

**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       ) Case No. 10-176-EL-ATA  
Edison Company for Approval of a New       )  
Rider and Revision of an Existing Rider.     )

---

**REPLY TO MEMORANDUM CONTRA MOTION TO ESTABLISH A  
PROCEDURAL SCHEDULE  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

**I. INTRODUCTION**

On February 12, 2010, the Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company (collectively, “FirstEnergy” or the “Companies”) filed an application that proposed to adjust certain residential electric rates that apply to some of the Companies’ approximately 1.9 million residential customers, commonly referred to as “all-electric” customers. Subsequent events, further described in a Motion for Procedural Schedule by the Office of the Ohio Consumers’ Counsel (“Motion” by the “OCC”), filed on September 8, 2010, resulted in an interim rate for some of FirstEnergy’s all-electric customers.<sup>1</sup> The Public Utilities Commission of Ohio (“PUCO” or “Commission”) stated that the rate relief was an interim and not a long-term solution to the issue of FirstEnergy’s rate design.<sup>2</sup>

---

<sup>1</sup> Finding and Order at 3, ¶(10) (March 3, 2010).

<sup>2</sup> Id. at 3, ¶(12).

As a supplement to the facts stated in the OCC's Motion, the PUCO Staff docketed its Investigation and Report on September 24, 2010 that presented several scenarios for pricing electricity for all-electric customers. Also, an additional meeting was held on September 29, 2010 in Northern Ohio (Strongsville) at which discounts for FirstEnergy's all-electric customers were discussed. As with the news account of the previous meeting on August 31, 2010,<sup>3</sup> news accounts regarding the meeting in Strongsville continue to report that the PUCO will soon provide opportunities for consumers to testify at public hearings.<sup>4</sup>

The instant pleading replies to FirstEnergy's Memorandum Contra Motion for Procedural Schedule ("Memo Contra") filed on September 23, 2010.<sup>5</sup>

## **II. A PROCEDURAL SCHEDULE SHOULD BE ESTABLISHED TO HELP ENSURE A TIMELY RESOLUTION OF ISSUES RELATED TO FIRSTENERGY'S RESIDENTIAL RATE STRUCTURE.**

The Commission should establish a procedural schedule that provides guideposts along the route to the final resolution of this case would that would give the "meaningful opportunity to participate in the resolution of the issues" that the Commission has supported.<sup>6</sup> One of the guideposts supported in the OCC's Motion -- the filing of a report

---

<sup>3</sup> Andy Ouriel, *FirstEnergy, PUCO feel the heat at meeting*, Sandusky Register (September 1, 2010).

<sup>4</sup> John Funk, *Fight over discounted bills for all-electrics homes could drag into winter*, The Plain Dealer (September 28, 2010) ("PUCO Chairman Alan Schriber said he expects to hold hearings throughout FirstEnergy's region in October") available at: [http://www.cleveland.com/business/index.ssf/2010/09/all-electric\\_homes\\_1.html](http://www.cleveland.com/business/index.ssf/2010/09/all-electric_homes_1.html); Brian Byrne, *The outcry continues from Strongsville all-electric homeowners enraged by the uncertainty of the long-standing electricity rate discount for those residencies*, Sun Star Courier (September 30, 2010) ("Before this decision is made, PUCO will conduct a series of public hearings in October to receive testimony"), available at: [http://www.cleveland.com/sunstarcourier/index.ssf/2010/09/strongsville\\_residents\\_voice\\_c.html](http://www.cleveland.com/sunstarcourier/index.ssf/2010/09/strongsville_residents_voice_c.html).

<sup>5</sup> Ohio Adm. Code 4901-1-12(B)(2).

<sup>6</sup> Second Entry on Rehearing at 2, ¶(7).

by the PUCO Staff -- has taken place. FirstEnergy does not necessarily oppose the issuance of a procedural schedule regarding the remaining guideposts, but makes the uninteresting argument that the Commission should use its discretion regarding a procedural schedule.<sup>7</sup> The OCC's Motion supports the use of that discretion to set a procedural schedule for this case.

FirstEnergy fails to address, anywhere in its Memo Contra, the public meetings being held in Northern Ohio that the Companies' representatives attend (along with those from the PUCO Staff, OCC, and Citizens for Keeping the All-Electric Promise ("CKAP")) and the stream of letters filed in this docket and others. Local public hearings are sometimes crowded and sometimes sparsely attended after they have been announced by the PUCO in other cases. The present circumstance is that no local public hearing have been scheduled by the PUCO, and yet crowds attend meetings organized to discuss this PUCO proceeding. FirstEnergy's formal response to these unusual circumstances is that the process in this case can be drawn out for approximately another year.<sup>8</sup> To the contrary, the anxious public should be afforded an opportunity to comment and provide information to the Commission -- on the record and not just by letter and during community-organized meetings -- regarding FirstEnergy's rate design and related issues. Thereafter, interested parties such as the OCC and CKAP should be provided the opportunity to present their cases.

