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COVER SHEET

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The case Number before the PUCO is Case Number 23-0301-EL-SSO.

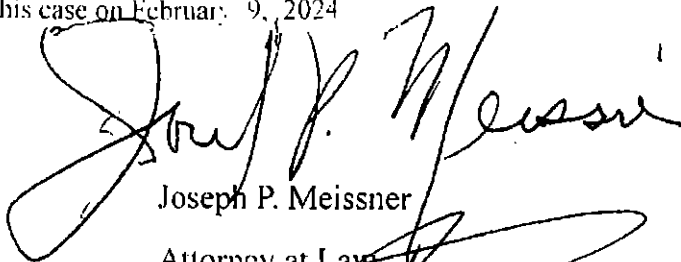
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This is a Cover Page for the 'Reply Brief' which we are filing in the following FIFTH ESP Case filed by First Energy and its three subordinate companies.

The case Number before the PUCO is Case Number 23- 0301-EL-SSO in (he Mailer 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 Ohio Revised Code laws on the PUCO.

This is based on Authority to establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of An Electric Security Plan. 4928.143

This Reply Brief is due in this case on February 9, 2024



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PUCO

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO Case NO: 23-301- EI-SSO

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.)

PUCO Case NO: 23-301- EI-SSO

REPLY BRIEF IN FE ESP 5 CASE

BY

CITIZENS COALITION AND UTILITIES FOR ALL

Now Comes the Citizens Coalition and the Utilities for All (UFA) who file this Reply Brief in this FE ESP Case 5. This is due on February 9, 2024.

The First Energy Companies which include Cleveland Electric Illuminating Company, Ohio Edison Company, and Toledo Edison Company have filed their Fifth ESP Plan. Our Coalition and members of this coalition have participated in the first Four ESP cases, including as intervenors. The Citizens Coalition and Utilities for All respectfully moved the PUCO to grant a leave to intervene for them and their members as well as individuals involved with them in this present case. This was granted.

In addition, it is our contention that our interests were not adequately represented and uniquely represented by other parties in this proceeding. Our participation has and will continue to contribute to the just and expeditious resolution of the issues and questions just as we have done in the past four ESP cases.

**VI. (CONTINUE PARAGRAPH NUMBERS FROM INITIAL BRIEF) HERE IS
BACKGROUND FOR THIS REPLY BRIEF AND THEIR REQUEST TO THE PUCO
FOR THE PRESERVATION OF THE APPEAL RIGHTS OF THE UFA AND CC**

Various parties to this FE ESP 5 Case have filed extensive and excellent Initial Briefs in this proceeding. They have raised many questions and arguments against the FE ESP 5 Proposal from First Energy. For example, they have presented reasons why this entire FE ESP case is defective and should be rejected. Instead FE, if it is seeking this massive and customer-unfriendly scheme, must use the MRO procedures for these changes in their overall rates and procedures.

The intervenor briefs, well-argued and logically developed, call into doubt the many company allegations and contentions. This leads to the conclusion that CEI customers will be better served when the PUCO dismisses all the FE witnesses, their alleged evidence and exhibits and throws out the FE ESP submission.

The intervenors UFA and CC seek to preserve all the briefs and the arguments and evidence from each intervenor in this case and insure that the UFA and CC can use these in any appeals they may file either to the PUCO, or to the Ohio Supreme Court, or the US Supreme Court. Therefore UFA and CC formally adopt all the intervenor Briefs, the Intervenor witnesses.

all their arguments and all testimony and evidence they submitted to the PUCO. This declaration will thus safeguard the appeal rights of UFA and CC and insure that they can protect the appeal rights of their clients and all represented by OCC and UFA as well as all individuals and groups who joined this intervention and offered their names in the UFA and CC Intervention Request to the PUCO.

VII. IT IS ALREADY ACCEPTED THAT IF THE FE ESP 5 PROPOSAL IS ADOPTED, IT WILL INCLUDE A FUEL FUND PROGRAM THAT WILL PROVIDE EMERGENCY FUNDS CREDITED TO THEIR BILL TO INSURE LOW INCOME FAMILIES WILL NOT SUFFER THE LOSE OF THEIR NECESSARY UTILITY SERVICE. BESIDES THE NEED TO INCREASE THE AMOUNTS OF THESE CREDITS. THE ONLY OTHER MAIN ISSUE IS HOW THE PROGRAM ADMINISTRATOR WILL BE SELCTED. IN OPPOSITION TO THE COMPANIES' UNTRIED AND RISKY USE OF A THIRD PARTY ADMINSTRATOR ESTABLISHED BY A HAZARDOUS BIDDING PROCESS UFA AND CC URGE THE COMPANIES AND THE PUCO TO CONTINUE TO USE SUCH TRIED-AND-TRUE COMMUNITY GROUPS AS STEP FORWARD TO IMPLEMENT THE FUEL FUND PROGRAM DURING FE ESP 5

