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

INITIAL BRIEF OF THE KROGER CO.

Angela Paul Whitfield (0068774)
(Counsel of Record)
Carpenter Lipps LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4100
paul@carpenterlipps.com
(willing to accept service by email)

Counsel for The Kroger Co.

TABLE OF CONTENTS

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

INITIAL BRIEF
OF
THE KROGER CO.

I. INTRODUCTION

On April 5, 2023, the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, "FirstEnergy" or "the Companies") filed an application ("Application") for authority to establish a standard service offer ("SSO"), in the form of it fifth electric security plan ("ESP V"), pursuant to R.C. 4928.143, which is proposed to have an eight-year term, from June 1, 2024 through May 31, 2032.[1] The Public Utilities Commission of Ohio ("Commission") granted The Kroger Co.'s ("Kroger") motion to intervene on October 11, 2023, and Kroger participated in the evidentiary hearing on the proposed Application, which commenced on November 7, 2023, and ended on December 6, 2023. In accordance with the Attorney Examiners' directive, Kroger hereby submits its initial brief on FirstEnergy's proposed ESP V.

Over that proposed eight-year term, FirstEnergy seeks to collect from customers over $1.6 billion of additional costs through ESP V, which are in addition to the billions that it is

---

[1] Companies Ex. 1 at 1 (FirstEnergy Application (Application)) (April 5, 2023).

currently collecting from customers through the various riders and charges.[2] Not only are the current costs collected from customers through riders unreasonable and excessive, such additional costs are also unlawful, unjust, and unreasonable. As such, FirstEnergy's proposed ESP V should be rejected by the Commission.

Moreover, FirstEnergy's proposed ESP V fails to satisfy the statutory requirement that the ESP be more favorable in the aggregate as compared to the expected results of a "market rate offer" ("MRO").[3] Specifically, R.C. 4928.141(A) requires electric distribution utilities to provide consumers with a "standard service offer of all competitive retail electric services necessary to maintain essential electric service to customers, including a firm supply of electric generation service." A utility may provide the offer in one of two ways: through a MRO under R.C. 4928.142, or through an ESP under R.C. 4928.143. The ESP statute permits numerous rate components, but says very little about rate calculation.[4] The only substantive requirement is that the ESP must be more favorable in the aggregate as compared to the expected results of an MRO.[5] That substantive requirement is not met here. On this basis alone, FirstEnergy's ESP V Application should be rejected.

In sum, as explained more fully below, Kroger's primary recommendations to the Commission are as follows:

- The Commission should reject FirstEnergy's proposal to continue the Delivery Capital Recovery Rider ("Rider DCR") as unlawful, unjust, and

---

[2] *See* Company Ex. 2 at 11, Attachment SFL-1 at 10 (Direct Testimony of Santino Fanelli (Fanelli Direct)) (April 5, 2023); Company Ex. 3 at 20 (Direct Testimony of Brandon McMillen (McMillen Direct)) (April 5, 2023); Staff Ex. 2 at 4, 17 (Direct Testimony of Jonathan Borer (Borer Direct)) (October 30, 2023); Company Ex. 5 at Attachment ECM-2, Workpaper 2 (Direct Testimony of Edward Miller (Miller Direct)) (April 5, 2023).

[3] R.C. 4928.143(C)(1).

[4] *See* R.C. 4928.143(B)(2).

[5] R.C. 4928.143(C)(1).

unreasonable. Contrary to Commission precedent and policy, the proposed Rider DCR constitutes single-issue ratemaking that does not address a compelling public interest or meet the generally accepted criteria for this type of regulatory ratemaking treatment. FirstEnergy's Rider DCR proposal would provide expanded cost recovery under this Rider without consideration of whether FirstEnergy would experience offsetting decreases in expenses or increases in revenues. This would reduce the inherent incentive for FirstEnergy to reduce costs beyond what is necessary to be deemed prudent in a rider reconciliation proceeding.

- The Commission should likewise reject FirstEnergy's proposal to establish a new Vegetation Management Cost Recovery Rider ("Rider VMC") as unlawful, unjust, and unreasonable. Similar to the Rider DCR proposal, the Rider VMC proposal amounts to single-issue ratemaking and is unlawful. FirstEnergy's reasonable and prudent vegetation management costs should be recovered through base rates as established through the upcoming May, 2024 base rate case FirstEnergy is required to file.[6]

- The Commission should reject FirstEnergy's proposal to establish a new Storm Cost Recovery Rider ("Rider SCR"). Similar to the Rider DCR and Rider VMC proposals, Rider SCR amounts to single-issue ratemaking and is unlawful. Like Rider VMC, FirstEnergy's reasonable and prudent storm damages costs should be recovered through base rates.

- The Commission should reject FirstEnergy's proposed Energy Efficiency and Peak Demand Reduction ("EE/PDR") Plan and associated Energy Efficiency Cost Recovery Rider ("Rider EEC"), or alternatively, reject all programs that are not related to low-income residential programs consistent with Commission precedent and policy.

- Consistent with Commission precedent, the Commission should reduce the duration of ESP V from eight years to four years.

---

[6] *See In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case Nos. 08-917-EL-SSO, et al., Opinion and Order at 32 (March 18, 2009) (hereinafter, AEP ESP I Order), noting that "while SB 221 may have allowed Companies to include [single-issue ratemaking] previsions in its ESP, the intent could not have been to provide a 'blank check' to electric utilities. In deciding whether to approve an ESP that contains provisions for distribution infrastructure and modernization incentives, Section 4928.143(B)(2)(h), Revised Code, specifically requires the Commission to examine the reliability of the electric utility's distribution system and ensure that customers' and the electric utilities' expectations are aligned, and to ensure that the electric utility is emphasizing and dedicating sufficient resources to the reliability of its distribution system."