FirstEnergy's Memo Contra doesn't mention the precedent cited in the Motion for the establishment of the requested procedural schedule. This case is analogous to the

---

<sup>7</sup> Memo Contra at 3.

<sup>8</sup> Id. at 4 ("nearly a year").

Commission-initiated investigation into the line extension policies by several electric utilities after the Commission became more fully aware of the consequences of the PUCO's approval of electric transition plans subsequent to the enactment Sub. Senate Bill 3. The PUCO Staff was instructed to prepare and file a staff report of investigation,<sup>9</sup> and a hearing was subsequently convened. The Commission should establish a procedural schedule -- including one that provides local public hearings --- to ensure that persons interested in the all-electric rate issues have both an official forum and opportunity to provide the Commission with their recommendations.

The establishment of a procedural schedule will help ensure that timely progress is made regarding the procedures that are stated in the Commission's entries and orders as well as those procedures that have yet to be announced.

### **III. CONCLUSION**

The Commission should establish a procedural schedule regarding FirstEnergy's all-electric rates, including the treatment of deferrals that may result from the change in those rates. The Commission will benefit from the input provided by the public and parties to this case. The Commission should grant the OCC's Motion.

---

<sup>9</sup> Id., Entry at 3, ¶8 (February 6, 2002).

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

/s/ Jeffrey L. Small

Jeffrey L. Small, Counsel of Record

Maureen R. Grady

Christopher J. Allwein

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

614-466-8574 (Telephone)

614-466-9475 (Facsimile)

[small@occ.state.oh.us](mailto:small@occ.state.oh.us)

[grady@occ.state.oh.us](mailto:grady@occ.state.oh.us)

[allwein@occ.state.oh.us](mailto:allwein@occ.state.oh.us)

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Reply has been served upon the below-stated counsel, via regular U.S. Mail, postage prepaid, this 4<sup>th</sup> day of October, 2010.

/s/ Jeffrey L. Small \_\_\_\_\_  
Jeffrey L. Small

## **SERVICE LIST**

William Wright  
Attorney General's Office  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, OH 43215  
[William.Wright@puc.state.oh.us](mailto:William.Wright@puc.state.oh.us)

James W. Burk  
**FirstEnergy Service Company**  
76 South Main Street  
Akron, OH 44308  
[burkj@firstenergycorp.com](mailto:burkj@firstenergycorp.com)

Samuel C. Randazzo  
Lisa G. McAlister  
Joseph M. Clark  
McNees Wallace & Nurick LLC  
21 E. State St., 17<sup>th</sup> Fl  
Columbus, OH 43215

[sam@mwncmh.com](mailto:sam@mwncmh.com)  
[lmcalister@mwncmh.com](mailto:lmcalister@mwncmh.com)  
[jclark@mwncmh.com](mailto:jclark@mwncmh.com)

**Attorneys for Industrial Energy Users-  
Ohio**

Thomas J. O'Brien  
Bricker & Eckler LLP  
100 S. Third St  
Columbus, OH 43215  
[tobrien@bricker.com](mailto:tobrien@bricker.com)

**Attorney for Ohio Hospital Association  
and Ohio Manufacturers' Association**

Richard L. Sites  
Ohio Hospital Association  
155 East Broad Street, 15th Floor  
Columbus, OH 43215-3620  
[ricks@ohanet.org](mailto:ricks@ohanet.org)

**Attorney for Ohio Hospital Association**

Kevin Corcoran  
Corcoran & Associates Co. LPA  
8501 Woodbridge Ct.  
North Ridgeville, OH 44039  
[kevinocorcoran@yahoo.com](mailto:kevinocorcoran@yahoo.com)

**Attorney for Sue Steigerwald; Citizens  
For Keeping the All-Electric Promise  
(CKAP); Joan Heginbotham and Bob  
Schmitt Homes, Inc.**

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/4/2010 2:03:48 PM**

**in**

**Case No(s). 10-0176-EL-ATA**

Summary: Reply Reply to Memorandum Contra Motion to Establish a Procedural Schedule electronically filed by Ms. Deb J. Bingham on behalf of Small, Jeffrey L. Mr.