Up to the present, First Energy and community-based organizations have worked together at distributing the Fuel Funds. One of these community agencies is Step Forward which has well-trained staff and long-standing procedures. Let us look at the background of this organization. We quote below from reputable sources such as Wikipedia about Step Forward and we request the PUCO to take Administrative Notice of these facts in these materials.

Step Forward has a long and comprehensive record of extraordinary community services to the poor. The present organization has a parentage over several decades. Step Forward originally was known as the Council for Economic Opportunities in Greater Cleveland.

The COUNCIL FOR ECONOMIC OPPORTUNITIES (CEO) IN GREATER CLEVELAND The **COUNCIL FOR ECONOMIC OPPORTUNITIES (CEO) IN GREATER CLEVELAND**, 1350 W. 3rd St., was established in 1964 to develop, administer, and coordinate Pres. Lyndon Johnson's War on Poverty program locally. Under the leadership of Ralph W. Findley until 1979, the federally financed Cleveland CEO established a number of lasting programs. Mandated by the 1964 Economic Opportunity Act and reporting directly to the federal Office of Economic Opportunity, such local councils bypassed established state and local agencies, which caused controversy. Early on, the act's call for the "maximum feasible participation" of the poor in antipoverty programs created difficulties for the Cleveland CEO. Mayor Ralph Locher's first appointments to the CEO's Board of Trustees drew criticism from representatives of the poor and civil-rights leaders, concerned that their constituents would not be heard. They delayed federal funding until the board was modified. The council's community action emphasis disturbed some **CLEVELAND CITY COUNCIL** members, who complained that the agency fostered demands among the poor, creating political problems.

The Cleveland Council's first \$12 million federal grant supported a **CLEVELAND JOB CORPS** center for women and job-training and community-action programs. In Apr. 1966 the council dedicated Neighborhood Opportunity Centers in Central, Kinsman, **HOUGH**, and **GLENVILLE**, and on the west side. These offered services through the **LEGAL AID SOCIETY**, the Cleveland Small Business Development Corp., and the Ohio State Employment Service, as well as food-stamp registration and maternal and infant care. CEO programs included health services, such as the **HOUGH-NORWOOD FAMILY HEALTH CARE CENTER**, and children's services, such as daycare, the preschool Head Start, and nutrition. The CEO also funded Project HOPE (Housing Our People Economically, Inc.), Foster Grandparents, and programs for senior citizens and in consumer education, energy assistance, and weatherization.

In 1995 Jacqueline A. Middleton directed the CEOGC, which had an annual budget of \$40 million, employed over 400 persons, and continued to administer the following programs: Head Start, Community Services Block Grant, Emergency Home Energy Assistance Program, Emergency Housing Program, Employment & Training Program, Family Service Center, Student Mediation Program, and Poverty Research. Its neighborhood centers were still operating in the Central, Glenville, Hough, Tremont, and near west side communities. (Find CEOGC in Wikipedia.)

This is only a short summary of the achievements and history of CEOGC. But it does reinforce the conclusion that CEOGC (now rebaptized as Step Forward) is more than qualified to administer the Fuel Funds program which it has been doing since the beginning of the ESP cases almost twenty years ago.

Step Forward has continued this remarkable record. Here is some of Step Forward's goals and successes:

About Us

Step Forward helps people find hope, believe in their future and take steps to make it a reality.

Our mission is to propel educational attainment and economic self-sufficiency for multiple generations throughout Cuyahoga County.

As the state's designated anti-poverty agency for Cuyahoga County, Step Forward is tasked and trusted to lead the fight on the ground against poverty in our community. The nonprofit organization helps low-income individuals and families address immediate needs and build long-term skills to transform their lives through early childhood education programs, adult skills training, and other support.

Step Forward was formerly the Council for Economic Opportunities in Greater Cleveland.