Kroger respectfully requests that the Commission adopt the foregoing modifications and recommendations when considering FirstEnergy's ESP V Application.[7]

II. ARGUMENT

A. <u>FirstEnergy has not demonstrated that ESP V, as filed, is more favorable in the aggregate than an MRO, as required under R.C. 4928.143(C)(1).</u>

R.C. 4928.143(C)(1) sets forth the following standard of review, which applies to ESP cases:

> The burden of proof in the proceeding shall be on the electric distribution utility. Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.

Pursuant to this standard, before approving an ESP, the Commission must determine that the ESP is more favorable in the aggregate as compared to the expected results arising from an MRO ("the MRO test").[8]

In this proceeding, FirstEnergy has the burden of demonstrating that its proposed ESP V is more favorable in the aggregate than an MRO.[9] In support of ESP V, FirstEnergy witness Fanelli testified that the "ESP V is *expected* to be more favorable in the aggregate than an MRO."[10] As part of his conclusion, FirstEnergy witness Fanelli contends that the cost of

---

[7] The fact that Kroger has not commented in this Initial Brief on all aspects of FirstEnergy's Application should not signify support of those aspects. Rather, Kroger reserves the right to address any and all aspects in its Reply Brief.

[8] R.C. 4928.143(C)(1). *See also 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 at 48 (September 4, 2013).

[9] *Id.*

[10] Company Ex. 2 at 13 (Fanelli Direct) (emphasis added).

standard service offer (SSO) service under the proposed ESP is equal to the cost of SSO service that would be expected under an MRO.[11] This testimony fails to take into account the costs of key components of FirstEnergy's proposed ESP, including Riders DCR, VMC, and SCR. As explained below, these riders would result in significant above-market charges being imposed on customers without the protections offered by a base rate case. It also does not seem that FirstEnergy included these costs in the MRO test due to the mistaken assumption that, because "the costs recovered in these riders would be recoverable outside of an ESP, there is no quantifiable net cost or benefit."[12] This ignores the time value of money, since riders allow the Companies to begin immediately recovering asset investments and earning a return on those assets even if said assets are later disallowed after being deemed not used or useful.[13] This is in sharp contrast to base rate cases where utilities only have an opportunity to earn the rate of return that is established in that rate case on a total basis.[14] Thus, quantitatively, the cost of service under the proposed ESP V will actually be greater than it would be under an MRO.

Additionally, while FirstEnergy witness Fanelli seems to be claiming that ESP V provides an opportunity for a broad plan that addresses multiple aspects of electric service to customers, as compared to an MRO, as a qualitative benefit (something that remains unclear since the word qualitative does not appear anywhere in his testimony), this broad and vague declaration is not supported by additional analyses, and seems to "ignore the fact that under its proposed ESP V, FirstEnergy's consumers will be required to pay for energy efficiency

---

[11] Company Ex. 2 at 12 (Fanelli Direct).

[12] Company Ex. 2 at 13 (Fanelli Direct).

[13] Tr. Vol. XIV at 2554 (Healey Cross-Examination).

[14] Tr. Vol. XIV at 2556 (Healey Cross-Examination).

programs, demand response programs and the multiple riders, in-between base rate cases."[15] Since FirstEnergy fails to provide an analysis of the qualitative benefits of the proposed ESP V, it is hard to say exactly what those benefits are. However, the fact that FirstEnergy ignored the costs of its above-market riders in its analysis for the MRO test is both telling and glaring.

In short, as noted by OCC witness Meyer, "if all factors including rate impacts are considered, the ESP V vs. MRO test fails, contrary to the position of FirstEnergy."[16] Therefore, FirstEnergy's proposed ESP V should be rejected because it fails to pass the statutory MRO test.

B. The Commission should reject FirstEnergy's proposals for Rider DCR, Rider VMC, and Rider SCR as unreasonable and unlawful.

In the event the Commission is considering approving some version of FirstEnergy's ESP V proposal, then Kroger submits that the Commission should incorporate its recommendations set forth herein.

Specifically, the proposed above-market Riders DCR, VMC, and SCR should be rejected as unreasonable and unlawful. As will be further explained below, all three, as proposed, will recover excessive amounts from customers over the proposed eight-year ESP V term presumably to provide increased grid reliability. However, FirstEnergy has failed to adequately demonstrate or reasonably justify its proposed expansion of Rider DCR and/or its proposed establishment of Riders VMC and SCR. Moreover, the costs that FirstEnergy seeks to recover through these riders can all be recovered through base distribution rates,[17] and approving these riders as part of

---

[15] OCC Ex. 1 at 42 (Meyer Direct).

[16] OCC Ex. 1 at 42 (Meyer Direct).

[17] Company Ex. 3 at 20, 22 (McMillen Direct); Tr. Vol. II at 391, 443, 445 (McMillen Cross-Examination); Tr. Vol. VI at 1279 (Lawless Cross-Examination). *See also* Kroger Ex. at 4 (Direct Testimony of Justin Bieber (Bieber Direct)) (October 23, 2023); OCC Ex. 1 (Direct Testimony of Greg R. Meyer (Meyer Direct)) (October 23, 2023); OMAEG Ex. 1 at 13 (Direct Testimony of John A. Seryak (Seryak Direct)) (October 23, 2023); Staff Ex. 10 (Direct Testimony of Christopher Healey (Healey Direct)) (October 30, 2023).

ESP V "constitutes single-issue ratemaking that does not address a compelling public interest or meet the generally accepted criteria for this type of regulatory ratemaking treatment."[18] Such single-issue ratemaking is contrary to long-standing Commission precedent and policy.[19]

1. The Commission should reject FirstEnergy's proposal to continue Rider DCR because the proposal is unreasonable and unlawful.

