider ELR participants have the opportunity to earn credits of $10 per kW of curtailable load per month.[250] Rider ELR participants cannot participate in any other load curtailment or demand response program, including those offered by PJM.[251] Rider ELR is set to expire May 31, 2024.

For ESP V, the Companies propose to continue Rider ELR, subject to two primary modifications. First, the Companies will no longer require Rider ELR customers to commit their demand response capabilities to the Companies, instead requiring them to participate in PJM demand response programs through a curtailment service provider ("CSP") of their choice.[252] Second, through the ESP V term, the Companies propose the following reductions in the Rider ELR credits:[253]

Rider[254]	**June 1, 2024**	**June 1, 2025**	**June 1, 2026**	**June 1, 2027**	**June 1, 2028**	**June 1, 2029**	**June 1, 2030**	**June 1, 2031**
ELR	($5.00)	($4.50)	($4.00)	($3.50)	(3.00)	($2.50)	($2.00)	($1.50)
EDR(b)	($5.00)	($4.50)	($4.00)	($3.50)	(3.00)	($2.50)	($2.00)	($1.50)

[248] McMillen Testimony at 11.
[249] *Id*.
[250] Specifically, participating customers have the opportunity to earn credits under two separate provisions: (1) $5 per kW of curtailable load per month under Rider ELR, recovered via the Companies' Demand Side Management and Energy Efficiency Rider ("Rider DSE1") and (2) $5 per kW of curtailable load per month under the Companies' Economic Development Rider ("Rider EDR") provision (b), recovered via Rider EDR(e).
[251] McMillen Testimony at 11.
[252] *Id*. at 12.
[253] "Rider ELR credits" includes both the Rider ELR and Rider EDR(b) credits.
[254] McMillen Testimony at 12.

Additionally, the Companies propose modifications to the Rider ELR tariff to: (1) remove provisions related to emergency curtailment events called by PJM, and (2) revise the penalty tariff provision to be consistent with the Commission's directive in another case.[255]

a. ***The Proposed Modifications to Rider ELR Will Benefit Both Participating ELR Customers and Non-Participating Customers.***

The proposed Rider ELR changes are designed to support demand response and economic development, while balancing rate impacts for both participating and non-participating customers. The Companies' proposal to transition away from their current role as the CSP for ELR customers will improve Rider ELR's administrative efficiency and enable Rider ELR participants to directly engage in multiple PJM demand response programs – something they cannot do currently. This will promote customer choice, enabling Rider ELR customers to participate in programs that are best suited to their individual needs and preferences,[256] and allow them to use a single CSP for all their market activities.[257] In addition, this change to require Rider ELR customers to participate in PJM programs will provide Rider ELR customers the freedom to contract with independent CSPs and the opportunity to receive additional revenues. Because the Companies currently act as the CSP for Rider ELR, any revenues from bidding Rider ELR resources into PJM capacity auctions is split between customers (80%) and the Companies (20%). Once the Companies are no longer the CSP for Rider ELR customers, the Companies will no longer be responsible for offering Rider ELR resources into PJM capacity auctions, and therefore, will not receive any PJM revenues.[258] Instead, Rider ELR customers will have the option to work with their own CSPs to decide how any PJM revenues will be distributed.

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[255] *Id*. at 14-15.
[256] Stein Testimony at 5.
[257] *Id*. at 5.
[258] *Id*. at 6.

Similarly, the proposed reduction in Rider ELR credits is appropriate. Rider ELR credits are currently much higher than PJM market capacity prices.[259] The proposed reductions in Rider ELR credits will better align the program's costs with market pricing while still supporting economic development and demand response within the Companies' territory.[260] Furthermore, the proposed reductions will mitigate rate shock to both participating and non-participating customers by (1) delaying credit reductions until the second year of ESP V, (2) reducing credits in a gradual manner, and (3) reducing costs to non-participating customers.[261] The proposed modifications appropriately balance the interests of participating and non-participating customers.

b. ***Rider ELR Will Continue to Support the Integrity and Reliability of the Distribution System.***

The Companies' Rider ELR program has a demonstrated record of providing substantial benefits to customers and the reliability of the Companies' distribution system. The proposed modifications will not diminish Rider ELR's potential to provide those benefits. While the Companies will no longer be responsible for initiating curtailment during PJM-initiated emergencies, the Companies will retain the ability to curtail ELR resources during emergency events that jeopardize the integrity of the Companies' distribution system.[262] Thus, the provisions of Rider ELR will continue to provide a coordinated, first-response means for the Companies, during local emergencies and independent of PJM, to efficiently call on customers to interrupt load as a last resort prior to more drastic measures, such as rolling blackouts.[263]

The Companies' Rider ELR proposals appropriately balance support for valuable demand response and economic development with rate impacts to participating and non-participating

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[259] *Id*. at 6-7.
[260] McMillen Testimony at 13.
[261] *Id*.
[262] *Id*. at 14; Stein Testimony at 6.
[263] Stein Testimony at 6.

customers. Therefore, the Commission should approve the Companies' Rider ELR proposals.