For decades, we quietly, steadfastly opened our doors to help low-income individuals and families in Cuyahoga County take steps toward brighter futures. The organization formed in 1964 in response to President Lyndon B. Johnson's War on Poverty which established the nation's Head Start early childhood education program and numerous initiatives designed to empower individuals to move beyond the situation they were born into or found themselves unintentionally a part. For more than 50 years, we have helped low-income individuals and families address and overcome the causes of poverty specific to their situation.

Our 12 locations include seven Head Start early childhood learning and family involvement centers, four neighborhood opportunity centers, and one Home Energy Assistance Program (HEAP) office in downtown Cleveland. All locations are served by the Rapid Transit Authority.

To learn more about Step Forward, [visit the home page](#) to sign up to receive our e-newsletter each month. Also, follow us on Facebook, Twitter and Instagram @StepFwdToday. Quickly find the answers to many of your questions on our [Frequently Asked Questions](#) (FAQ) page.

Step Forward is a recipient of Community Services Block Grant funding.

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At Step Forward, Diversity, Equity, and Inclusion are the heartbeat of our vibrant community.

We are more than just a team; we are a tapestry of unique backgrounds, experiences, and perspectives woven together to create a rich and innovative environment.

Step Forward's commitment to diversity means that we embrace the richness of the human experience, recognizing that it fuels creativity and drives excellence. We believe that every individual brings a valuable viewpoint to the table, and we actively seek out and celebrate those differences.

Equity is the cornerstone of our culture, ensuring that each member of our agency has equal access to opportunities, growth, and success.

Inclusion is not just a buzzword here; it's our agency's way of life. We strive to create a warm and welcoming space where every voice is heard, valued, and respected.

At Step Forward, we understand that a diverse, equitable, and inclusive environment isn't just morally right – it's the foundation for innovative solutions and collective achievement. Join us in building a future where everyone's story matters, where collaboration knows no bounds, and where together, we make a real impact. (See website on the internet for Step Forward.)

Throughout its history, Step Forward following in the footsteps of its immediate predecessor, has worked to transform and strengthen the lives of the poor and vulnerable. It does this through a wide assortment of activities such as the Home Energy Assistance Programs, housing programs, educational efforts and other aid.

Here are Step Forward's objectives

Transforming Lives

Step Forward helps people find hope, believe in their future and take steps to make it a reality. As the State's designated anti-poverty agency for Cuyahoga County, Step Forward is tasked and trusted to lead the fight on the ground against poverty in our community.

Poverty is complex. The circumstances, situations and needs are unique for each person or family. Step Forward understands this complexity and through strong community partnerships, and a wide range of programs, helps people navigate the vast resources available to help them.

Step Forward helps low-income individuals and families address immediate needs and build long-term skills to transform their lives through:

- Early childhood education programs like ***Early Head Start and Head Start***
- **Adult Skills Training** – both personal and professional workshops
- Other support, like the ***Home Energy Assistance Program (HEAP)***.

In 2023, more than 90% of our \$42 million operating budget directly supported programs and services, enabling Step Forward to serve more than 29,000 people in our community. (Most of this is from the public website of Step Forward.)

Step Forward's participation in the Fuel Fund Program has made this an extremely crucial resource for low-income families to avoid utility termination and it would severely injure this worthwhile First Energy activity to cut Step Forward off from participation.

VIII. UFA AND CC URGE THE PUCO AND FIRST ENERGY TO MAINTAIN AND EVEN EXPAND THE CUSTOMER ADVISORY PROGRAM. SUCH A PROGRAM IS VITALLY NECESSARY FOR THE SUCCESS OF THE COMPANIES' EE/PDR PLAN.

The Customer Advisory Program as already explained in our Initial Brief was the result of collaboration between the community organizations (such as Step Forward) and First Energy. The goal was to provide assistance to low-income families on how to conserve their electricity, how to acquire efficient appliances, and how best to use their electric resources. As already stated, this Program was only to last for three years under FE ESP4 from when it was adopted in 2014. But all the parties (including First Energy) agreed after the initial three-year period ran out that CAP should be extended for the entire eight-year period.

Testimony has already been presented by various public witnesses that CAP should continue. FE and its companies should continue to use this program in conjunction with the community groups such as Step Forward in order to assist customers.

How best can this be done? Where should the assistance be focused? The First Energy Initial brief provides a good answer to this. Refer to pages 45 to page 57 for an extensive discussion of the Companies' EE/PDR programs. (See especially pages 49 to 53 of Companies' Brief attached as Exhibit A to this UFA and CC Reply Brief.) Allegedly the companies argue that all of these programs will be available to low-income families. Here is the Companies' explicit wording in its brief on how low-income families will be assisted. (See pages 49 to 53 already mentioned above and attached as an Exhibit.)

