

THE PUBLIC UTILITIES COMMISSION OF OHIO

## ENTRY

- (1) On January 9, 2009, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the Companies) filed an application in these cases requesting, *inter alia*, approval of a fuel rider (Rider FUEL). The Companies explained that Rider FUEL would be a bypassable rider that would apply a retail surcharge on all standard service offer retail electric customers for the difference in all costs incurred by the Companies to purchase power for customers receiving generation service and the unbundled generation revenue that will be received for each of the Companies' customer classes as set out in the Companies' current rate plan. As proposed by the Companies, Rider FUEL would cover the time period from January 1, 2009, through March 31, 2009, and costs incurred after March 31, 2009, would be determined by the results of a future competitive bid process.
- (2) On January 14, 2009, the Commission issued a finding and order which, *inter alia*, authorized the Companies to implement Rider FUEL on a temporary basis until March 31, 2009. In addition, the Commission directed the Companies to make an appropriate filing, by February 2, 2009, which includes testimony and provides information sufficient for the Commission to conduct a prudency review of the costs incurred in purchasing power for customers receiving generation service pursuant to the Companies' power supply agreement and information sufficient for the Commission to consider whether the recovery of such costs is necessary to avoid a confiscatory result. Furthermore, the Commission noted that the attorney examiner would issue an entry setting forth the procedural schedule and setting a hearing date for the prudency review.
- (3) On January 23, 2009, the Companies filed a motion, which, *inter alia*, requested an extension of time from February 2, 2009, to

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February 13, 2009, to file the testimony and information required for the prudency review as directed by the Commission in the January 14, 2009, order. In support of their request, the Companies submit that the preparation of the filing "...will require considerable analysis and preparation of materials, including testimony. . . ." Moreover, the Companies state that other contemporaneous factors, such as their review of recent Commission orders in other cases which may impact their filing in these cases, further exacerbate the situation.

The Companies also request that the Commission follow prior procedural precedent regarding the Commission's initiation of a prudency review. Specifically, the Companies propose that, in their filing on February 13, 2009, they only be required to provide materials describing the process incurred in purchasing power and related data, such as the final post-request for proposal (RFP) report submitted by the RFP manager, CRA International, Inc., and the information that was available to bidders, including the bidder rules, the RFP supply agreement, and the RFP frequently asked questions. Once this information is filed, the Companies believe that, with regard to testimony and evidence supporting the testimony, the intervenors who are challenging some aspect of the prudence of the Companies' power purchase activities should be required to file their testimony first and then the Companies should file testimony in response to the intervenors.

The Companies request an expedited ruling on their motion; however, they did not certify that no party objects to a ruling on an expedited basis.

- (4) In reviewing the Companies' request for an extension of time from February 2, 2009, to February 13, 2009, to file the testimony and information required for the prudency review, 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.

- (5) In light of the short time frame before the Companies are required to file testimony and related information in accordance with the January 14, 2009, order, the attorney examiner finds it necessary to rule on the Companies' motion to extend the filing of the testimony and related information from February 2, 2009, to February 13, 2009, on an expedited basis. Upon consideration of the Companies' request for an extension of time, the attorney examiner finds that it should be granted, in part, and denied, in part. It is essential that the post-RFP report and the information pertaining to the RFP be filed with the Commission as soon as possible. To that end, the motion for extension of time should be denied as it pertains to the filing of information such as the final post-RFP report submitted by the RFP manager and other information that was available to bidders, including, but not limited to, the bidder rules, the RFP supply agreement, and the RFP frequently asked questions. Therefore, this information must be filed by February 2, 2009. In the event the Companies believe that portions of this information are confidential, the Companies may seek appropriate protective treatment.

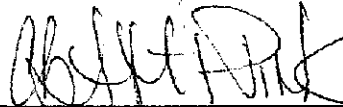
With regard to the Companies' filing of testimony and supporting evidence pertaining to the prudency issues, given that the Companies will be filing the requisite RFP information on February 2, 2009, the attorney examiner finds it reasonable to grant the Companies additional time to prepare their testimony and supporting documentation. This extension will also give the Commission time to consider the Companies' procedural proposal, as well as any responsive pleadings which are due on January 30, 2009, and to determine the appropriate procedural schedule in these cases. Accordingly, the Companies' request for an extension of time to file testimony and supporting evidence pertaining to the prudency issues is granted until such time as the Commission orders otherwise.

It is, therefore,

ORDERED, That the Companies' request for an extension of time should be granted, in part, and denied, in part, as set forth in finding (5). 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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/vrm

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**JAN 30 2009**



Renee J. Jenkins  
Secretary