

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 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. )

In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric )  
Illuminating Company, and The Toledo )  
Edison Company for Approval of a Market )  
Rate Offer to Conduct a Competitive ) Case No. 08-936-EL-SSO  
Bidding Process for Standard Service Offer )  
Electric Generation Supply, Accounting )  
Modifications Associated with )  
Reconciliation Mechanism, and Tariffs for )  
Generation Service. )

ENTRY

The Commission finds:

- (1) Section 4928.141, Revised Code, provides that electric utilities shall provide consumers a standard service offer (SSO) of all competitive retail electric services in accordance with Section 4928.142 or 4928.143, Revised Code.
- (2) On July 31, 2008, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) filed an application for a SSO in the form of a market rate offer (MRO) in accordance with Section 4928.142, Revised Code, in Case No. 08-936-EL-SSO (*FirstEnergy MRO Case*). On November 25, 2008, the Commission issued an opinion and order in the *FirstEnergy MRO Case* finding that the MRO application could not be approved as filed.
- (3) On July 31, 2008, FirstEnergy also filed an application for an SSO, in the form of an electric security plan (ESP) in accordance with Section 4928.143, Revised Code, in Case No. 08-935-EL-

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SSO (*FirstEnergy ESP Case*). On December 19, 2008, the Commission issued an opinion and order that approved FirstEnergy's proposed ESP with certain modifications. On December 22, 2008, FirstEnergy withdrew its application for an ESP.

- (4) In preparation for FirstEnergy's next proposal requesting approval of an SSO for electric generation supply in compliance with Section 4928.141, Revised Code, the Commission finds that FirstEnergy should provide funding for a consultant that will assess and report to the Commission regarding any SSO proposed by FirstEnergy. The duties of the consultant should include, but not be limited to, assisting the Commission in its evaluation of any forthcoming SSO proposal and monitoring any proposed competitive bid procurement process. Accordingly, after Commission Staff selects the consultant, FirstEnergy should then enter into a contract with the selected consultant to pay its expenses. The proposed contract shall be submitted to the Staff.
- (5) The selected consultant will execute its duties pursuant to the Commission's statutory authority to investigate and obtain records, reports, and other documentation under Sections 4903.02, 4903.03, 4905.06, 4905.15, and 4905.16, Revised Code. The consultant shall be subject to the Commission's statutory duty under Section 4901.16, Revised Code, which states, in relevant part:

Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent.

Once disclosure is permitted by Section 4901.16, Revised Code, the following process applies to the release of any document or information marked as confidential. Three days' prior notice of intent to disclose shall be provided to the party claiming

confidentiality. Three days after such notice, Staff or the consultant may disclose or otherwise make use of such documents or information for any lawful purpose, unless the Commission is moved for a protective order pertaining to such documents or information within the three-day notice period. The three-day notice period will be computed according to Rule 4901-1-07, Ohio Administrative Code.

- (6) Upon request of the consultant or Staff, FirstEnergy shall provide any and all documents or information requested. FirstEnergy may conspicuously mark such documents or information "confidential." In no event, however, shall FirstEnergy refuse or delay in providing such documents or information.
- (7) The consultant shall perform its duties as an independent contractor. Neither the Commission nor its Staff shall be liable for any acts committed by the consultant in the performance of its duties.

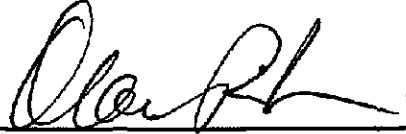
It is, therefore,

ORDERED, That, in accordance with finding (4), FirstEnergy enter into a contract with the selected consultant and pay the consultant's expenses. It is, further,

ORDERED, That FirstEnergy and the selected consultant shall observe the requirements set forth herein. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

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Paul A. Centolella

  
Ronda Hartman-Fergus  
Valerie A. Lemmie  
Cheryl L. Roberto

CMTP/vrm

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Renee J. Jenkins  
Secretary