As proposed, not only does Rider DCR allow FirstEnergy to earn a return of and on plant-in-service (PIS) associated with distribution, transmission, and general and intangible plant, it also allows FirstEnergy to recover the property taxes, Commercial Activity Tax, and income taxes associated with capital additions.[20] Notably, the incremental investments in distribution plant that FirstEnergy proposes to recover through Rider DCR can and should be recovered through base rates, and "the costs in Rider DCR would be recoverable even if the rider was not effective."[21]

And yet, even though FirstEnergy is required to file a new base rate case in May 2024, which will allow the Commission to conduct a holistic review of "the Companies' expense, revenues, rate of return, and potentially all those factors and others" to better determine "the level of DCR that it believes is appropriate,"[22] FirstEnergy seeks to extend Rider DCR for another eight years with significantly increased recovery caps. According to FirstEnergy witness McMillen, the Companies already recover $390 million from customers each year through Rider

---

[18] Kroger Ex. at 4 (Bieber Direct).

[19] AEP ESP I Order at 32.

[20] Company Ex. 3 at 3 (McMillen Direct); Company Ex. 2 at t 5 ((Fanelli Direct); Tr. Vol. I at 176 (Fanelli Cross-Examination); Tr. Vol. II at 391 (McMillen Cross-Examination).

[21] Company Ex. 3 at 5, 8 (McMillen Direct). *See also* Tr. Vol. II at 391 (McMillen Cross-Examination); OCC Ex. 1 at 13, 19–20 (Meyer Direct); OMAEG Ex. 1 at 13 (Seryak Direct).

[22] Tr. Vol. XIV at 2613 (Healey Cross-Examination). *See also* OMAEG Ex. 1 at 14 (Seryak Direct); 13, 19–20 (Meyer Direct).

DCR,[23] and under ESP V, FirstEnergy seeks to increase that revenue cap by an additional $15–$21 million every year for the eight-year term of the proposed ESP V.[24] While FirstEnergy attempts to justify these increases by directly tying the amount of the increase to whether the FirstEnergy utilities meet their System Average Interruption Frequency Index ("SAIFI") and Customer Average Interruption Duration Index ("CAIDI") reliability performance metrics in a given year,[25] even if all three utilities *failed* to meet the Commission's approved reliability performance standards, FirstEnergy proposes that it still be allowed to increase its annual Rider DCR revenue cap by an additional $15 million annually.[26] This would translate into FirstEnergy being able to collect at least $510 million from customers, but possibly $516 million, in the eighth year of ESP V.[27] Guaranteeing a revenue cap increase even if reliability fails to improve does not incentivize FirstEnergy to actually improve its system reliability to benefit customers.

As proposed, FirstEnergy's Application seeks authorization to collect a total of $3.666–$3.876 billion over the eight-year term of ESP V[28] (as a point of comparison, from 2012 to 2022, FirstEnergy "only" collected about $2.841 billion from customers through Rider DCR).[29] This proposed expansion to the amount of costs that can be recovered from customers does not consider whether the Companies would experience offsetting decreases in expenses or increases

---

[23] Company Ex. 3 at 4 (McMillen Direct).

[24] Company Ex. 2 at 11 Fanelli Direct); Company Ex. 3 at McMillen Direct); Staff Ex. 8 at 3 (Direct Testimony of Devin Mackey (Mackey Direct)) (October 30, 2023); Tr. Vol. I at 73 (Fanelli Cross-Examination); Tr. Vol. II at 392 (McMillen Cross-Examination); Tr. Vol. XIV at 2442 (Mackey Cross-Examination); Tr. Vol. XIV at 2564 (Healey Cross-Examination).

[25] Tr. Vol. I at 73 (Fanelli Cross-Examination); Tr. Vol. II at 392 (McMillen Cross-Examination); Company Ex. 3 at 5 (McMillen Direct).

[26] Tr. Vol. II at 393 (McMillen Cross-Examination).

[27] Tr. Vol. II at 393 (McMillen Cross-Examination).

[28] *See* Staff Ex. 8 at 5 (Mackey Direct).

[29] OMAEG Ex. 4 at Attachment 1 (FirstEnergy Response to RESA Set 02-INT-003); Tr. Vol. II at 396 (McMillen Cross-Examination).

in revenues during those years, and FirstEnergy failed to adequately demonstrate or reasonably justify its proposed expansion of the rider. As explained by OCC witness Meyer, "the Commission [should] perform an extensive review of the necessity for this special infrastructure mechanism and determine if Rider DCR should continue for the entire ESP V planning horizon. A cost benefit analysis should be required of FirstEnergy to continue Rider DCR."[30]

Neither FirstEnergy's Application nor its supporting testimonies offered sufficient evidence that demonstrated that increased distribution system investments and/or expenditures are in fact necessary or prudent, or even reasonable. In actuality, the testimony provided seems to indicate the exact opposite. According to FirstEnergy witness Richardson, the Companies "have had a strong history of meeting, and in many cases exceeding, their reliability performance standards."[31] In fact, since 2010, FirstEnergy has "never failed to meet [reliability] performance standards for two consecutive years."[32] While FirstEnergy is entitled to recover *prudently incurred* costs related to distribution system investments, the Companies should *not* be allowed to rely on ever-expanding cost recovery mechanisms to recover those investments. Such costs should primarily be considered in the context of the Companies' overall distribution revenues and expenses in a distribution rate case.[33] Allowing FirstEnergy to continue recovering millions of dollars every year through Rider DCR reduces the inherent incentive for the Companies to

---

[30] OCC Ex. 1 at 20 (Meyer Direct).

[31] Company Ex. 9 at 2 (Direct Testimony of Amanda Richardson (Richardson Direct)) (April 5, 2023). *See also* Tr. Vol. I at 178 (Fanelli Cross-Examination); Tr. Vol. VII at 1378–79 (Richardson Cross-Examination); Staff Ex. 5 at 4 (Direct Testimony of Jacob Nicodemus (Nicodemus Direct)) (October 30, 2023).

[32] Company Ex. 9 at 8 (Richardson Direct). *See also* Tr. Vol. VII at 1379 (Richardson Cross-Examination); Staff Ex. 5 at 4 (Nicodemus Direct).

