

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 22-704-EL-UNC
Edison Company for Approval of Phase)
Two of Their Distribution Grid)
Modernization Plan.)

**JOINT INITIAL BRIEF OF RETAIL ENERGY SUPPLY ASSOCIATION
AND INTERSTATE GAS SUPPLY, LLC**

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I. INTRODUCTION

The Public Utilities Commission of Ohio ("Commission" or "PUCO") utilizes a three-part test to evaluate whether the outcome recommended through a settlement is just and reasonable.¹ The Stipulation and Recommendation filed in this proceeding ("Stipulation") is the culmination of numerous all-party settlement meetings that occurred over the span of multiple months and reflects a substantial decrease from Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's (collectively "FirstEnergy") proposal.² Importantly, the Stipulation clarifies the process envisioned in FirstEnergy's prior Grid Modernization case regarding use of and access to residential customer interval data. More specifically, in Grid Mod I, the signatory parties agreed that FirstEnergy should use interval data from residential customers with AMI meters for purposes of billing energy and capacity and for calculating their transmission demand tag

¹ *OCC v. Pub. Util. Comm.*, 64 Ohio St.3d 123 (1992) stating that the three-part test asks: (1) Is the stipulation a product of serious bargaining among capable, knowledgeable parties?; (2) Does the stipulation, as a package, benefit ratepayers and the public interest?; and (3) Does the stipulation package violate any important regulatory principle or practice?

² FirstEnergy Ex. 2 at 4, lines 7-8.

and that the “CRES data transmitted to PJM will be, at a minimum, hourly interval, and data utilized and transmitted to CRES providers will be at the metered level.”³ Since the Commission approved the Grid Mod I settlement, FirstEnergy has complied with the provision that it be required to submit the actual residential interval data for customers with AMI meters to PJM Interconnection LLC (“PJM”), but FirstEnergy has not yet implemented the process by which competitive retail electric service (“CRES”) providers will have ready access to that interval data. The Stipulation, importantly, clarifies that process so that the letter and intent of that aspect of the Grid Mod I settlement can be fulfilled. The Signatory Parties here support residential interval data access, and all parties in this proceeding that did not join the Grid Mod II Stipulation were signatory parties to the Grid Mod I Stipulation. Accordingly, while the Stipulation is overall just and reasonable, utilizing residential customer actual interval data and making that available to CRES providers has been supported by all parties and the Commission through its approval of the Grid Mod I settlement. The Retail Energy Supply Association (“RESA”) and Interstate Gas Supply, LLC (“IGS”) respectfully, and jointly, request that the Commission adopt the Stipulation without modification.

II. ARGUMENT

A. The Stipulation Satisfies the Commission’s Three-Part Test for Determining Whether a Settlement is Reasonable and Should be Approved.

When considering whether a stipulation is lawful and within the zone of reasonableness the Commission has relied upon a three-part test that asks:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?

³ FirstEnergy Ex. 5 at 15.

2. Does the settlement, as a package, benefit ratepayers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?⁴

The Stipulation meets the three-part test.

The Stipulation is the culmination of months of meetings between the parties and is a substantial decrease from FirstEnergy's application. The bargained-for compromise results in a significantly less expensive proposal for customers. The Stipulation achieves the deployment of smart meters to additional residential customers, which the Commission has previously and routinely approved for FirstEnergy and other electric distribution utilities ("EDU").⁵ The Stipulation benefits ratepayers in FirstEnergy's service territory because it sets forth a process to clarify and allow implementation of the agreed-upon data access provisions from the Grid Mod I settlement.

1. The Stipulation is the product of serious bargaining among capable parties.

The Stipulation meets the first prong of the three-part test. Numerous stakeholders representing a variety of interests signed onto the Stipulation including CRES providers, industrial customer advocates, environmental advocates, and residential and small business customers. Those stakeholders are RESA, FirstEnergy, Citizens Utility Board

⁴ *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. 11-3549-EL-SSO, Opinion and Order (Nov. 22, 2011) ("Duke Energy 2011 ESP Order"), p. 41; *In the Matter of Ohio Edison Company, The Cleveland Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Offer Service Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order (July 18, 2012) ("FirstEnergy 2012 ESP Order"), p. 24 (citing *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994) and *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126 (1992)).

⁵ *In re the Application of Ohio Power Company to Initiate Phase 2 of Its GridSmart Project and to Establish the GridSmart Phase 2 Rider*, Case No. 13-1939-EL-RDR, Opinion and Order at ¶¶28-32, ¶¶ 76-80 (February 1, 2017); *In re the Application of the Dayton Power and Light Company for Approval of its Plan to modernize its Distribution Grid*, Case No. 18-1875-EL-GRD, Opinion and Order (June 16, 2021).

of Ohio, Environmental Law & Policy Center, IGS, The Kroger Co., Northeast Ohio Public Energy Council, Ohio Energy Group, Ohio Energy Leadership Council, Ohio Environmental Council, The Ohio Manufacturers' Association Energy Group, and Walmart Inc. The culmination of the Stipulation occurred after a months' long settlement process where all parties were invited to participate.⁶ The settlement process even saw the parties seek additional time in the procedural schedule to allow settlement discussions to continue. Serious bargaining among capable and knowledgeable parties occurred, and that fact was not contested at hearing.