2. The Companies' Proposed EE/PDR Plan and Rider EEC Are Cost Effective and Will Help Customers Control Their Costs.

The Companies fully support energy efficiency and recognize that the EDU is uniquely positioned to positively impact customers. To empower customers to control their energy bills and protect the environment, the Companies have proposed a comprehensive portfolio of EE/PDR programs (the "EE/PDR plan"), which are authorized in an ESP under R.C. 4928.143(B)(2)(i). The General Assembly has declared support for EE/PDR programs to be the policy of Ohio: "The public utilities commission shall initiate programs that will promote and encourage conservation of energy and a reduction in the growth rate of energy consumption, promote economic efficiencies, and take into account long-run incremental costs."[264]

The Companies' proposed EE/PDR plan will initially run for a four-year term and include residential and non-residential programs. The EE/PDR plan includes four residential programs: (1) Residential Rebates and Appliance Recycling, (2) Energy Education, (3) Low-Income Energy Efficiency, and (4) Demand Response for Residential.[265] Also included is the Energy Solutions for Business program for non-residential customers.

Under the Residential Rebate program, residential customers can receive rebates and discounts for purchasing, through a variety of channels, certain qualified ENERGY STAR energy efficient appliances and equipment.[266] Customers will also have the option to participate in appliance recycling programs to turn in and recycle older, inefficient appliances.[267]

The Energy Education program will engage and educate residential customers about energy

[264] R.C. 4905.70.
[265] Direct Testimony of Edward C. Miller ("Miller Testimony") at 4 (Apr. 5, 2023), Companies Ex. 5.
[266] *Id.* at 11.
[267] *Id.* at 12.

efficiency and conservation through Home Energy Reports and School Education.[268] Through the Home Energy Reports, customers will receive monthly, customized reports regarding their energy usage, including an analysis of their usage over time as well as specific tips and recommendations for reducing their energy usage.[269] The reports will also provide customers with information regarding additional opportunities available to them.[270] The School Education component will consist of a classroom-based education program delivered by school educators that will be focused on energy efficiency education and awareness to encourage conservation at home.[271]

The Low-Income Energy Efficiency program is a continuation and expansion of the Companies' existing Community Connections program and will be available to customers up to 200% of the federal poverty level.[272] Through this program, qualifying low-income customers will have the opportunity to receive energy efficiency and weatherization measures, upgrades, and education at no additional cost.[273] Eligible customers will also be able to undergo energy audits designed to promote a comprehensive approach to energy efficiency.[274]

The Demand Response for Residential program will consist of Behavioral and Load Control components.[275] The Behavioral component will be available to eligible AMI customers, who will receive, on a day-ahead-basis, notification messages to motivate them to reduce usage during peak demand days ("peak demand events").[276] Eligible customers will also receive post-event feedback about their usage during the event, including normative comparisons to other

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[268] *Id.* at 14.
[269] *Id.*
[270] *Id.*
[271] *Id.*
[272] *Id.* at 17.
[273] *Id.*
[274] *Id.* at 17-18.
[275] *Id.* at 19.
[276] *Id.* at 20.

customers, and recommendations to reinforce usage reduction behaviors in future events.[277] The Load Control component will be available to all customers with program eligible devices.[278] Customers who elect to join will agree to allow a vendor selected by the Companies to control, cycle, and/or optimize the use of their air conditioner (or potentially other equipment) through a program eligible device.[279] Customers will retain the ability to override control of their devices, without risk of financial penalty.[280] Participants will receive an incentive for enrolling as well as an additional incentive for their ongoing enrollment and participation in the program.[281]

The Energy Solutions for Business program includes three components tailored to commercial and industrial customers: rebates for prescriptive equipment, incentives for custom projects, and energy audits.[282] The rebates will operate in essentially the same manner as the Residential Rebates program, with the major difference being the type of equipment eligible for rebate or discount.[283] The custom project component will offer customers performance-based incentives to retrofit or install specialized equipment, processes, and applications to reduce both energy usage and demand.[284] The energy audit component will provide customers with an incentive for completing a detailed energy management audit focused on the energy use of their business, with the goal of installing more efficient equipment, improving the energy efficiency of the buildings, and providing business customers with energy usage information that will help them to implement ongoing energy management strategies.[285] These programs are predominantly targeted towards small and medium customer and, as such, large non-residential customers will

