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**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 Provide)	Case No. 14-1297-EL-SSO
for a Standard Service Offer Pursuant to)	
R.C. 4928.143 in the Form of an Electric)	
Security Plan.)	

**INITIAL REHEARING BRIEF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

I. INTRODUCTION

The Retail Energy Supply Association¹ not only opposed The Cleveland Electric Illuminating Company, The Toledo Edison Company and the Ohio Edison Company’s (the “Companies”) Rider RRS proposal, but also adamantly opposes the Companies’ Modified Rider RRS proposal and the Distribution Modernization Rider (“DMR”) proposals by Staff and the Companies. Other parties will argue against these proposals and RESA does not wish to present duplicative arguments in this Initial Rehearing Brief. Rather, RESA writes to focus the attention of the Public Utilities Commission of Ohio (“Commission”) on the lack of any guarantee under DMR that the Companies will actually invest in grid modernization. If the Commission approves some form of DMR (which it should not), it must include, at a minimum, specific directives to the Companies on implementing grid modernization. Those directives could include the nature of and timing of grid modernization projects. Just as the competitive retail

¹ The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

marketplace requires certainty, any approval of DMR should require certainty that the Companies will invest in grid modernization as soon and quickly as possible. To not provide clear direction to the Companies will lead to delays and jeopardize investments in the Companies' distribution grid.

II. GRID MODERNIZATION CAN BENEFIT BOTH CUSTOMERS AND THE RETAIL COMPETITIVE MARKETPLACE.

The record in this proceeding supports the benefits of grid modernization. First, the Companies have acknowledged that grid modernization includes such initiatives as implementation of advanced metering infrastructure (“AMI” or “smart meters”), distribution automation circuit reconfiguration, and Volt/VAR.² Second, testimony by RESA witness Brenda Crockett-McNew as well as by Staff and the Companies' witnesses provide a solid foundation for the Commission to recognize the benefits of grid modernization.

For example, Brenda Crockett-McNew, the Vice President, New Market Development and Regulatory Affairs for Champion Energy Services, testified that:³

While many commercial and industrial customers in FirstEnergy's service territories already have interval meters, they nonetheless would benefit from FirstEnergy's ability to identify, isolate and quickly resolve outages, which will occur with a grid modernization program in place. All other customers without smart meters will likewise benefit from reduced outage times. In addition, customers currently without smart meters would further benefit from greater product options, such as time-of-use or peak-shaving products. There are companies who use the meters within homes and businesses (through device-level analytics) to allow customers to make better-informed energy decisions. This type of grid modernization is changing the face of utility and electricity services to the benefit of all customers.

She also described the benefits of grid modernization in response to a series of questions from the Attorney Examiners. She explained to the Attorney Examiners that widespread

² Companies Ex. 154 at 9 (¶ D.1).

³ RESA Ex. 7 at 7.

deployment of SmartGrid in the Companies' service territories would cause more competitive providers to move into the territory because smart meters can allow for more products to be developed and offered to customers.⁴

Ms. Crockett-McNew also noted that although many industrial customers currently have interval meters, new/additional product offerings could be developed, such as peak-shaving products.⁵ She also agreed that widespread deployment of smart meters would promote the use of net metering and behind-the-meter generation.⁶ Also, she believed that encouraging the deployment of smart meters is an *important* policy objective for the Commission.⁷

Other witnesses agreed with Ms. Crockett-McNew. The Companies' witness Eileen Mikkelsen testified that "[u]ltimately, grid modernization will benefit customers and competitive suppliers by enabling an array of innovative products and services."⁸ She also agreed on cross-examination that the public would benefit from grid modernization initiatives.⁹ Tamara Turkenton, Chief of the Commission's Regulatory Services Division of the Rates and Analysis Department, testified that there are many benefits to modernizing the grid beyond what we have today.¹⁰ She also agreed that Staff views modernizing the grid as an *important* component of its DMR proposal.¹¹

Yet, even though Staff and the Companies believe that grid modernization is important, neither Staff nor the Companies found it worthwhile to recommend that the Commission make specific implementation directives to the Commission if DMR is approved.

⁴ Rehearing Tr. Vol. IV at 844-845.

⁵ *Id.* at 845.

⁶ *Id.*

⁷ *Id.* at 846.

⁸ Companies Ex. 206 at 6.