2. The Stipulation is lawful and within the zone of reasonableness and therefore meets the second and third prongs which asks if a settlement benefits ratepayers, is in the public interest, and does not violate any important regulatory principles.

The Stipulation is substantively lawful and reasonable. In evaluating the substantive lawfulness and reasonableness of a stipulation the Commission asks whether the settlement benefits ratepayers, is in the public interest and whether it violates any important regulatory practices or principles. The package of settlement terms and conditions meets this requirement.

First, the Stipulation results in an estimated reduction of \$205 million from FirstEnergy's application.⁷ This is a direct cost-reduction to ratepayers. While reducing the overall cost to customers, the primary part of the Stipulation's investment is directed at deployment of smart meters to residential customers, a regulatory practice consistent

⁶ FirstEnergy Ex. 2 at 7, lines 6-21.

⁷ *Id.* at 4, lines 7-8.

with the Commission's approval of grid modernization plans for the other Ohio electric distribution utilities.⁸

Interval data access for residential customers, made available through the deployment of the residential advanced meters, has also been a fundamental tenant of grid modernization proceedings for FirstEnergy and other EDUs.⁹ In FirstEnergy's Grid Mod I settlement—a settlement that included the Office of the Ohio Consumers' Counsel ("OCC") and Staff—the signatory parties there agreed to the following provisions regarding FirstEnergy using the residential interval data from the installed AMI meters for various billing purposes:

The Companies will implement data access enhancements for customers and competitive retail electric service ("CRES") providers. This should include the necessary upgrades to systems and processes for wholesale market settlements, i.e. calculating and settling individual total hourly energy obligation ("THEO"), peak load contribution ("PLC"), and network service peak load ("NSPL") values for each customer, instead of relying on generic load profiles. The Companies shall exercise best efforts to begin calculating wholesale market settlement statements based upon THEO, PLC, and NSPL as the meters become certified.¹⁰

The Grid Mod I settlement then provided that once FirstEnergy began calculating THEO, PLCs, and NSPLs for residential customers based on their actual interval data that:

CRES data transmitted to PJM will be, at a minimum, hourly interval, and data utilized and transmitted to CRES providers will be at the metered level. The THEO, PLC, and NSPL data will be made available to authorized CRES providers, consistent with 4901:1-10-24 of the Ohio Administrative Code,

⁸ See e.g., *In re the Application of Ohio Power Company to Initiate Phase 2 of Its GridSmart Project and to Establish the GridSmart Phase 2 Rider*, Case No. 13-1939-EL-RDR, Opinion and Order (February 1, 2017); See e.g., *In re the Application of the Dayton Power and Light Company for Approval of its Plan to modernize its Distribution Grid*, Case No. 18-1875-EL-GRD, Opinion and Order (June 16, 2021).

⁹ *In re the Application of Ohio Power Company to Initiate Phase 2 of Its GridSmart Project and to Establish the GridSmart Phase 2 Rider*, Case No. 13-1939-EL-RDR, Opinion and Order at ¶¶28-32, ¶¶ 76-80 (February 1, 2017); *In re the Application of the Dayton Power and Light Company for Approval of its Plan to modernize its Distribution Grid*, Case No. 18-1875-EL-GRD, Opinion and Order (June 16, 2021).

¹⁰ FirstEnergy Ex. 5 at 15.

through the pre-enrollment list and electronic data interchange (“EDI”) transactions, as applicable.¹¹

FirstEnergy, as it rolled out AMI meters to residential customers under the Grid Mod I settlement, has begun utilizing the residential interval data from the AMI meters to calculate THEO, PLCs, and NSPLs. FirstEnergy has also begun reporting the actual residential interval data to PJM, and PJM is now using the THEO and PLC information based on the actual residential interval data to bill CRES providers their supply charges from PJM.

Building upon the Grid Mod I settlement that provides that CRES providers should have access to the actual residential interval data for the customers they serve once it began to be utilized for billing purposes, the Stipulation here provides a process for FirstEnergy to deliver on that Grid Mod I commitment. Specifically, the Stipulation here provides that:

Residential Hourly Interval Data – PUCO-certified CRES that are retail electric generation providers. a. Upon Commission approval, the Companies will design and build the IT system changes necessary and initiate the PUCO EDI Working Group changes necessary to make available to PUCO-certified retail electric generation providers the hourly interval data for their enrolled residential customers as follows:

- i. Supplier Portal: System-to-System Historical Interval Usage (StS-HIU), and System-to System Rolling 10-Day (StS-Rolling 10 day).
- ii. EDI: Residential Interval Usage (867IU).
- iii. The interval data available to CRES providers will include all interval data utilized by PJM to assign costs to CRES providers for billing to shopping customers.
- iv. The interval data will be provided to CRES providers without cost.
- v. During the Companies’ implementation process, they will provide status updates at the quarterly Grid Mod Collaborative meetings.