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[277] *Id.*
[278] *Id.*
[279] *Id.*
[280] *Id.*
[281] *Id.*
[282] *Id.* at 22.
[283] *Id.*
[284] *Id.* at 23.
[285] *Id.*

have the option to opt-out of these programs.[286]

The Companies will contract with separate implementation vendors for each of the programs described above,[287] who will be responsible for directly administering and managing delivery of the program, including, among other responsibilities, designing, marketing, validating eligibility, and conducting outreach to secure partnerships for each respective program.[288]

The Companies are also proposing a new rider, the Energy Efficiency Cost Recovery Rider ("Rider EEC"), to recover the EE/PDR plan's costs.[289] Cost recovery through Rider EEC will be spread out over eight years, with applicable carrying charges, and will be subject to annual regulatory review, audit, and reconciliation.[290]

The proposed EE/PDR programs will enable customers to use electricity more efficiently and save on their electric bills, and support energy efficiency for low-income customers, load control, and energy management for business customers. The EE/PDR programs and Rider EEC are authorized by statute and consistent with state policy, as discussed further below.

a. ***The EE/PDR Plan and Associated Rider EEC Are Exclusively Authorized Under R.C. 4928.143(B)(2)(h) and (i).***

The proposed EE/PDR plan and Rider EEC are authorized under R.C. 4928.143(B)(2)(h) and (i). In relevant part, R.C. 4928.143(B)(2)(h) and (i) authorize a utility to include in its ESP, "without limitation," "provisions regarding the utility's distribution service" and "provisions under which the electric distribution utility may implement…energy efficiency programs," respectively.

The EE/PDR plan, which consists of a variety of programs designed to incentivize customer adoption and awareness of energy efficiency measures, squarely falls within the type of

[286] *Id.* at 8.
[287] *Id.* at 12, 15, 18, 20, 21, 23.
[288] *Id.*
[289] McMillen Testimony at 16, 17.
[290] *Id.* at 16.

"energy efficiency program" contemplated by R.C. 4928.143(B)(2)(i). The programs also directly relate to the Companies' provision of distribution service. In addition to promoting energy efficiency throughout the Companies' service territories, another primary goal of the EE/PDR plan is to encourage customers to reduce their energy usage during peak periods. This is particularly true of the proposed Demand Response for Residential program, which is aimed at reducing customer usage during peak events. Because the reduced usage achieved through the EE/PDR programs will reduce stress on the grid during the most critical times, they will directly improve reliability on the Companies' distribution system.

Further, R.C. 4928.143(B)(2)(i) authorizes a utility to allocate energy efficiency program costs "across all classes of customers of the utility and those of electric distribution utilities in the same holding company system." The Companies' Rider EEC proposal aligns with the language of R.C. 4928.143(B)(2)(i). Rider EEC will recover the costs of the EE/PDR programs, which will be split between residential and non-residential customers based on the estimated costs of the respective programs. Thus, as provided for in R.C. 4928.143(B)(2)(i), Rider EEC allocates energy efficiency program costs across all of the Companies' classes of customers.

For these reasons, the Commission should find that the proposed EE/PDR plan and Rider EEC are authorized under R.C. 4928.143.

b. ***The Proposed EE/PDR Plan is Cost-Beneficial for Customers.***

As operators of the electric distribution system, the Companies are uniquely situated to educate, promote, and provide the proposed energy efficiency programs. The estimated benefits of the EE/PDR plan, which far outweigh its costs, will flow to all customers. The EE/PDR plan is a comprehensive portfolio of programs, covering all customer sectors, including low-income customers.[291] To achieve its overall purpose of supporting customer engagement, education, and participation in energy efficiency throughout the Companies' service territories, the programs are designed to (1) address educational barriers, (2) address cost barriers, and (3) utilize a variety of delivery channels and vendors.[292] The proposed programs will also complement other energy efficiency initiatives, such as the Inflation Reduction Act rebates and tax credits, by increasing customer awareness and facilitating customer access to those opportunities.[293]

In addition to creating opportunities for customers to reduce their overall energy usage and improve reliability, the EE/PDR programs will benefit the environment.[294] Reduced energy usage will reduce carbon emissions, combating climate change and keeping the air we breathe clean.[295] Additionally, the Companies' proposed Appliance Recycling program will encourage environmentally responsible disposal of appliances.[296]

