

## 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 ) Case Nos. 09-21-EL-ATA  
 Edison Company for Approval of Rider ) 09-22-EL-AEM  
 FUEL and Related Accounting Authority. ) 09-23-EL-AAM

ENTRY

The attorney examiner 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 (CEI), and The Toledo Edison Company (FirstEnergy) 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-SSO (*FirstEnergy ESP Case*). On December 19, 2008, the Commission issued an opinion and order that approved FirstEnergy's proposed ESP with certain modifications. Subsequently, FirstEnergy withdrew its application.
- (3) On January 9, 2009, FirstEnergy filed an application in Case Nos. 09-21-EL-ATA, et. al, (*FirstEnergy Rider FUEL Case*), which, *inter alia*, requested approval of a fuel rider (Rider FUEL). As proposed by FirstEnergy, Rider FUEL would recover the costs for power purchased for customers receiving generation service for the time period of January 1, 2009, through March

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31, 2009, and costs incurred after March 31, 2009, would be determined by the results of a future competitive bid process.

- (4) On January 14, 2009, the Commission issued a finding and order which, *inter alia*, authorized FirstEnergy to implement Rider FUEL on a temporary basis until March 31, 2009. In addition, the Commission directed FirstEnergy to file testimony and information by February 2, 2009, with regard to the prudency review for Rider FUEL. By entry issued January 30, 2009, the attorney examiner granted FirstEnergy an extension of time, only with respect to the filing of its testimony.
- (5) The following entities have filed motions to intervene in the *FirstEnergy Rider FUEL Case*:

The Ohio Energy Group  
The Office of the Ohio Consumers' Counsel  
The Kroger Company  
Industrial Energy Users-Ohio  
Ohio Partners for Affordable Energy  
Nucor Steel Marion, Inc.  
Northwest Ohio Aggregation Coalition  
Constellation NewEnergy and Constellation  
Energy Commodities Group, Inc.  
Neighborhood Environmental Coalition, The  
Empowerment Center of Greater Cleveland,  
United Clevelanders Against Poverty,  
Cleveland Housing Network, and The  
Consumers for Fair Utility Rates  
NextEra Energy Resources, LLC, FPL Energy  
Power Marketing, LLC, Gexa Energy  
Holdings, LLC, and Gexa Energy - Ohio,  
LLC  
City of Cleveland  
Northeast Ohio Public Energy Council  
Citizen Power, Inc.  
Material Sciences Corporation

No one filed memoranda contra to these motions to intervene. The attorney examiner finds that these motions are reasonable and should be granted.

- (6) Motions for admission *pro hac vice* were filed in the *FirstEnergy Rider FUEL Case* on behalf of the following individuals:

David C. Rinebolt  
Garrett A. Stone  
Michael K. Lavanga  
Cynthia A. Fonner  
Theodore S. Robinson

No one filed memoranda contra these motions. The attorney examiner finds that these motions are reasonable and should be granted.

- (7) On February 19, 2009, FirstEnergy filed an amended application in the *FirstEnergy ESP Case*, with an attached stipulation and recommendation (stipulation), which set forth a Stipulated ESP. In addition, the stipulation was filed in the *FirstEnergy Rider FUEL Case*. The parties to the stipulation recommend that the Commission act, by March 4, 2009, on certain interim provisions set forth in the stipulation, which are delineated in Section I of the stipulation and are effective prior to June 1, 2009 (namely, Sections A.1, A.2, A.3 A.4, and I, which pertain to the procurement of power to serve FirstEnergy's retail SSO customers from April 1, 2009, through May 31, 2009, and Section A.12, which pertains to a generation service uncollectible rider). Furthermore, the stipulating parties recommend that the Commission act, by March 25, 2009, on the remaining provisions of the stipulation.
- (8) The attorney examiner finds that, in light of the fact that certain provisions of the February 19, 2009, stipulation address issues pertinent to both the *FirstEnergy ESP Case* and the *FirstEnergy Rider FUEL Case*, it is necessary and appropriate to consider these two cases simultaneously.
- (9) With regard to the amended application and stipulation filed on February 19, 2009, the attorney examiner finds that time is of the essence and that a procedural schedule should be established at this time. The attorney examiner agrees with the stipulating parties that the issues set forth in Sections A.1, A.2, A.3 A.4, and I of the stipulation, which relate to FirstEnergy's procurement of power, should be considered expeditiously and the hearing on these issues should be scheduled as soon as

possible. Likewise, the attorney examiner finds that the prudency review mandated by the Commission's January 14, 2009, order in the *FirstEnergy Rider FUEL Case* should be considered forthwith.