¹¹ *Id.*

This provision will operationalize the settlement process approved under Grid Mod I and allow CRES providers to gain access to the interval data of the residential customers they serve, where such data is, and has for a while, been utilized by PJM for billing THEO (energy costs) and PLC (capacity costs) to the shopping residential customers served by CRES providers.

Not only are the settlement provisions here tied to a provision that the Commission already found to be lawful and reasonable and that satisfied the three-part settlement test, but the record reflects the benefits of CRES access to the residential interval data. Residential customers with AMI meters with interval data will now be able to receive a bill that is based on their actual usage.¹² As joint RESA and IGS witness Andrew Dierksheide testified, this will benefit customers by allowing their suppliers to verify bills, and to work with their customers to develop products and services to meet their needs.¹³ As Mr. Dierksheide stated:

[A] modern CIS system, interval usage for customers can be paired with granular pricing to not only bill customers with real-time-pricing programs, but also settle load for residential customers in the PJM market using interval data. This will also provide CRES providers with the functionality to offer a more diverse array of products and services to customers.¹⁴

There are other benefits to customers aside from just dynamic product offerings. When a CRES provider has access to interval data, that enables them to calculate settlements for individual customers, instead of relying on generic load profiles. This access to more granular data allows for cost reductions and enhanced forecasting. Having interval data enhances CRES providers' ability to forecast and plan in real time

¹² RESA/IGS Joint Ex. 1 at 9, line 18-24.

¹³ *Id.*

¹⁴ *Id.*

scheduling.¹⁵ This lowers the CRES providers' costs and risks, which in turn lowers the price that is offered to customers.¹⁶ IGS showed that there are actual real-world reductions in forecasting errors, reduced costs of doing business, and the ability to offer more competitive products when IGS was given improved access of residential interval data.¹⁷

Not only are there numerous benefits to CRES providers having access to interval data but no party presented a witness that thought that expanded access to data was not important.¹⁸ More specifically, FirstEnergy witnesses Miller and McMillen, addressed why certain aspects of the Stipulation were lawful and reasonable, FirstEnergy witness Quirk testified that the Stipulation overall was reasonable¹⁹ and testified about how data access provisions were reasonable,²⁰ RESA and IGS joint witness Dierkshiede supported the expanded data access, and OCC witness Alvarez testified about the benefits of competitive suppliers having access to residential interval data.²¹ Specially, Mr. Alvarez testified that interval data has been put to good uses in retail choice markets; that a good use of interval data is to use the actual interval data to settle energy and capacity markets; that holding suppliers accountable for customers actual energy usage has spurred lots of

¹⁵ RESA/IGS Joint Ex. 1 at 13, line 1-15.

¹⁶ *Id.*

¹⁷ *See* RESA/IGS Joint Ex. 1 Figure AD-1 showing IGS had lower wholesale level costs when able to accurately forecast with hourly interval data; *see* RESA/IGS Joint Ex. 1 Figure AD-2 showing that better access to data allows for forecasted demand to be more accurately aligned with real time demand, which thus reduces whole costs for customers.

¹⁸ Tr. Vol. II at 181-185, OCC witness Alvarez agreeing that access to interval data educates customers and allows CRES providers to offer rate discounts.

¹⁹ FirstEnergy Ex. 2 at 7 line 16 to 8 line 16.

²⁰ *Id.* at 16 line 17 to 17 line 25.

²¹ Tr. Vol. II at 181-185.

innovations; that in markets where suppliers have access to interval data they have been able to offer market products that customers want thereby increasing their market share; identified some of the innovative CRES provider products that have been offered; and finally agreed that CRES providers cannot offer these innovative products without the interval usage from the AMI meters being available.²² There were no other witnesses. The record conclusively demonstrates why the plan here to operationalize the Grid Mod I data access provision is lawful and reasonable and satisfies the Commission's three-part test. The Commission should approve the Stipulation and the operationalization of the data access provision from Grid Mod I.

III. CONCLUSION

For the reasons stated above, RESA and IGS respectfully request the Commission approve the Stipulation as it is the product of bargaining from capable parties, benefits ratepayers, and does not violate important regulatory principles.

Respectfully submitted,

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²² *Id.*

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CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 31st day of July 2024. The following parties were provided by electronic mail a copy of this document:

/s/ Matthew Pritchard
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