[33] Kroger Ex. 1 at 4 (Bieber Direct); OCC Ex. 1 at 13, 19–20 (Meyer Direct); OMAEG Ex. 1 at 14 (Seryak Direct). *See also* Staff Ex. 10 at 10 (Healey Direct), noting that a base rates case "should provide insight into whether FirstEnergy needs Rider DCR, and it will allow for a more informed decision regarding the appropriate cap on Rider DCR charges if the Commission determines that Rider *DCR* should continue").

reduce costs beyond what is necessary to be deemed prudent in a rider proceeding.[34] Therefore, the Rider DCR proposal should be rejected.

Alternatively, if the Commission approves Rider DCR in the proposed ESP V, it should modify FirstEnergy's proposal in accordance with Commission Staff's recommendations. These recommendations include (1) removing plant outside of FERC accounts 360-374 from the Rider DCR calculation, (2) only approving Rider DCR until new base rates go into effect, and (3) removing projected PIS from the Rider DCR calculation, and they will significantly decrease costs to customers under ESP V.[35] By removing plant outside of FERC accounts 360-374 from the Rider DCR calculation, the baseline amount for Rider DCR recovery decreases to $339 million from $390 million.[36] Decreasing the Rider DCR baseline amount, in conjunction with a shortened ESP V term, would result in a net decrease of $1.317–$1.401 billion over the course of the shorter ESP V term.[37] Moreover, since Staff proposes only approving Rider DCR until new base rates go into effect, customers would likely see even higher savings as compared to the Application. And, lastly, by removing projected PIS, FirstEnergy will not be able to improperly recover for inaccurate projected PIS balances.[38] Not including projected PIS also accords with how other utilities calculate their distribution rider revenue requirements.[39]

---

[34] *See* OCC Ex. 1 at 27 (Meyer Direct).

[35] Staff Ex. 10 at 9–10 (Healey Direct); Staff Ex. 8 at 3, 6 (Mackey Direct); Tr. Vol. XIV at 2565 (Healey Cross-Examination).

[36] Staff Ex. 8 at 5 (Mackey Direct).

[37] *See* Staff Ex. 8 at 5 (Mackey Direct) (this decrease results from lowering the total Rider DCR cost from $3.666–$3.876 billion over eight years to $2.349–$2.475 billion over six years).

[38] Staff Ex. 8 at 8 (Mackey Direct) (quarterly DCR filings revealed that the annual revenue requirement during each quarter was over-estimated by a combined $20.8 million between October 2021 and January 2023). *See also* Tr. Vol. XIV at 2555 (Healey Cross-Examination).

[39] Staff Ex. 8 at 8–9 (Mackey Direct); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012)

For all of the above reasons, FirstEnergy's proposed Rider DCR is unreasonable, and constitutes single-issue ratemaking. Therefore, the Commission should reject the Rider DCR proposal, and FirstEnergy's reasonable and prudent distribution infrastructure investment costs should be recovered through base rates. Alternatively, if the Commission decides to approve extending Rider DCR, it should only do so subject to the recommendations set forth herein.

2. The Commission should reject FirstEnergy's proposal to establish Rider VMC because the proposal is unreasonable and unlawful.

FirstEnergy already recovers about $30 million each year from customers through base rates for vegetation management (VM)—an amount that was set well over a decade ago as part of FirstEnergy's last base rates case that was filed in 2007.[40] But yet, over the past three years, the Companies have spent between $28.8–$55.4 million on operation and maintenance costs associated with VM.[41] Under the proposed ESP V, FirstEnergy would collect around $95 million a year through Rider VMC,[42] for a total of an additional $759.8 million during the proposed eight-year ESP V term.[43] As with Rider DCR, FirstEnergy has failed to demonstrate the need for these increased expenditures, or the benefits to customers/improvements to reliability as a result of these increased expenditures. According to OCC witness Meyer,

---

(hereinafter, AEP ESP II Order); AES ESP IV Order at 25; *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 17-1263-EL-SSO, Opinion and Order at ¶ 113 (December 19, 2018) (hereinafter, Duke ESP IV Order).

[40] Tr. Vol. II at 443 (McMillen Cross-Examination); Tr. Vol. VI at 1330–31 (Standish Cross-Examination); Company Ex. 3 at 19–20 (McMillen Direct); Company Ex. 8 at 3 (Standish Direct); Staff Ex. 1 at 5 (Messenger Direct).

[41] Tr. Vol. VI at 1333 (Standish Cross-Examination); OMAEG Ex. 16 at Attachment 1 (FirstEnergy's Response to RESA Set 03-INT-039)

[42] Tr. Vol. II at 444 (McMillen Cross-Examination); Tr. Vol. VI at 1334 (Standish Cross-Examination); Company Ex. 3 at 20 (McMillen Direct); Staff Ex. 1 at 5 (Messenger Direct).

[43] Tr. Vol. II at 444 (McMillen Cross-Examination); Tr. Vol. VI at 1333 (Standish Cross-Examination); Company Ex. 3 at 20 (McMillen Direct); Company Ex. 8 at 12 (Standish Direct); Staff Ex. 1 at 5 (Messenger Direct).

contrary to FirstEnergy's claims, "there are significant savings identified by FirstEnergy from the expanded VM program."[44] Moreover, FirstEnergy witness Standish admitted during cross examination that, without Rider VMC, the Companies would probably not implement the enhanced VM program, signaling that the program is not necessary in order for FirstEnergy to provide safe, reliable, and non-discriminatory electric service.[45] FirstEnergy has been meeting its reliability metrics for over a decade,[46] and the record evidence demonstrates that FirstEnergy will continue meeting those metrics without creating a new above-market rider to recover nearly one hundred million dollars every year from customers. Therefore, the Commission should reject FirstEnergy's proposal to establish Rider VMC.