The EE/PDR programs' estimated benefits far outweigh their costs. The Companies conducted three different cost-benefit analyses of the programs, all of which demonstrated that the programs' estimated benefits exceeded their costs.[297] Compared to the average annual total cost of $72.1 million, the EE/PDR plan will result in up to $637.9 million in estimated benefits over the lifetime of the programs' measures.[298]

c. ***The EE/PDR Plan Will Provide Ample Opportunities for Stakeholder Engagement and Program Evaluation for Effectiveness.***

To ensure the EE/PDR programs operate efficiently and achieve their intended goals, the

[291] Miller Testimony at 6.
[292] *Id.* at 6, 7.
[293] *See id.* at 10.
[294] *Id.* at 5.
[295] *Id.*
[296] *Id.* at 13.
[297] The three cost-benefit analyses used by the Companies are (1) the Total Resource Cost Test, (2) the Societal Cost Test, and (3) the Utility Cost Test.
[298] Miller Testimony at 4 (Total benefits calculated under the Total Resource Cost Test).

Companies have proposed opportunities for collaboration with interested stakeholders and program evaluation. To facilitate collaboration, the Companies will meet twice a year with interested stakeholders to discuss implementation of the programs, as well as program performance and progress toward meeting program savings goals.[299] The Companies will also retain an expert third-party evaluation, measurement, and verification contractor, who will conduct annual impact and process evaluations of the proposed programs.[300] Evaluated savings and program results will be filed with the Commission annually, no later than five months following each program year.[301]

In addition, the Companies will also evaluate performance of the EE/PDR plan as a whole prior to the end of the programs' initial four-year term.[302] This evaluation will include discussions with interested stakeholders.[303] Based on this evaluation's results, the Companies may then file an application with the Commission seeking to extend, modify, or terminate the EE/PDR plan.[304] The EE/PDR programs could not extend beyond the initial four-year term without Commission approval.

These numerous opportunities for evaluation and collaborative feedback will allow the proposed EE/PDR programs to operate cost-effectively and will optimize the plan's ability to achieve its intended goals.

d. ***Proposed Rider EEC Includes Protections for Customers.***

In addition to supporting implementation of the proposed EE/PDR programs,[305] the proposed Rider EEC includes customer protections unique to riders. For example, Rider EEC will provide enhanced transparency to customers through annual updates, reconciliations, and rigorous

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[299] *Id.* at. 30.
[300] *Id.* at 31.
[301] *Id.*
[302] *Id.* at 4.
[303] *Id.*
[304] *Id.*
[305] McMillen Testimony at 18.

annual audits that allow for issuing customer refunds, where applicable.[306] These safeguards will confirm that customers are only paying the actual costs of the EE/PDR programs.[307]

Rider EEC will also mitigate bill impacts and promote gradualism in rates.[308] Under the Companies' proposal, cost recovery through Rider EEC will be spread out over a period of eight years, with applicable carrying charges.[309] In comparing recovery over a four-year versus eight-year period, the Companies determined that bill impacts would be five to six times higher if costs were not spread out as proposed.[310] Not only will recovery over eight years substantially reduce impacts to customer bills, but it will also better align cost recovery with the measured lives for the EE/PDR programs, most of which are eight years.[311] In addition, recovery via Rider EEC will be subject to annual caps, based on each program's annual approved budgets.[312] This limitation on recovery will further mitigate bill impacts and ensure gradualism in rates.

Further, Rider EEC presents another opportunity for the Companies to lessen bill impacts. The Companies propose to bid the EE/PDR programs' energy efficiency resources into the PJM forward capacity market.[313] Under the Companies' proposal, eighty percent of the resulting net revenues will be used to offset the EE/PDR costs, where available.[314] In addition to offsetting Rider EEC rates, bidding these resources into the PJM forward capacity market could reduce overall PJM capacity prices, reducing electric supply costs for all customers.[315] Because the proposed EE/PDR plan and Rider EEC are authorized under R.C. 4928.143 and include customer

[306] *Id.*
[307] *Id.* at 16.
[308] *Id.*
[309] *Id.* at 16.
[310] *Id.* at 18.
[311] *Id.* at 17.
[312] Tr. Vol. IV at 871.
[313] Miller Testimony at 30.
[314] *Id.*
[315] *Id.*

protections and other substantial benefits to customers, the Commission should approve these components of ESP V as proposed.