⁹ Rehearing Tr. Vol. X at 1697.

¹⁰ Rehearing Tr. Vol. II at 475.

¹¹ *Id.*

III. NEITHER THE STAFF'S NOR THE COMPANIES' DMR PROPOSALS GUARANTEE THAT GRID MODERNIZATION PROJECTS WILL TAKE PLACE.

Both Staff and the Companies witnesses acknowledged that there is no guarantee under the DMR proposals that grid modernization would take place. Dr. Choueiki acknowledged that Staff's DMR proposal does not include a mandate that the Companies make grid investments, but rather a non-specific recommendation to the Commission to direct the Companies to invest in grid modernization.¹² Companies' witness Eileen Mikkelsen also testified on cross-examination that if DMR is approved, the Companies are not making any guarantees that they would make any investments in modernizing the distribution grid.¹³ The lack of guarantees and specifics makes any link between DMR and grid modernization tenuous at best.

In fact, the only "recommendation" on grid modernization in the record is in Staff witness Dr. Hisham M. Choueiki's direct testimony in which he recommended that if the Commission adopts DMR, that it should also "direct the Companies to begin investing in distribution assets with the objective of developing one of the nation's most intelligent distribution grids."¹⁴ Dr. Choueiki provided little guidance as to what that directive should look like, only indicating that Staff would want "deployment of advanced hardware and software with the goal of bringing about the intelligence of the distribution grid all the way to the customer's premises."¹⁵

On cross-examination, he acknowledged that Staff's DMR proposal did not address specific dollar amounts of grid investments or time frames for those investments.¹⁶ He also

¹² Rehearing Tr. Vol. IV at 1001.

¹³ Rehearing Tr. Vol. X at 1609.

¹⁴ Staff Ex. 15 at 16.

¹⁵ Staff Ex. 15 at 15.

¹⁶ Rehearing Tr. Vol. IV at 1007.

made it clear (and this is an important point) that Staff was relying on the Commission for leadership and direction:¹⁷

- Q. If the Commission approves staff's alternative proposal and directs the companies to invest in modernizing the distribution grid, do you have an understanding of when the companies would actually implement projects to modernize the distribution grid?
- A. Right now there is a plan that is being -- is before us right now so - - so whenever -- I mean that's why I cite that case¹⁸ so that at least that would be where things could be initiated. And then the Commission could decide whether they want to direct us to do something, you know, in that case, and give deadlines when they come up with their order. That would be -- they will provide guidance.

Commission leadership and direction are important because the Companies are under no current mandate from the Commission to invest in grid modernization throughout their service territories. As Staff witness Turkenton acknowledged, the Companies grid modernization plan filed in Case No. 16-0481-EL-UNC does not include a commitment to spend money on grid modernization.¹⁹ Companies' witness Mikkelsen also acknowledged that there is no directive from the Commission to the Companies today to invest in modernizing the distribution grid.²⁰ She also agreed that as of today, the Companies are under no requirement to invest in distribution grid modernization projects with the exception of any commitments related to the current Commission-approved SmartGrid pilot.²¹

Fortunately, the Companies are not opposed to Commission leadership and directives on grid modernization.

¹⁷ Rehearing Tr. Vol. X at 1006.

¹⁸ Dr. Choueiki was referring to Case No. 16-0481-EL-UNC.

¹⁹ Rehearing Tr. Vol. II at 472-473. Administrative notice of the grid modernization filing was taken by the Attorney Examiners. Rehearing Tr. Vol. IV at 965-966.

²⁰ Rehearing Tr. Vol. X at 1777.

²¹ Rehearing Tr. Vol. X at 1763. This pilot is also referenced at page 2 of the Companies' filing related to the Companies' grid modernization plan in Case No. 16-0481-EL-UNC (administrative notice was taken of that entire filing during rehearing). RESA witness Brenda Crockett-McNew also discussed this pilot in her direct testimony. *See*, RESA Ex. 7 at 6.

IV. THE COMPANIES' WITNESS TESTIFIED THAT SHE WOULD NOT BE OPPOSED TO SPECIFIC GRID MODERNIZATION DIRECTIVES.

As an initial point, the Companies are not opposed to Staff's recommendation that the Commission put in place a directive to invest in grid modernization projects. This was made clear by Eileen Mikkelsen when she testified as follows:²²

Q. *** Given that, today, there is no directive from the Commission, and Dr. Choueiki is recommending that the Commission direct the companies to invest in the grid, do you agree with his recommendation?