With regard to the generation service uncollectible rider proposal set forth in Section A.12 of the stipulation, as well as all remaining matters addressed in the amended application and stipulation, the attorney examiner finds that the hearing on those matters should be bifurcated from the April 1, 2009, procurement and prudency issues, and should follow a subsequent procedural schedule. The attorney examiner notes, however, that, by establishing a different procedural schedule for consideration of these matters, the attorney examiner is in no way discounting their importance.

- (10) Accordingly, the attorney examiner finds that, with regard to the issues set forth in Sections A.1, A.2, A.3 A.4, and I of the stipulation, which relate to FirstEnergy's procurement of power for the period of April 1, 2009, through May 31, 2009, and the prudency review, the following procedural schedule should be observed:
  - (a) February 20, 2009 - Deadline for the filing of FirstEnergy's testimony.
  - (b) February 23, 2009 - Deadline for the filing of intervenors' and Staff's testimony.
  - (c) February 25, 2009 - An evidentiary hearing will be held at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215.
  - (d) February 27, 2009 - Deadline for the filing of briefs.
- (11) Furthermore, the attorney examiner finds that, with regard to the issues set forth in Section A.12 of the stipulation, as well as all of the remaining matters addressed in the amended application and stipulation, the following procedural schedule should be observed:

- (a) February 25, 2009 - Deadline for the filing of testimony by the parties supporting the February 19, 2009, stipulation.
  - (b) March 4, 2009 - Deadline for the filing of testimony by the parties opposing the February 19, 2009, stipulation.
  - (c) March 11, 2009 - An evidentiary hearing will be held at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215.
  - (d) March 18, 2009 - Deadline for the filing of briefs.
- (12) FirstEnergy should publish notice of the evidentiary hearings one time in a newspaper of general circulation in each county in the companies' certified territories. The notice should not appear in the legal notices section of the newspaper. The notice should read as follows:

#### LEGAL NOTICE

The Public Utilities Commission of Ohio has scheduled evidentiary hearings in Case No. 08-935-EL-SSO, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan* and in Case Nos. 09-21-EL-ATA, et. al, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Rider FUEL and Related Accounting Authority*. In these cases, the Commission will consider the companies' amended application requesting approval of a stipulated electric security plan filed on February 19, 2009, and matters related to the companies' procurement of power beginning January 1, 2009.

The evidentiary hearing regarding the provisions of the companies' stipulated electric security plan, which relate to FirstEnergy's procurement of power for the period of April 1, 2009, through May 31, 2009, and a review of the procurement of power for the January 1, 2009, through March 31, 2009, period will commence on Wednesday, February 25, 2009, at

10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215.

The evidentiary hearing regarding all remaining issues of the companies' stipulated electric security plan will commence on Wednesday, March 11, 2009, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215.

Further information may be obtained by contacting the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793, viewing the Commission's web page at <http://www.puc.state.oh.us>, or contacting the Commission's call center at 1-800-686-7826.

It is, therefore,

ORDERED, That the motions to intervene filed in the *FirstEnergy Rider FUEL Case* by various parties be granted in accordance with finding (5). It is, further,

ORDERED, That the motions for admission *pro hac vice* filed in the *FirstEnergy Rider FUEL Case* on behalf of various individuals be granted in accordance with finding (6). It is, further,

ORDERED, That the procedural schedule and deadlines set forth above be observed by the parties. It is, further,

ORDERED, That FirstEnergy publish notice, in accordance with finding (12). 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

/vrm <sup>FD</sup>

Entered in the Journal

FEB 19 2009



Renee J. Jenkins  
Secretary