

BEFORE

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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) Case No. 08-935-EL-SSO
a Standard Service Offer Pursuant to)
Section 4928.143, Revised Code, in the)
Form of an Electric Security Plan.)

ENTRY

The attorney examiner finds:

- (1) On July 31, 2008, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the Companies) filed an application for a standard service offer (SSO) pursuant to Section 4928.141, Revised Code. The application was for an electric security plan (ESP) in accordance with Section 4928.143, Revised Code. On December 19, 2008, the Commission issued an opinion and order that approved the Companies' proposed ESP with certain modifications.
- (2) On December 22, 2008, the Companies filed a notice that they were exercising their right pursuant to Section 4928.143(C)(2)(a), Revised Code, to withdraw and thereby terminate their application for an ESP. Also on December 22, 2008, the Companies filed proposed tariff sheets.
- (3) By finding and order issued January 7, 2009, the Commission determined that, pursuant to Section 4928.143(C)(2)(b), Revised Code, until a subsequent SSO is authorized by the Commission in accordance with Section 4928.142 or Section 4928.143, Revised Code, the Companies' SSO in effect on December 31, 2008, shall continue. Therefore, the Commission concluded that the Companies' SSO provisions, terms, and conditions, which are contained in the Companies' rate certainty plan (RCP) approved in Case No. 03-2144-EL-ATA and the related tariff schedules in effect on December 31, 2008, should continue from January 1, 2009, until such time as the Commission approves new SSO rates in accordance with Section 4928.142 or Section 4928.143, Revised Code. Furthermore, with regard to

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the regulatory transition charges (RTCs) contained in the RCP and the current tariffs, the Commission noted that the provisions of the RCP set forth terms and conditions that require a specific end date for the RTCs; therefore, the Commission found that the RTCs must be terminated in accordance with the terms and conditions of the RCP on December 31, 2008, for OE and TE. In addition, the Commission directed that the Fuel Recovery Mechanism and the RTC Offset Rider should be terminated, and the Fuel Cost Recovery Rider should remain in place for the limited purpose of collecting all remaining 2008 actual fuel costs. The Commission ordered the Companies to file final revised tariffs consistent with the January 7, 2009, finding and order by January 12, 2009.

- (4) On January 9, 2009, the Companies filed a motion requesting, *inter alia*, that the portion of the January 7, 2009, order, which requires the Companies to file tariffs on January 12, 2009, be stayed. Coincident with their request for a stay of the filing of the tariffs, the Companies filed a motion for stay of the Commission's January 7, 2009, finding and order in this case, as well as an application for rehearing of that order. The Companies request an expedited ruling on their motion to stay the filing of the tariffs; however, they were not able to certify that no party objects to a ruling on an expedited basis. Therefore, the Companies request that, given the extenuating circumstances, they be granted a waiver of Rule 4901-1-12(C), Ohio Administrative Code (O.A.C.), which would otherwise give parties seven days to file a memorandum contra to a motion requesting an expedited ruling. In support of their motion for stay, the Companies state that the January 7, 2009, order significantly reduces the rates they may charge under their rate plan and imposes devastating financial consequences on the Companies. The Companies submit that, while the Companies will be harmed if a stay is not granted, no other party will be harmed if the Commission does grant a stay.
- (5) In reviewing the Companies' request to stay the filing of the tariffs on January 12, 2009, the following rules should be considered:

Rule 4901-1-14, O.A.C., provides that the attorney examiner may rule on any procedural motion or other procedural matter.

Rule 4901-1-12, O.A.C., provides that the attorney examiner may, on her own motion, issue an expedited ruling on any motion, with or without the filing of memoranda, if the issuance of the ruling will not adversely affect a substantial right of any party.

Rule 4901-1-13, O.A.C., provides that an extension of time may be granted upon a motion by any party for good cause shown.

- (6) In light of the short time frame before the tariffs are to be filed, the attorney examiner finds that it is necessary to rule on the Companies' motion to extend the filing of the tariffs on January 12, 2009. Upon consideration of the Companies' motion, the attorney examiner finds that the Companies' request to extend the January 12, 2009, filing date for the tariffs should be granted to allow the Commission time to address the issues raised.

It is, therefore,

ORDERED, That the Companies' request to extend the January 12, 2009, filing date for the tariffs be granted to allow the Commission time to address the issues raised. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

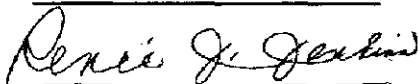
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Christine M.T. Pirik
Attorney Examiner

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Renee J. Jenkins
Secretary