

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. )

ENTRY

The attorney examiner finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (FirstEnergy or the Companies) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) On February 12, 2010, FirstEnergy filed an application in this proceeding to revise its current tariffs in order to provide rate relief to certain all-electric customers.
- (3) On March 3, 2010, the Commission issued its Finding and Order in this proceeding, approving FirstEnergy's application as modified by the Commission and providing interim rate relief for all-electric residential customers. On March 8, 2010, the Ohio Consumers' Counsel (OCC) filed an application for rehearing. On April 6, 2010, the Commission granted rehearing for the purpose of further consideration of the matters specified in the application for rehearing. Subsequently, on April 15, 2010, the Commission denied rehearing in its Second Entry on Rehearing (April 15 Entry) in this proceeding. On April 2, 2010, FirstEnergy also filed an application for rehearing regarding the Commission's March 3, 2010, Finding and Order. The Commission granted rehearing on April 28, 2010, in the Third Entry on Rehearing in this proceeding.

On May 14, 2010, FirstEnergy filed an application for rehearing regarding the April 15 Entry. Further, on May 17, 2010, Industrial Energy Users-Ohio (IEU-Ohio) and OCC each filed applications for rehearing regarding the April 15 Entry. In the Fourth Entry on Rehearing in this

proceeding, issued on June 9, 2010, the Commission granted these applications for rehearing for further consideration of the matters specified in the applications for rehearing. On November 10, 2010, in the Fifth Entry on Rehearing in this proceeding, the Commission granted, in part, and denied, in part, the applications for rehearing filed by FirstEnergy and OCC, and denied the application for rehearing filed by IEU-Ohio.

- (4) By entry issued on October 8, 2010, this case was set for an evidentiary hearing on November 29, 2010. The October 8, 2010, entry, *inter alia*, set November 1, 2010, as the deadline for filing motions to intervene and scheduled a prehearing conference in this matter for November 18, 2010. By entry issued November 12, 2010, the attorney examiner directed that the evidentiary hearing should commence as scheduled on November 29, 2010, but then be continued until January 27, 2011.
- (5) The November 12, 2010, entry also established January 7, 2011, as the deadline for the submission testimony by the Companies and intervenors. The attorney examiner will clarify that all direct testimony offered by the Companies and intervenors in this matter, whether expert or non-expert, should be pre-filed.
- (6) Pursuant to discussions with the parties during the prehearing conference on November 18, 2010, the attorney examiner finds that the response time for discovery should be shortened to ten days and that discovery requests and replies should be served by electronic message (e-mail).
- (7) The attorney examiner also finds that an additional prehearing conference in this matter should be scheduled for January 18, 2011, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11<sup>th</sup> Floor, Hearing Room 11-D, Columbus, Ohio 43215.
- (8) On October 15, 2010, and November 2, 2010, Constellation NewEnergy, Inc. (Constellation) and Ohio Partners for Affordable Energy (OPAE), respectively, filed motions to intervene. No party filed a memorandum contra either motion to intervene. Although OPAE filed its motion one

day after the November 1, 2010, deadline, the attorney examiner finds that OP&E should be granted leave to file its motion to intervene one day late. The attorney examiner further finds that the motions to intervene filed by Constellation and OP&E are reasonable and should be granted. Constellation also filed a motion for admission *pro hac vice* on behalf of Cynthia Fonner Brady, while OP&E filed a motion for admission *pro hac vice* on behalf of David C. Rinebolt. The attorney examiner finds that the motions for admission *pro hac vice* should be granted.

It is, therefore,

ORDERED, That the parties adhere to the processes and procedures set forth in findings (5) and (6). It is, further,

ORDERED, That a prehearing conference be held on January 18, 2011, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11<sup>th</sup> Floor, Hearing Room 11-D, Columbus, Ohio 43215. It is, further,

ORDERED, That the motions to intervene and the motions for admission *pro hac vice* filed by Constellation and OP&E be granted. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

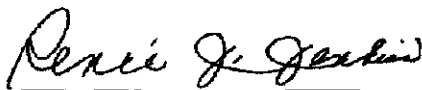


By: Henry H. Phillips-Gary  
Attorney Examiner

gpd /sc

Entered in the Journal

NOV 23 2010



Renee J. Jenkins  
Secretary