Alternatively, if the Commission does approve Rider VMC, FirstEnergy should only be allowed to recover through the rider the minimum amount necessary to ensure continued reliability.[47] Additionally, per Staff's recommendation, Rider VMC should have annual caps, and recovery should only last for four, and no more than six years.[48] Such caps would result in a total recovery of $334.6 million over six years, which would be a significant reduction to FirstEnergy's proposal of $759.8 million over eight years.[49] These caps "should also be revisited in the upcoming base distribution rate case to, at a minimum, account for any change in baseline vegetation management spending approved in the rate case."[50]

---

[44] OCC Ex. 1 at 18 (Meyer Direct).

[45] Tr. Vol. VI at 1315 (Standish Cross-Examination).

[46] Company Ex. 9 at 2, 8 (Richardson Direct). *See also* Tr. Vol. I at 178 (Fanelli Cross-Examination); Tr. Vol. VII at 1378–79 (Richardson Cross-Examination); Staff Ex. 5 at 4 (Nicodemus Direct).

[47] Kroger Ex. 1 at 5 (Bieber Direct).

[48] Staff Ex. 1 at 6 (Direct Testimony of Natalia Messenger (Messenger Direct)) (October 30, 2023).

[49] Staff Ex. 1 at 6 (Messenger Direct).

[50] Staff Ex. 1 at 6 (Messenger Direct). *See also* Staff Ex. 10 at 7 (Healey Direct).

Therefore, FirstEnergy's proposed Rider VMC should be rejected as it is unreasonable and unlawful, and FirstEnergy's reasonable and prudent VM costs should be recovered through base rates. Alternatively, if the Commission authorizes Rider VMC, it should limit recovery to the minimum amount of VM expenses necessary to ensure reliable service. The Commission should also adopt Staff's modifications discussed herein.

3. The Commission should reject FirstEnergy's proposal to establish Rider SCR as unreasonable and unlawful.

The Commission should reject FirstEnergy's proposal to recover not only going forward incremental storm damage-related costs, but also *fourteen years*' worth of deferred storm related costs though Rider SCR.[51] As explained by OCC witness Meyer, storm cost recovery should be included in FirstEnergy's base rates rather than through Rider SCR.[52] As proposed, FirstEnergy would be allowed to record major storm costs without needing to determine the impact on its total operations, which would essentially make Rider SCR an insurance policy for exact storm cost recovery without analyzing the total operations of FirstEnergy.[53]

FirstEnergy's proposal also seeks both deferral *and* recovery authority by proposing that unused annual revenue cap amounts be recoverable in subsequent years.[54] Moreover, as proposed, the amount of storm cost deferrals that FirstEnergy seeks to recover through Rider SCR would *not* be subject to the annual caps.[55] In sum, Rider SCR would cost customers about

---

[51] Tr. Vol. VI at 1277–78 (Lawless Cross-Examination); Company Ex. 7 at 2 (Lawless Direct).

[52] OCC Ex. 1 at 12 (Meyer Direct).

[53] OCC Ex. 1 at 12 (Meyer Direct).

[54] Tr. Vol. VI at 1274 (Lawless Cross-Examination); Company Ex. 7 at 5 (Lawless Direct).

[55] Tr. Vol. VI at 1277–78 (Lawless Cross-Examination); Company Ex. 7 at 2 (Lawless Direct).

$35 million each year in actual storm expenses,[56] and $29.499 million for five years for the storm cost deferrals.[57] And, that total does not even include the carrying charges on unamortized storm deferral balance that FirstEnergy also seeks to recover.[58]

As noted by OCC witness Meyer, "[g]iven the abundance of riders in FirstEnergy's current portfolio, there is no need to establish a new rider" like Rider SCR[59] because the costs FirstEnergy seeks to recover can and should be recovered through base rates.[60] Therefore, the Commission should reject FirstEnergy's proposal to establish Rider SCR. Alternatively, if the Commission approves Rider SCR, it should do so subject to Staff's modifications. These modifications include auditing the storm deferral balance *before* FirstEnergy begins recovery,[61] terminating FirstEnergy's existing deferral authority when ESP V starts,[62] and limiting Rider SCR recovery to expenses related to storms considered to be "major events" as defined by Ohio Adm.Code 4901-1:1-10-01(T).[63]

4. The Commission should reject Riders DCR, VMC, and SCR because all three constitute single-issue ratemaking.

As explained by Kroger, Staff, and other intervenors' witnesses, single-issue ratemaking occurs when utility rates are adjusted in response to a change in a single cost or revenue item considered in isolation, rather than as part of a holistic review of the utility's costs and revenues

---

[56] Tr. Vol. I at 75 (Fanelli Cross-Examination); Company Ex. 2 at Attachment SFL-3 at 10, line 47 (Fanelli Direct); Staff Ex. 10 at 30 (Healey Direct).

[57] Company Ex. 7 at 2, Attachment JL-1 (Lawless Direct); Tr. Vol. VI at 1277–78 (Lawless Cross-Examination); Tr. Vol. XIII at 2184 (Borer Cross-Examination); Staff Ex. 2 at 17 (Borer Direct); Staff Ex. 10 at 30 (Healey Direct).

[58] Tr. Vol. VI at 1273 (Lawless Cross-Examination); Company Ex. 7 at 5 (Lawless Direct).

[59] OCC Ex. 1 at 16 (Meyer Direct).

[60] Tr. Vol. VI at 1279 (Lawless Cross-Examination).

[61] Tr. Vol. VI at 1278–79 (Lawless Cross-Examination).

[62] Tr. Vol. XIII at 2179 (Borer Cross-Examination); Staff Ex. 2 at 7 (Borer Direct).