The best way to achieve this including the needed participation by low-income families is to continue the Customer Advisory Program and focus all the efforts of that program and its workers toward helping low-income families implement the EE/CDR goals and activities.

IX. THE MANY DEFECTS IN THE PROPOSED FE CREDIT OF \$5 A MONTH ON SOME SENIOR CITIZENS' BILLS HAVE ALREADY BEEN DISCUSSED IN THE UFA AND CC INITIAL BRIEF. THERE ARE OTHER DEFECTS AS WELL WHICH SHOULD BE EXAMINED AND LEAD TO THE CONCLUSION THAT THIS FE PROPOSAL SHOULD NOT BE ADOPTED IN ITS CURRENT FORM. HERE IS A MAJOR SO-FAR UNMENTIONED FAILING.

So often when good people try to help others (which I take it is one major objective of this \$5 a month credit), they often fail to communicate with the people they are seeking to assist to gain their views and opinions. Perhaps UFA and CC missed this, but we did see what senior citizen groups FE consulted in proposing this credit. There are many senior citizens in Ohio and they do have organizations through which they work to achieve their objectives.

Here are some of the specific questions which could have been used.,

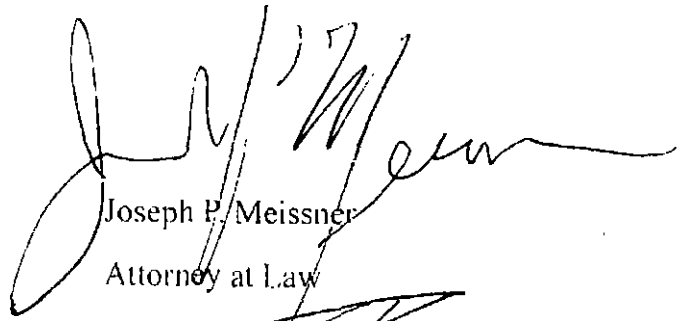
- (1) What senior citizen groups were consulted in establishing this rebate program?
- (2) How were these groups selected?
- (3) Were these groups representative of low-income seniors?

- (4) Did FE and its staff ask the senior to voice their views on the FE proposal and whether they would be willing to forego PIPP benefits and instead choose this monthly \$5 rebate program?
- (5) Were the senior citizen groups provided an opportunity to make their views on how this \$16 million dollars (tied up in the \$5 a month program) could be better used to help low-income seniors?
- (6) Were the leaders of these senior citizen groups involved in developing this \$5 rebate program?
- (7) What was the proof that a \$5 monthly rebate program would really be helpful for seniors confronting high utility bills?

Of course there might be other useful questions, but the main point is that the Companies may have devised a useless program by failing to consult the intended beneficiaries. For this reason alone, this FE proposal should be rejected.

**X. THIS REPLY BRIEF AND ITS ARGUMENTS ARE RESPECTFULLY
SUBMITTED FOR CONSIDERATION BY THE HONORABLE HEARING
EXAMINERS AND THE PUCO.**

Sincerely,



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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

Exhibit from

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.

Companies' Brief

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

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

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.

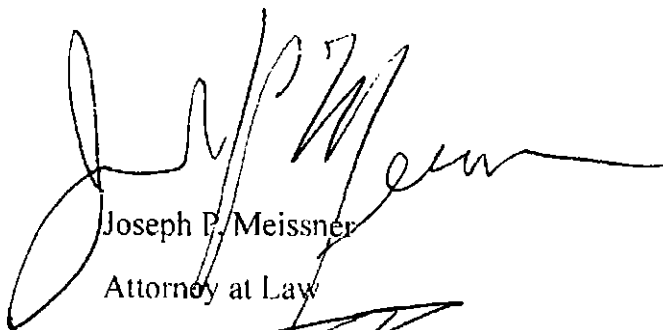
For these reasons, the Commission should find that the proposed EE/PDR plan and Rider EEC are authorized under R.C. 4928.143.

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

SERVICE

Copies of this Reply Brief from CC and UFA have been and are being served upon all parties to this case who have been allowed to join the case (as well as submitted to the PUCO for formal filing). This is the date of February 9, 2024. Some copies are being served by regular mail, others by internet and email, and others through the PUCO website.



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