E. The Companies' Proposed Stewardship Commitments Will Benefit the Customers and Communities the Companies Serve.

The Companies' proposed ESP V promotes stewardship in the Companies' service territories through commitments of $52 million, without recovery from customers, to benefit customers and local communities by supporting low-income customers and enhancing the customer experience.[316]

To support low-income customers, the Companies are committing $36 million over ESP V's 8-year term, which includes $20 million for bill payment assistance programs (i.e., "Fuel Funds") and $16 million for a new bill discount program for eligible low-income senior citizen customers.[317] The Companies presently offer two Fuel Fund programs. One Fuel Fund program provides $1 million annually to support customers in all three service territories. ESP V proposes to continue this Fuel Fund program for $1 million each year of ESP V under the same terms, conditions, and administration. The second Fuel Fund program currently provides $1.39 million annually to assist CEI customers only. ESP V proposes to terminate this Fuel Fund program and replace it with a new Fuel Fund program that provides $1.5 million annually to assist customers of all three Companies. The Companies intend to use a competitive process to select the administrator for this replacement program. In total, the Companies will make available $2.5 million per year of ESP V for these Fuel Fund programs, including incremental administrative costs, to assist customers in paying their electric bills.[318]

ESP V also proposes a new low-income senior citizen discount program through which

[316] Direct Testimony of Santino L. Fanelli ("Fanelli Testimony") at 8 (Apr. 5, 2023), Companies Ex. 2.
[317] *Id.*
[318] *Id.*

qualifying residential customers will receive a discount on their monthly electric bill. Qualifying customers must be at least 65 years old, have made a payment within the past 30 days, and not be participating in the PIPP program. The program will be designed to target $2 million per year for ESP V's eight-year term. The discount will initially be set at approximately $5 per month, based on current estimates.[319] For both the Fuel Fund and low-income senior citizen discount programs, any unused amounts in a given year will increase the amount available in the next year, such that the total amount over the eight-year term of ESP V is at least $36 million.[320]

To enhance the customer experience through ESP V, the Companies believe there are opportunities to positively impact customers by facilitating their conversion to electric vehicles. During ESP V's eight-year term, the Companies propose to spend $16 million to support this goal without cost recovery from customers.[321] The Companies plan to support education efforts and provide financial assistance to help customers in their decision to adopt electric vehicles. These initiatives are designed to help customers have good experiences investing in electric vehicles, help them understand how to maximize the benefits of their investment, and support widespread adoption of the technology.[322] To the extent the Companies are not able to spend at least $16 million on support for electric vehicles during ESP V's term, any unused amounts would be spent on the low-income programs discussed above, to ensure that at least $52 million is being spent on

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[319] *Id*. at 9.
[320] *Id*.
[321] The Companies' Application proposed that this $16 million commitment include at least $12 million for electric vehicle-related initiatives and up to $4 million for investment in energy storage as a distribution asset. The Commission had directed the Companies to work with Commission Staff on preparing an application for submission to the United States Department of Energy (DOE) for consideration in receiving funding under the Grid Innovation Program of the federal Infrastructure Investment and Jobs Act. If the Companies' application was not accepted, or if the application was accepted but the Companies' responsible share of the investment was less than $4 million, then the remaining amount of this commitment up to $4 million would be used to increase the support for electric vehicles to up to $16 million over the term of ESP V. Fanelli Testimony at 10. Ultimately, DOE did not accept the application containing the Companies' application for the Storage as a Distribution Asset project, so the $4 million will increase the support for electric vehicles over ESP V's term.
[322] Fanelli Testimony at 9.

these initiatives during ESP V.[323]

These initiatives are intended to protect the Companies' most at-risk customers and facilitate the transition to newer technologies, without customers having to bear any of the costs.[324] These contributions provide benefits to customers that are not available under an MRO, and support the approval of ESP V.

F. ESP V Provides for Administrative Improvements.

1. The Companies' Proposed Supplier Tariff Changes Will Provide Clarity for Customers and Suppliers.

The Companies' Supplier Tariffs govern the interactions between the Companies and CRES providers and define their rights and obligations.[325] The Companies propose eight categories of changes to their supplier tariffs: (1) edits to incorporate revised allocation of unaccounted for energy ("UFE"), (2) updates to supplier registration requirements, (3) updates related to deployment of AMI, (4) changes to credit requirements to add surety bonds and remove generic reference to "other mutually agreeable security," (5) clarification of events of supplier breach and the process to be followed, (6) additional language providing supplier consent for settlement or resettlement, (7) updates to modernize communication processes, and (8) consistency, formatting, and grammatical edits.[326] These changes will help provide clarity to customers and suppliers, make updates to reflect current practices and circumstances, and provide a simpler, quicker, and more efficient process for settlement or resettlement, especially in the event of correcting billing errors.[327]

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323 *Id*. at 10.
324 *Id*. at 8.
325 Stein Testimony at 11.
326 *Id*. at 11-12; Attachment EBS-1.
327 *Id*. at 12; Tr. Vol. VII at 1404.