[63] Tr. Vol. VI at 1272 (Lawless Cross-Examination); Tr. Vol. XIII at 2181 (Borer Cross-Examination); Staff Ex. 2 at 6 (Borer Direct).

to determine whether the utility actually needs to collect additional funds from customers to provide its services.[64] Because single-issue ratemaking only considers certain kinds of costs in isolation, it ignores a multitude of factors that otherwise influence rates, allowing a utility to increase rates for that specific area of spending without recognizing counterbalancing savings in other areas.[65] Consequently, "[s]etting rates based on a single cost or revenue item runs contrary to the basic principles of traditional utility regulation," and single-issue ratemaking, absent a compelling public interest, is generally not sound regulatory practice.[66]

As explained by Kroger witness Bieber, an appropriate single-issue cost tracker should meet all of these criteria: (1) the anticipated costs or revenues are subject to significant volatility from year to year, (2) the anticipated costs or revenues are not reasonably controllable by management; and the anticipated costs or revenues are substantial enough to have a material impact on the utility's revenue requirement and financial health between rate cases.[67] The proposed Riders DCR, VMC, and SCR do not meet these criteria because the costs are not subject to significant volatility from year to year and are reasonably controllable by management.[68] Additionally, even if FirstEnergy's claims that the riders' respective anticipated costs or revenues are substantial enough to have a material impact on the revenue requirement and financial health between rate cases, the Companies will file a base distribution rate case in May 2024, which will provide a near-term opportunity to reasonably adjust its distribution rates. In other words, rejecting these three riders will not have a material impact on FirstEnergy's

---

[64] Kroger Ex. 1 at 7 (Bieber Direct); OMAEG Ex. 1 at 14 (Seryak Direct); Staff Ex. 10 at 6 (Healey Direct); OCC Ex. 1 at 9 (Meyer Direct).

[65] Kroger Ex. 1 at 7 (Bieber Direct); OMAEG Ex. 1 at 14 (Seryak Direct).

[66] Kroger Ex. 1 at 7 (Bieber Direct). *See also* OMAEG Ex. 1 at 14 (Seryak Direct).

[67] Kroger Ex. 1 at 7–8 (Bieber Direct).

[68] Kroger Ex. 1 at 7–8, 10 (Bieber Direct); OCC Ex. 1 at 19 Meyer Direct).

revenue requirement and financial health. If the Commission rejected these riders tomorrow, FirstEnergy could simply file a new base rate case the day after.[69] Since the riders do not meet all of these criteria for an appropriate single-issue cost tracker, they should not be approved.

FirstEnergy's reasonable and prudent distribution vegetation management and storm-related costs should be recovered through base rates, not through single-issue rates that do not consider all of the Companies' financial gains and losses.[70] Allowing these costs to be recovered through individual above-market riders rather than through base rates diminishes the incentive for FirstEnergy to reduce costs below the level that is necessary to be deemed prudent in a rider proceeding.[71]

Moreover, the Commission has previously determined that while R.C. 4928.143(B)(2)(h) allows utilities to include single-issue ratemaking provisions in their ESPs, "the intent could not have been to provide a 'blank check' to electric utilities."[72] As such, when deciding whether to approve an ESP that contains provisions for distribution infrastructure and modernization incentives, R.C. 4928.143(B)(2)(h) specifically requires the Commission "to examine the reliability of the electric utility's distribution system and ensure that customers' and the electric utilities' expectations are aligned, and to ensure that the electric utility is emphasizing and dedicating sufficient resources to the reliability of its distribution system."[73] As discussed above, FirstEnergy has been consistently meeting its reliability standards since 2010, meaning that with or without these additional rider collections from customers, FirstEnergy will continue to provide

[69] Tr. Vol. XIV at 2618 (Healey Cross-Examination).

[70] *See* Kroger Ex. 1 (Bieber Direct); OMAEG Ex. 1 (Seryak Direct); OCC Ex. 1 (Meyer Direct).

[71] Kroger Ex. 1 at 4, 8, 10 (Bieber Direct); OCC Ex. 1 at 10–11, 19, 27–28 (Meyer Direct).

[72] AEP ESP I Order at 32.

[73] *Id.*

safe and reliable electric service to its customers. FirstEnergy should not be given a "blank check" in this case via Riders DCR, VMC, and SCR.

The upcoming May 2024 "rate case will allow for a wholesale review of the Companies' capital investments, expenses, and revenues for the first time in more than *sixteen* years."[74] This upcoming rate case provides the best and most appropriate forum for consideration of the costs FirstEnergy seeks to recover through these riders. Rather than relying on continuous increases in Rider DCR and the introduction of new distribution Riders VMC and SCR, these costs should be considered in the overall context of the Companies' total distribution revenues, expenses, and return on distribution rate base. As stated by Staff witness Healey, "riders should not become the primary form of cost recovery for utilities to the exclusion of base distribution rate cases."[75] Therefore, for all of the reasons discussed in this section, the Commission should reject FirstEnergy's proposals to continue Rider DCR and to establish Riders VMC and SCR.

C. <u>The Commission should reject FirstEnergy's proposal to establish new EE/PDR programs and the associated Rider EEC.</u>

FirstEnergy's proposal to establish a series of costly EE/PDR programs and an associated Rider EEC to recover the costs of those programs should be rejected because the law no longer allows mandatory EE/PDR programs, and the Commission has consistently determined that voluntary EE programs run by electric distribution utilities should be limited to low-income customers.[76] As proposed, FirstEnergy's EE/PDR program for commercial customers would

---

[74] Staff Ex. 10 at 7 (Healey Direct) (emphasis added).

[75] Staff Ex. 10 at 7 (Healey Direct).