A. I am not opposed to Dr. Choueiki's recommendation.

But more importantly, Ms. Mikkelsen testified that she **would not be opposed to a Commission directive** to install smart meters and related infrastructure throughout the Companies' service territories.²³

Q. Okay. Would you be opposed to any Commission directive to install smart meters and related infrastructure throughout the companies' service territories for all customers as a condition of rider DMR?

A. Assuming the companies received cost recovery, and that it made sense to fully deploy smart meters across the entirety of the companies' service territory, I would not be opposed to that.

The Companies also appear to be ready to move quickly on any directive from the Commission to invest in the grid. Ms. Mikkelsen testified that "...grid modernization activities could occur very shortly after a Commission order in this proceeding or in the pending grid

²² Rehearing Tr. Vol X at 1778.

²³ Rehearing Tr. Vol. X at 1779.

modernization proceeding.”²⁴ When describing what those immediate activities would include, Ms. Mikkelsen stated that:²⁵

I think that’s what I’m referring to when I talk about activities that, you know, very shortly after an order, grid modernization, in this case or in the pending grid modernization case, very quickly thereafter there could begin activities, whether that activity is purchasing the equipment necessary, securing the human resources in order to implement the work that’s been agreed to, I would expect that to occur very shortly thereafter.

The Commission can seize on the Companies’ willingness to be subject to specific directives in this proceeding in order to ensure that grid investments actually take place if Rider DMR is approved.

V. IF THE COMMISSION APPROVES SOME FORM OF RIDER DMR, THE COMMISSION SHOULD MANDATE INVESTMENTS IN SMART GRID AND MANDATE BASIC PARAMETERS SO THAT THE COMPANIES’ DEPLOYMENT OF SMART GRID IS TIMELY AND SUCCESSFUL.

As noted in the introduction to this brief, RESA remains adamantly opposed to both the modified Rider RRS and DMR. Without waiving any arguments against these unlawful riders (now or in the future), RESA believes that if the Commission approves any form of DMR, it should couple that approval with specific directives to the Companies to invest in grid modernization projects.

A. The Commission should impose specific parameters on a timely and expeditious deployment of smart meters and related infrastructure.

The Companies’ witness Eileen Mikkelsen stated that she would not be opposed by a directive from the Commission that the Companies implement a smart meter roll-out throughout the service territories assuming cost recovery.²⁶ She also did not indicate any opposition to an

²⁴ Rehearing Tr. Vol X at 1830.

²⁵ *Id.*

²⁶ Rehearing Tr. Vol. X at 1779.

immediate start to the roll-out, noting that the Companies could start very quickly on grid modernization activities if the Commission issued a decision in, for example, October 2016.²⁷

With the Companies not opposing specific directives, RESA recommends that the Commission couple any approval of DMR with the following minimum conditions:

- Smart meter roll-out throughout the Companies' territory should be 100% within 5 years, with exceptions allowed for very rural areas; and
- The implementation timeframe should be 20% a year over the 5-year rollout period.

The Commission could also provide performance incentives to the Companies for achieving smart meter roll-out on a more accelerated timeframe. Such incentives could include an allowed higher rate of return on any recovery through the existing AMI rider²⁸ or a performance-related true-up on an annual basis that would be applied to the next year's AMI rider charge.

B. The Commission should also impose basic parameters within the smart meter directive to ensure a successful and useful roll-out.

Companies' witness Eileen Mikkelsen testified that "[u]ltimately, grid modernization will benefit customers and competitive suppliers by enabling an array of innovative products and services."²⁹ However, she acknowledged that there are important steps to take to ensure benefits are realized, such as ensuring competitive suppliers have access to smart meter data. In other words, a Commission directive to invest in grid modernization will only be successful if it also ensures there are no barriers to the development of innovative products and services for customers.

²⁷ Rehearing Tr. Vol. X at 1830.

²⁸ The Companies have the Advanced Metering Infrastructure/Modern Grid Rider. *See, e.g.*, Ohio Edison Company Tariff, P.U.C.O. No. 11 at Sheet 106.

²⁹ Companies Ex. 206 at 6.

