

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the matter of the 2010 Long-Term)
Forecast Report of the Cleveland Electric) Case No. 10-504-EL-FOR
Illuminating Company, Ohio Edison)
Company, the Toledo Edison Company)
and American Transmission Systems Inc.)

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REPLY TO FIRSTENERGY'S MEMORANDUM CONTRA OCC'S MOTION TO
INTERVENE

BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") files this Reply to the memorandum contra ("Memorandum Contra") of the Cleveland Electric Illuminating Company, Ohio Edison Company, the Toledo Edison Company (collectively "FirstEnergy Operating Companies") and American Transmission Systems (collectively "FirstEnergy" or "Companies") regarding OCC's motion to Intervene. FirstEnergy's Memorandum Contra established two points.

First, the Companies do not oppose the intervention of OCC in this case.¹ Therefore, OCC's intervention should be granted.

Second, the Companies do oppose OCC's request for further evaluation of the consumption of the Companies' all-electric customers. The Companies' opposition makes it clear that there are issues in dispute regarding the matters that should be addressed in the Companies' long-term forecast report. Therefore, the Public Utilities Commission of Ohio ("Commission" or "PUCO") should order a procedural schedule to

¹ Memorandum Contra at 2. (July 16, 2010).

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establish the timeframes for the parties to review and address the rate impacts of various levels of usage by all-electric and other electric customers.

The Companies filed their long-term forecast report and their resource plan with the Commission as required under Ohio Adm. Code Chapter 4901:5-5 and 4901:5-6, on April 15, 2010. The long-term forecast report describes the Companies' forecast of electricity loads in future and the resource plan the Companies believe should be utilized to meet those loads.²

OCC filed a Motion to Intervene on July 1, 2010, on behalf of the approximately 1.9 million Ohio residential utility consumers of First Energy's Operating Companies. OCC's motion to intervene provided the legal basis for OCC's right to intervention in this case, which is a statutory right under R.C. 4935.04.

As stated, OCC's motion to intervene also identified a need for the Companies' forecast report to evaluate the consumption of the Companies' all-electric customers to establish an appropriate long-term rate design for residential customers that balances the promises made to the all-electric customers and the rates paid by other residential electric customers.³ As discussed below, FirstEnergy's Memorandum Contra seized the available platform created by OCC's Motion to Intervene to provide commentary on the substantive matter relating to the usage of all-electric customers.

It should be noted that FirstEnergy's arguments do not provide any reason for the Commission to consider denying OCC's intervention in this case, and FirstEnergy made no such claim. FirstEnergy's arguments do provide a reason for the Commission to now establish a

² Ohio Adm. Code 4901:5-5-03

³ OCC Motion to Intervene at 3-4 (July 1, 2010).

procedural schedule to address the substantive matters at issue in this case – like the effect of the consumption and discounted rates for all-electric customers.

II. ARGUMENT

A. The Commission Should Grant OCC's Motion to Intervene Because FirstEnergy does not Dispute that OCC Satisfies all of the Statutory Criteria for Intervention.

OCC's July 1, 2010 Motion to Intervene addressed the statutory requirements for intervention in a proceeding. In particular, OCC has a statutory right to intervene under R.C. 4935.04(E), where the General Assembly specifically stated OCC's right to participate.

B. The Commission Should Establish a Procedural Schedule to Address the Substantive Matters in Dispute.

FirstEnergy's Memorandum Contra fails to ascertain the difference between a Motion to Intervene and a Hearing. Rather than focus on OCC's intervention, FirstEnergy's Memorandum Contra directs most of its comments toward OCC's request for additional studies that would provide the Commission with information about the particular usage of the Companies all-electric customers (information that will assist the Commission in developing the long-term solutions for those customers.)⁴ FirstEnergy's focus on a specific issue within OCC's motion to intervene – other than intervention -- establishes the fact that there are issues in dispute that need to be addressed during a hearing that is provided for by Ohio Revised Code 4935.04(D).

The Companies take umbrage with OCC's position that additional studies are needed to address the appropriate level of discounts all-electric customers should

⁴ FirstEnergy Memorandum Contra.

receive.⁵ FirstEnergy is content with the status quo and the fact that the “status of all-electric discounts in the future is uncertain.”⁶ The lack of information regarding the future of the rates for all-electric customers is precisely why OCC asserts more studies are needed. Any long-term plans by the Companies will need to address the level of discounts all-electric customers should receive, and efforts to strike the appropriate balance that would provide reasonable and affordable rates for every FirstEnergy customer going forward. The Companies’ long term forecast report is a logical place to address the usage of all-electric customers throughout the next decade.

III. CONCLUSION

R.C. 4935.04(E) confers upon the OCC the right to intervene in this proceeding. That authority is, in and of itself, sufficient basis for granting the OCC’s motion to intervene. And FirstEnergy did not oppose OCC’s intervention. Furthermore, the Commission should also establish a procedural schedule where the parties can review and address the rate impacts of various levels of usage by all-electric and other electric customers.

⁵ FirstEnergy Memorandum Contra at 5.

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Respectfully submitted,

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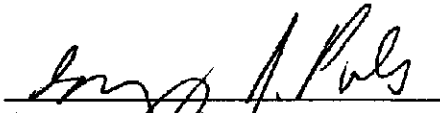
A handwritten signature in black ink, appearing to read "Greg J. Poulos", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply was served on the persons stated below via First Class United States Mail, postage prepaid, this 26th day of July 2010.



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