[76] *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of its 2021 Energy Efficiency and Demand Side Management Portfolio of Programs and Cost Recovery Mechanism*, Case Nos. 20-1013-EL-POR, et al., Entry (June 17, 2020) at ¶ 9; *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case Nos. 20-585-EL-AIR, et al., Opinion and Order at ¶ 128 (November 17, 2021) (hereinafter, AEP Rate Case Order); *In the Matter of the Application of Columbia Gas Ohio, Inc. for Authority to*

cost those customers $38.5 million every year for all eight years of the proposed ESP V.[77] These costs would be recovered through Rider EEC from every customer that fails to opt-out of the program, and as explained by FirstEnergy witness Miller, customers will continue to be charged until they affirmatively opt-out of the program.[78] Notably, FirstEnergy witness Miller admitted that customers might not be aware of the opt-out period until after Rider EEC has gone into effect, and that FirstEnergy is not proposing to delay charging customers for the EE/PDR Programs through Rider EEC until such time as customers have been made aware of the opt-out option and have had the opportunity to opt-out.[79]

FirstEnergy's EE/PDR program for commercial customers is unlawful, against state policy, and contravenes Commission precedent. The 2019 House Bill 6 ("HB 6") mandated that electric utilities terminate their previously required EE programs, prohibiting mandatory EE/PDR programs.[80] While FirstEnergy attempts to sidestep this law by making the program for commercial customers opt-out, a program that automatically enrolls customers without their consent or necessarily even knowledge, and then charges them for that program until they affirmatively opt-out cannot be deemed to be voluntarily. Similarly, the commercial program violates state policy prohibiting anticompetitive subsidies.[81] And lastly, as noted above, since HB 6 was passed, the Commission has limited EE/PDR programs to *competitive* and customer-

---

Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matter, Case Nos. 21-0637-GA-AIR, et al., Opinion & Order at 56 (January 26, 2023).

[77] Tr. Vol. III at 657–59 (Miller Cross-Examination); Tr. Vol. V at 969 (Miller Cross-Examination); Company Ex. 5 at 22, Attachment ECM-2 (Miller Direct).

[78] Tr. Vol. V at 990, 993–94 (Miller Cross-Examination); Company Ex. 5 at 25 (Miller Direct).

[79] Tr. Vol. V at 991–94 (Miller Cross-Examination); OMAEG Ex. 13 at OMAEG-02-INT-021 (FirstEnergy's Responses to OMAEG Set 02 Discovery).

[80] R.C. 4928.66(G)(3).

[81] R.C. 4928.02(H).

owned initiatives, rather than utility-owned programs, except for certain low-income residential programs.[82] Therefore, in accordance with the law, state policy, and Commission precedent, the Commission should reject FirstEnergy's proposed EE/PDR plan.

Alternatively, if the Commission does not reject FirstEnergy's proposed EE/PDR plan in its entirety, it should adopt Staff's proposal to only implement low-income residential programs and decrease the annual budget to $15.6 million.[83] Removing, at a minimum, the non-low-income programs both "reduce[s] the costs being recovered [from] ratepayers" through Rider EEC,[84] and is "consistent with previous Commission Orders . . . that have provided a framework of what the Commission finds to be appropriate energy efficiency programs."[85] Consequently, if the Commission approves any EE/PDR plan, it should only approve a low-income program.

D. <u>FirstEnergy's ESP V's term should be shortened.</u>

The Commission's precedent is for ESPs to last three to six years. FirstEnergy admitted as much.[86] The Commission should not deviate from its own precedent as FirstEnergy seeks here. Staff noted that it believes that FirstEnergy's proposal to continue its ESP for eight years is

---

[82] *See In the Matter of the Application of Ohio Power Co. for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2020*, Case No. 16-574-EL-POR, et al., Finding and Order at ¶ 44 (February 26, 2020); *In the Matter of the Commission's Review of the Rules in Ohio Adm.Code Chapter 4901:1-39*, Case No. 22-869-EL-ORD, Finding and Order (November 30, 2022); *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its 2021 Energy Efficiency and Demand Side Management Portfolio of Programs and Cost Recovery Mechanism*, Case Nos. 20-1013-EL-POR, et al., Entry (June 17, 2020); *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Case Nos. 21-887-EL-AIR, et al., Opinion and Order at ¶¶ 71–72, 173 (December 14, 2022).

[83] Staff Ex. 3 at 4 (Direct Testimony of Kristin Braun (Braun Direct)) (October 30, 2023); Staff Ex. 10 at 29–30 (Healey Direct); Tr. Vol. V at 1010 (Miller Cross-Examination); Tr. Vol. XIII at 2301 (Braun Cross-Examination).

[84] Tr. Vol. XIII at 2321 (Braun Cross-Examination).

[85] Staff Ex. 4 at 5 (Braun Direct). *See also* Tr. Vol. XIII at 2321 (Braun Cross-Examination), stating that the business program was removed because the "Commission has provided a framework of what they felt was an appropriate level of energy efficiency"; AEP Rate Case Order at ¶ 128; *In the Matter of the Application of Columbia Gas Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matter*, Case Nos. 21-0637-GA-AIR, et al., Opinion & Order at 56 (January 26, 2023).

[86] Tr. Vol. I at 173–74 (Fanelli Cross-Examination).

too long in part because of the billions of dollars that FirstEnergy is requesting to collect from customers and the bill impacts on customers.[87] Specifically, Staff recommended that ESP V be reduced to six years (beginning June 1, 2024 and ending May 31, 2030), arguing that a six-year ESP better aligns with the Commission's previous practice of approving ESP lengths between three and six years.[88] Staff also explained that a shortened ESP will mitigate rate impacts on customers.[89] For example, decreasing the ESP term by two years, which better conforms with Commission precedent,[90] decreases Rider DCR costs by $1.011–$1.095 billion over the proposed ESP term.[91]

Moreover, a shortened ESP term also will allow greater flexibility to account for changes in market conditions.[92] As noted by Staff witness Healey:

> [t]here can be substantial changes in the market in an eight-year period, including (but not limited to) geopolitical changes, new and emerging technologies, inflation, recessions, modifications to

---

[87] *See* Staff Ex. 10 (Healey Direct) (discussing the various decreases to overall ESP costs because of a shorter term); Staff Ex. 1 at 6 (Messenger Direct) (discussing the decrease to Rider VMC costs because of a shorter term); Staff Ex. 4 at 3–5 (Braun Direct) (discussing the decrease to EE/PDR costs because of a shorter term); Staff Ex. 8 at 5 (Mackey Direct) (discussing the decrease to Rider DCR costs because of a shorter term).