2. The Companies' Proposal to Eliminate Numerous Inactive Riders Will Improve Usability for Customers.

The Companies currently have dozens of riders and tariff provisions. In ESP V, the Companies seek to streamline and clarify their tariffs, including significantly reducing the number of riders and tariff provisions, to heighten customer understanding of the tariffs.[328] While the Companies propose three new riders in ESP V, they seek to eliminate 18 tariff provisions, resulting in a significant reduction, which should improve the usability of the tariffs for customers.[329] These tariff eliminations will also mitigate potential customer concerns of future charges. For example, these eliminated provisions include the Government Directives Recovery Rider ("Rider GDR") and the Incremental Tax Provision, which are currently authorized for the Companies to seek recovery of incremental costs of new governmental directives or taxes.[330] These eliminations assure that the Companies will not seek to charge customers under these riders.

Many of these inactive tariff provisions currently have outstanding regulatory asset or liability balances. As part of the tariff elimination process, the Companies propose to aggregate the balances, which represented a net liability of approximately $14.6 million as of December 31, 2022, and conduct a final reconciliation to return the liability to customers through Rider VMC.[331]

3. The Companies' Proposal to Include UFE in Rider NMB Rates Will Lower Risks for Customers.

The Companies propose to change the allocation and assignment of UFE in order to lower risks for customers and simplify the settlement process.[332] UFE is the difference between the wholesale load for the entire zone and the aggregate load of all CRES providers and the Companies

[328] Fanelli Testimony at 7.
[329] *Id*. at Attachment SLF-1.
[330] *Id*. at 7.
[331] McMillen Testimony at 14-15.
[332] Stein Testimony at 8.

at the generation level.[333] Several factors can contribute to UFE, including estimated versus actual customer hourly load data, estimated versus actual losses, unmetered usage, and other errors/estimates in meter data.[334] Currently, the Companies allocate UFE to customers' load, and subsequently to responsible load serving entities ("LSEs"), based on a load-ratio share on an hourly basis.[335] For ESP V, the Companies are proposing to stop allocating UFE to all LSEs, and, instead, the Companies would retain all UFE and include the costs as a charge or credit in Rider NMB.[336]

There are several benefits of accounting for UFE in this way. The Companies' proposal would simplify the allocation of UFE, improving transparency for customers, the Commission, and others through the establishment of a direct and identifiable cost.[337] Additionally, including UFE in Rider NMB will make it easier for the Companies to remediate retail billing errors, as such errors will no longer be spread across all suppliers.[338] In turn, this will lead to more efficient and quicker market resettlements.[339] Allocating UFE as proposed will also better align the Companies' approach with PJM billing for Meter Error Corrections, the PJM line item where UFE is reconciled in the PJM billing process, which is already included as a non-market-based service in Rider NMB.[340] In addition, the Companies' proposal will lower risks for customers. Currently, suppliers are responsible for an allocated share of UFE so they may include risk premiums for UFE in their pricing.[341] Under the Companies' proposal, suppliers would no longer be responsible for UFE and, therefore, would no longer need to account for UFE in the SSO auction process or

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333 *Id.*
334 *Id.*
335 *Id.*
336 Stein Testimony at 8-9.
337 *Id.*
338 Stein Testimony at 9.
339 *Id.*
340 *Id.*
341 *Id.*

their competitive retail pricing,[342] which should reduce their risk premiums and lead to lower costs for customers.[343] Further, to the extent that the Companies receive a credit on their monthly PJM bill for UFE, all customers will benefit from having that credit passed through via a reduction in Rider NMB rates.[344]

The Companies' proposed allocation method has been used successfully by the Companies' affiliates in other jurisdictions.[345] Further, because suppliers and customers are already responsible for UFE today via the Companies' current allocation method, the proposed change will not result in any additional costs for customers.[346] In fact, the Companies' proposal has the potential to reduce customer rates. For these reasons, the Commission should approve the Companies' proposal to include UFE in Rider NMB, without modification.

G. As a Package, ESP V is More Favorable in the Aggregate than an MRO.

The Commission should approve an ESP if it finds that the "plan so approved, including its pricing and all other terms and conditions, … is more favorable in the aggregate as compared to the expected results [under an MRO]."[347] When evaluating a proposed ESP, the Commission considers both quantitative and qualitative benefits.[348] Because ESP V provides significant quantitative and qualitative benefits that would not be realized under an MRO, the Commission should find that ESP V, as a package, is more favorable in the aggregate than an MRO.