The Commission has previously determined that *access* to AMI data is critical to the competitive marketplace's development and to ensure that benefits are realized. In 2014, the Commission required all electric distribution utilities in Ohio to have language in their tariffs to "specify the terms, conditions and charges" pursuant to which they will provide customer energy usage data from AMI to competitive retail electric service ("CRES") providers.³⁰ Moreover, the Commission ordered that the tariff amendments address or include: (a) format, method, granularity and frequency of the customer energy usage data that a CRES provider may receive; (b) implementation of individual network service peak load and peak load contribution formulas; and (c) recovery of any necessary capital improvement or infrastructure costs.³¹ The Commission confirmed this position on rehearing as well.³²

The benefits of specific requirements to ensure full access to and use of smart meter data were reaffirmed during the hearing in RESA witness Brenda Crockett-McNew's discussion of products that are used in Texas. For example, she noted that use of smart meters in Texas has resulted in unique products for net metering, as well as products like "free nights and weekends" where smart meters can be used to know exactly what a customer uses and bill them accordingly.³³ She also said that widespread deployment of smart meters would "absolutely" promote the use of net metering and behind-the-meter generation.³⁴

With that in mind, RESA recommends that the Commission include the following requirements in any directive to the Companies to invest in grid modernization programs:

- Roll-out would include the addition of indicators on the customer lists and electronic data interchange ("EDI") system as meters are installed

³⁰ *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI, Finding and Order at 36 (March 26, 2014).

³¹ *Id.*

³² *Investigation, supra*, Entry on Rehearing at 29-30 (May 21, 2014).

³³ Rehearing Tr. Vol. IV at 845.

³⁴ *Id.*

and active (meaning validation, estimation and editing data is available – “VEE data”).

- CRES providers should have full access to smart meter data, and VEE data must be available for billing for CRES providers’ product use within 30 days of installation of the smart meter.
- VEE bill-quality data must be available via EDI with minimum intervals of 15 minutes.
- Next day data available with batching ability for CRES providers’ use in intervals of 15 minutes.
- This data must be trued up to VEE bill quality at the end of the month, but the next day data does not need to be bill quality.
- AMI hourly use data to be used for individual customer peak load contribution and settlement.
- Workshops be held and a report filed within 8 months of a Commission decision in this matter to allow for discussions and recommendations on distributed generation use of AMI and settlement.
- Distributed generation use of AMI and settlement be part of a future workshop discussion.

With Staff looking to the Commission for leadership and direction, and the Companies’ open to specific directives, the Commission should not skip this opportunity to put these general guidelines in place if the Companies are to receive any form of DMR. To do otherwise would guarantee that either grid modernization will not take place or it will take place under conditions and timeframes of only the Companies’ choosing.

C. The Commission should ensure that proper funding of customer education is included in any rate-recovery of smart meter roll-out.

Customer education is an important component of smart meter roll-out. To that end, the Commission should also include in any directive related to DMR on grid modernization that the Companies conduct a thorough customer education campaign on smart meters and grid modernization generally. An educated customer will be able to take advantage of the benefits of

smart meters.³⁵ Thus, customer education of smart grid initiatives is appropriate and necessary to a successful grid modernization program - just like ensuring full access to smart meter data to CRES providers is necessary for success.

IV. CONCLUSION

Both Modified Rider RRS and DMR are flawed proposals, both legally and factually. RESA's rehearing testimony in this proceeding (filed before Staff's DMR proposal was submitted) urged the Commission to use a separate proceeding to allow the Companies to seek a rider with a revenue amount, along with a plan and full cost recovery for grid modernization investments. RESA continues to believe that is the proper course if the Commission seeks to provide the Companies with additional regulated utility revenues that can act as credit support all the while providing for grid modernization. But if the Commission approves some form of DMR (which it should not), the Commission should provide specific directives to the Companies on implementation of grid modernization as a condition of DMR. To not include those specific directives would undercut Staff's goal of grid modernization and doom any timely and meaningful implementation of grid modernization in the Companies' service territories.

Respectfully submitted,

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³⁵ Former Chairman Snitchler concurred, stating in 2014 “[c]onsumer empowerment is the ultimate benefit of the legislative framework established starting in 1999. Among the other things needed for an effective market is the crucial requirement of an educated consumer.” *Investigation, supra*, Concurring Opinion to the Finding and Order (March 26, 2014).

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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 certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 15th day of August, 2016 upon all persons/entities listed below:

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