[88] Staff Ex. 10 at 3–4 (Healey Direct); Tr. Vol. I at 173–74 (Fanelli Cross-Examination); Tr. Vol. XIV at 2561 (Healey Cross-Examination). *See also* AES ESP IV Order (approving an ESP term of three years); AEP ESP V Stipulation (proposing an ESP term of four years).

[89] Staff Ex. 10 at 28–31 (Healey Direct) (discussing the decrease to Riders DCR, VMC, and SCR, the EE/PDR Plan, and ELR credit costs because of a shorter term); Staff Ex. 1 at 6 (Messenger Direct) (discussing the decrease to Rider VMC costs because of a shorter term); Staff Ex. 4 at 3–5 (Braun Direct) (discussing the decrease to EE/PDR costs because of a shorter term); Staff Ex. 8 at 5 (Mackey Direct) (discussing the decrease to Rider DCR costs because of a shorter term).

[90] Staff Ex. 10 at 3–4 (Healey Direct); Tr. Vol. I at 173–74 (Fanelli Cross-Examination); Tr. Vol. XIV at 2561 (Healey Cross-Examination). *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 Nos. 22-900-EL-SSO, et al., Opinion and Order (August 9, 2023) (approving an ESP term of three years) (hereinafter, AES ESP IV Order); *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan*, Case Nos. 23-23-EL-SSO, et al., Stipulation (September 6, 2023) (hereinafter, AEP ESP V Stipulation) (proposing an ESP term of four years).

[91] Staff Ex. 8 at 5 (Mackey Direct) (this decrease results from lowering the total Rider DCR cost from $3.666–$3.876 billion over eight years to $2.655–$2.781 billion over six years).

[92] Staff Ex. 10 at 4 (Healey Direct).

> wholesale market processes, and new laws and regulations. It would be beneficial to reassess the market before eight years to determine what is in the public interest. Thus, I propose a six-year ESP term.[93]

During the hearing, even FirstEnergy's own witness conceded that "there could be change[s] in the market" over an eight-year term.[94] Therefore, if the Commission approves a version of the proposed ESP V, it should decrease the ESP term in order to conform with prior precedent, to mitigate the rate impacts on customers, and allow for greater flexibility to account for changing market conditions.

---

[93] Staff Ex. 10 at 4 (Healey Direct).

[94] Tr. Vol. I at 173 (Fanelli Cross-Examination).

III. CONCLUSION

As explained in detail above, as proposed, FirstEnergy's ESP V is not more favorable in the aggregate than an MRO. Therefore, the ESP should be rejected as unreasonable and unlawful. Alternatively, if the Commission approves a version of the proposed ESP V, Kroger recommends that the Commission, at minimum, reject the continuation and expansion of Rider DCR, reject the newly created Riders VMC and SCR, and reject the EE/PDR plan and Rider EEC. In addition, Kroger respectfully requests that the Commission shorten the duration of the proposed ESP V from the eight years sought by FirstEnergy.

Respectfully submitted,

/s/ Angela Paul Whitfield

Angela Paul Whitfield (0068774)
(Counsel of Record)
Carpenter Lipps LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4100
paul@carpenterlipps.com
(willing to accept service by email)

Counsel for The Kroger Co.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on January 19, 2024 upon the parties listed below.

/s/ Angela Paul Whitfield
Angela Paul Whitfield (0068774)

PARTIES OF RECORD

john.finnigan@occ.ohio.gov
robert.eubanks@occ.ohio.gov
william.michael@occ.ohio.gov
alex.hickey@occ.ohio.gov
thomas.zuehlke@occ.ohio.gov
easley@carpenterlipps.com
Bojko@carpenterlipps.com
thomas.lindgren@ohioago.gov
amy.botschnerobrien@ohioago.gov
rhiannon.howard@ohioago.gov
mkurtz@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
rdove@keglerbrown.com
nbobb@keglerbrown.com
Stacie.Cathcart@igs.com
Michael.Nugent@igs.com
cgrundmann@spilmanlaw.com
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com
todd.schafer@outlook.com
mjsettineri@vorys.com
glpetrucci@vorys.com
aasanyal@vorys.com
dparram@brickergraydon.com
rmains@brickergraydon.com
dromig@nationwideenergypartners.com
brian.gibbs@nationwideenergypartners.com
mpritchard@mcneeslaw.com
awalke@mcneeslaw.com
tdougherty@theOEC.org
katherine.hollingsworth@lasclev.org
sjagers@ohiopovertylaw.org
mwalters@proseniors.org
dmanor@ablelaw.org
rnader@communitylegalaid.org
bknipe@firstenergycorp.com
cwatchorn@firstenergycorp.com
talexander@beneschlaw.com
mkeaney@beneschlaw.com
khehmeyer@beneschlaw.com
dproano@bakerlaw.com
ahaque@bakerlaw.com
eprouty@bakerlaw.com
pwillison@bakerlaw.com
dstinson@brickergraydon.com
gkrassen@nopec.org
meissnerjoseph@yahoo.com
trhayslaw@gmail.com
leslie.kovacik@toledo.oh.gov
bojko@carpenterlipps.com
easley@carpenterlipps.com
mkl@smxblaw.com
jrb@smxblaw.com
little@litohio.com
hogan@litohio.com
ktreadway@oneenergyllc.com

jdunn@oneenergyllc.com
trent@hubaydougherty.com
emcconnell@elpc.org
cpirik@dickinsonwright.com
todonnell@dickinsonwright.com
kshimp@dickinsonwright.com
eowoyt@vorys.com
whitt@whitt-sturtevant.com
ctavenor@theOEC.org
Becky.Merola@calpinesolutions.com
jlaskey@norris-law.com
knordstrom@theOEC.org

jlang@calfee.com
mbarbara@calfee.com
jpetroff@lawforlabor.com
jmcinerney@lawforlabor.com
junger@spilmanlaw.com
joe.oliker@igs.com
jlang@calfee.com
mbarbara@calfee.com
tlong@mcneeslaw.com
rkelter@elpc.org
nwallace@elpc.org

ATTORNEY EXAMINERS

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