While an MRO is limited to the provision of SSO service, ESP V is a comprehensive

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[342] *Id.*
[343] *Id.*
[344] *Id.*
[345] *Id.*
[346] *Id.*
[347] R.C. 4928.143(C)(1).
[348] *See, e.g., In the matter of the application of the Dayton Power and Light Company for approval of its electric security plan*, Case No. 12-426-EL-SSO, Opinion and Order, 50 (Sept. 4, 2013) ("By statute, our analysis does not end with the quantitative analysis, however, as we must consider the qualitative benefits of the….ESP, in order to view the proposed plan in the aggregate.").

package that supports multiple aspects of electric service.[349] Certainly, the proposed ESP includes components that would not differ if they were offered via an MRO. For example, there is no difference in SSO pricing resulting from ESP V's proposed CBP because, in the case of an MRO, the Companies would also use a CBP.[350] Similarly, the Commission has concluded that there is no quantitative net cost or benefit of distribution riders, because costs of distribution investments can also be recovered through base distribution rates.[351]

However, ESP V creates qualitative and quantitative benefits for customers that would not be attainable via an MRO. These benefits are associated with (1) the proposed EE/PDR plan, (2) the proposed stewardship initiatives, and (3) the proposed continuation and establishment of several distribution-related riders.[352]

First, the Companies' proposed EE/PDR programs are designed to help customers use electricity more efficiently and save on their electric bills.[353] These programs are estimated to result in net benefits to customers of between $139 million and $524 million, including avoided energy, capacity, transmission, and distribution costs, as described by Companies' Witness Miller.[354] These programs, and their benefits to customers, would not be attainable under an MRO. The EE/PDR programs are exclusively authorized by R.C. 4928.143(B)(2)(h) and (i). Because R.C. 4928.143 solely provides the provisions that may be included in an ESP, energy efficiency programs such as those proposed by the Companies are unique to ESPs. Thus, without ESP authorization, the Companies would have no alternative statutory avenue to seek Commission approval to implement the proposed EE/PDR programs.

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[349] Fanelli Testimony at 12.
[350] *Id.*
[351] *See, e.g.,* ESP IV, Opinion and Order, 119 (March 31, 2016).
[352] Fanelli Testimony at 12-13.
[353] *Id.* at 12.
[354] *Id.*

Second, as part of ESP V the Companies commit to spend $52 million on programs designed to support low-income customers and enhance the customer experience, without any cost recovery from customers.[355] These additional programs, at no cost to customers, are only being offered as part of the ESP V and would not be offered as part of an MRO.

Third, ESP V seeks to continue or establish rider mechanisms to recover distribution-related costs, namely Riders DCR, AMI, SCR, and VMC.[356] While there is no quantifiable net cost or benefit to these riders, they will provide qualitative benefits to customers. Notably, the proposed distribution riders will benefit customers by supporting investment in and maintenance of the distribution system through more efficient and cost-effective means than may otherwise occur.[357] These benefits specifically include (1) revenue caps to limit bill impacts on customers, (2) administrative efficiencies, and (3) timely audits and reconciliations to ensure that customers are only paying for actual costs.[358] Riders DCR, AMI, SCR, and VMC will further enable the Companies to adopt a proactive approach towards addressing distribution infrastructure, a benefit that the Commission has previously recognized for similar riders.[359]

Based on these substantial benefits, ESP V is more favorable in the aggregate than an MRO. Accordingly, the Commission should approve ESP V, without modification.

H. ESP V Advances State Policies in R.C. 4928.02

In addition to being more favorable in the aggregate than an MRO, the proposed ESP V

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[355] *Id.*
[356] *Id.* at 12-13.
[357] *Id.* at 13.
[358] *Id.*
[359] *In the matter of the application of Duke Energy Ohio, Inc. for authority to establish a standard service offer pursuant to R.C. 4928.143 in the form of an electric security plan, account modifications, and tariffs for generation service*, Case No. 17-1263-EL-SSO, Opinion and Order, ¶290 (Dec. 19, 2018) ("First, we acknowledge the benefits of the distribution riders such as Riders DCI, DSR, and ESSR. While the costs of the riders are equal under an MRO, the benefit of the riders is a proactive approach to addressing distribution infrastructure. This focus on reliability is an asset to ratepayers, and thus a benefit of the ESP.").

advances several state policies declared in R.C. 4928.02 and R.C. 4905.70.

