

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

First Energy Service Company.

: Docket No: ER09-1589-000

**MOTION OF THE
PUBLIC UTILITIES COMMISSION OF OHIO
FOR AN EXTENSION OF TIME**

Pursuant to Rules 212 and 2008 of the Commission's Rules of Practice and Procedure, the Public Utilities Commission of Ohio hereby requests an extension of time to file comments or a protest. The Commission's August 17, 2009 Notice of Filing sets a date of September 8, 2009 for Comments or Protests in the above docket. The amount of time provided in the notice is not sufficient to allow a reasonable review of the complex issues presented by the case and the Commission will not be well served without a clear development of concerns. Consequently, the Public Utilities Commission of Ohio respectfully requests that it be given until October 23, 2009 to submit its comments.

In support of this motion, the Public Utilities Commission of Ohio states it is impossible for it to prepare and approve comments or a protest in these dockets within the allotted time. This is so both because of the functional manner in which the Public Utilities Commission of Ohio operates, and the practical need to further investigate issues raised in this docket.

The Public Utilities Commission of Ohio must take its actions by vote in a public session. To vote in a public session, potential Public Utilities Commission actions must be noted on its agenda in advance. The complexity of the issues in this docket will require all of the allotted time to be used for analysis of the filings, leaving no time for the public approval process that is needed for the Public Utilities Commission of Ohio to act. Without the requested extension of time, the Public Utilities Commission of Ohio will not be able to fully participate in this proceeding.

As American Municipal Power, Inc. (AMP) noted in its request for an extension of time, the complex nature of FirstEnergy Service Company's (FE) filing demands further investigation and analysis. Among those issues, the Public Utilities Commission of Ohio requires additional time and requests the opportunity to more fully investigate the applicant's assertions that efficiency would be increased and congestion reduced because American Transmission Systems, Inc. (ATSI) has stronger electrical ties to PJM than to MISO. It is difficult for the Ohio Commission to reach this conclusion in the absence of any physical changes. Further investigation is necessary to determine the validity of this claim.

Ohio has an obligation to assess the impacts and ensure service reliability for its citizens. FE has indicated there will be modifications associated with NERC's Reliability Standards. There will be some impact associated with the resource requirements alone from one RTO to another. The Ohio Commission also needs to consider the resulting impacts such a move would have on Ohio's remaining company in MISO.

The Public Utilities Commission of Ohio is also deeply concerned about the Lake Erie Loop Flow issue. The FirstEnergy Companies' interest and, therefore, Ohio's interest, in this matter goes back at least two decades. The loop flows impact Ohio ratepayers and the FE system. Those impacts include operational and reliability issues on the FE system, additional congestion charges to FE customers, shortened asset life, which could possibly result in severe cost and financial implications.¹ Even if the ATSI seam were to change, the seams between NYISO, PJM and MISO will all still impact the Lake Erie Loop Flow issue. The Public Utilities Commission of Ohio needs to further investigate the impacts of a changed seam on FirstEnergy, its ratepayers, and the surrounding areas.

As AMP noted, an extension would permit discussions between the parties that could mitigate some of the Ohio Commission's concerns. Because the Ohio Commission does not have enough information to either support or oppose the application, it has engaged in discussions with representatives of FE, PJM, and MISO. Those discussions have demonstrated the need for further investigation. For example, the data in the application indicates that moving ATSI's load and net capability from MISO to PJM would result in a negative adjustment to the net capability in the PJM footprint. This would also result in a negative adjustment to PJM's reserve margin. This is especially critical taking into consideration the 2008 Reliability Pricing Model (RPM) evaluations by PJM's Independent Market Monitor (IMM). The PJM IMM mitigated 100% of all

¹ Docket Nos. ER09- ER08-1281-000 and ER08-1281.

suppliers participating in the RPM auctions.² The Ohio Commission requests the opportunity to conduct discussions with the PJM IMM to assess whether this realignment application would cause further shortages in the PJM capacity market that could in turn lead to an increase in the market clearing price for capacity procured for Ohio customers.

Am. Sub. S.B. 221, enacted by the 127th Ohio General Assembly, mandates that the Ohio Commission employ a federal energy advocate (advocate). Ohio Rev. Code §4928.24 requires that the advocate examine the value of the participation of Ohio's electric utilities in RTOs, and to submit a report to the Ohio Commission on whether continued participation of those electric utilities is in the interest of retail electric service customers. On March 4, 2009, the Ohio Commission issued an invitation for public input investigating the value of continued participation in RTOs.³ Initial comments and replies were filed on May 26, 2009 and July 27, 2009, respectively. The Ohio Commission received 19 initial comments and 9 replies from interested parties. This investigation is ongoing, and the advocate's report has not been finalized. Aside from the complex issues raised in the application, the Public Utilities Commission of Ohio must also consider what impact, if any, the filing will have on its intrastate investigation. If there is an impact, the Ohio Commission will need to assess how to reconcile these matters.

The application also impacts regulatory proceedings before the Ohio Commission. The retail rates charged by the FirstEnergy retail utilities, Ohio Edison Company, the

² Analysis of the 2008-2009 RPM Auction - Revised, PJM Market Monitoring Unit, July 3, 2008.

Cleveland Electric Illuminating Company and the Toledo Edison Company, have been set through a competitive bidding process. These rates will expire as of June 1, 2011. The Public Utilities Commission of Ohio has ordered that, prior to proposing another competitive bidding process to replace these rates, the FirstEnergy retail companies must engage in a collaborative process to reach a consensus on the rules, procedures and protocols to be used in that future competitive process. That collaborative process has already begun.

The movement of the applicant from MISO to PJM may have a significant impact on this collaborative process and on the future competitive bid. The move would change reserve and capacity requirements. These changes in reserve and capacity requirements may have an impact on a state retail auction. These impacts may or may not be significant, but must be analyzed so that the movement of ATSI from MISO to PJM can be evaluated.

The Public Utilities Commission of Ohio appreciates the Commission's Notice of Extension of Time issued August 31, 2009 in response to AMP's motion. The additional week, however, is simply not enough time for the Ohio Commission to adequately investigate the many issues involved in this case, and comply with its statutory public approval process.

Taking all of the above into consideration, the Ohio Commission needs additional time to investigate, analyze, and process whether it will recommend a hearing in this

³ *In the Matter of the Commission's Investigation into the Value of Continued*

regard. Consequently, the Public Utilities Commission of Ohio requests a full 45 days from the original comment date, until October 23, 2009, to submit its comments in this case.

WHEREFORE, the Public Utilities Commission of Ohio requests that the Commission grant an extension of time for the filing of Protests until October 23, 2009.

Respectfully submitted,

/s/ Thomas W. McNamee

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing have been served in accordance with 18 C.F.R. Sec. 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Thomas W. McNamee

Thomas W. McNamee

Assistant Attorney General

Dated at Columbus, Ohio this 1st day of September, 2009.

Participation in Regional Transmission Organizations, Case No. 09-90-EL-COI.

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Summary: Motion Motion of the Public Utilities Commission of Ohio for an Extension of Time electronically filed by Ms. cora g peterson on behalf of Public Utilities Commission of Ohio