The Companies' proposed CBP and associated SSO riders advance the state policies outlined in R.C. 4928.02(A), (B), and (C).[360] Through the use of a competitive auction format, the proposed CBP helps (1) ensure the availability of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service[361] and (2) produce unbundled and comparable retail electric service for customers.[362] In addition, the CBP design will support the diversity of electricity and suppliers by encouraging supplier participation.[363]

As proposed, Riders DCR, AMI, SCR, and VMC promote the policies detailed in R.C. 4928.02(A) and (E).[364] By enabling proactive investments for the benefit of the Companies' distribution system, these riders ensure the availability of adequate, safe, reliable, and efficient retail electric service.[365] The numerous consumer safeguards built into the design of these riders, including the proposed revenue caps, reconciliations, and annual audit requirements, also contribute to advancing this policy[366] and encourage cost-effective and efficient access to information regarding the operation of the Companies' distribution system.[367]

In addition to those identified above, Rider AMI also independently advances several additional state policies, including R.C. 4928.02(D) and (O).[368] First, by supporting the Companies' grid modernization initiatives, Rider AMI encourages access for demand-side electric service through time-differentiated pricing, smart grid programs, and implementation of advanced

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[360] Fanelli Testimony at 13.
[361] *See* R.C. 4928.02(A).
[362] *See* R.C. 4928.02(B).
[363] *See* R.C. 4928.02(C).
[364] Fanelli Testimony at 13-14.
[365] *See* R.C. 4928.02(A).
[366] *See id.*
[367] *See* R.C. 4928.02(E).
[368] Fanelli Testimony at 14.

metering infrastructure.[369] Second, Rider AMI encourages cost-effective, timely, and efficient access to customer usage data to promote customer choice and grid modernization, including through support for the implementation and adoption of advanced metering technologies.[370]

The proposed changes to Rider NMB and continuation of Rider ELR will promote the policies identified in R.C. 4928.02(A) and (N).[371] These proposed riders will help ensure the availability of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service by (1) providing customers an opportunity to better manage their Rider NMB costs and ensuring customers only pay for actual costs incurred, and (2) continuing to incentivize demand response at a lower cost to other customers, respectively.[372] Rider NMB and Rider ELR will also help facilitate the state's effectiveness in the global economy by supporting economic development and job growth throughout the state.[373]

The proposed EE/PDR plan and associated rider will also advance state policies, including those detailed in R.C. 4928.02 and R.C. 4905.70.[374] More specifically, the proposed plan advances the policies set forth in R.C. 4928.02(A), (J), (L), (M), and (N).[375] First, the EE/PDR programs will ensure the availability of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service by helping customers reduce their bills through the use of energy efficiency measures and reduced usage during peak times.[376] Second, the programs are designed to encourage adoption of cost-effective energy efficiency and demand response technologies that will reduce consumption and encourage the appropriate disposal of appliances.[377] Third, the

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[369] *See* R.C. 4928.02(D).
[370] *See* R.C. 4928.02(O).
[371] Fanelli Testimony at 14.
[372] *See* R.C. 4928.02(A).
[373] *See* R.C. 4928.02(N).
[374] Fanelli Testimony at 14; Miller Testimony at 8-9.
[375] *Id*.
[376] *See* R.C. 4928.02(A).
[377] *See* R.C. 4928.02(J).

EE/PDR plan includes low-income programs which will provide savings and education to low-income customers, protecting at-risk populations.[378] Fourth, the EE/PDR plan includes educational programs targeted at small business owners, helping to educate those customers regarding the use of energy efficiency in their businesses.[379] Fifth, the EE/PDR programs will facilitate the state's effectiveness in the global economy by improving the energy efficiency of businesses, making them more competitive, and adding additional benefits for new businesses considering local communities within the Companies' service territories.[380] The proposed EE/PDR programs also further the state policy outlined in R.C. 4905.70, which encourages the Commission to initiate programs that will promote and encourage conservation of energy, reduce the growth rate of energy consumption, and promote economic efficiencies.[381]

Finally, the Companies' proposed stewardship commitments to support low-income customers and electric vehicles will also advance several state policies. More specifically, the proposed low-income programs will promote the state policies outlined in R.C. 4928.02(L) and (A) by helping protect at-risk populations and ensuring the availability of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service. The proposed EV-related initiatives will advance the state policy of R.C. 4928.02(N), helping to facilitate the state's effectiveness in the global economy by enhancing the customer experience in facilitating their conversion to electric vehicles.

Thus, ESP V provide benefits that would not be available under an MRO, and also advances state policies, for the benefit of customers, the Companies, and other stakeholders.

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[378] *See* R.C. 4928.02(L).
[379] *See* R.C. 4928.02(M).
[380] *See* R.C. 4928.02(N).
[381] Miller Testimony at 9.

IV. CONCLUSION

ESP V's terms and conditions are modeled on programs the Commission has already approved for Ohio's EDUs because they were in the public interest. ESP V includes no unprecedented terms and conditions, just traditional programs recognized as good for customers. The evidentiary record demonstrates that ESP V is more favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO. For the reasons set forth above, the Commission should approve ESP V without modification.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio ("PUCO") on this 19th day of January 2024. The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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