

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

ENTRY

The attorney examiner finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (FirstEnergy) are electric utilities as defined by Section 4928.01(A)(11), Revised Code.
- (2) 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 Sections 4928.142 or 4928.143, Revised Code.
- (3) On March 25, 2009, the Commission issued its Second Opinion and Order in these proceedings, approving the stipulations filed by various parties. Among other terms, the stipulations provided that, for the period between June 1, 2009, and May 31, 2011, retail generation rates would be determined by a descending-clock format competitive bid process (CBP).
- (4) The CBP auction was held on May 13, 2009. On May 14, 2009, CRA and Boston Pacific Company, Inc., (Boston Pacific) a consultant retained by the Commission to monitor the CBP auction, filed confidential reports, under seal, in this docket

regarding the conduct of the auction. A motion for a protective order regarding the reports was filed by Staff.

- (5) On May 14, 2009, the Commission accepted the results of the CBP auction. In addition, the Commission granted the motion for a protective order filed by Staff. The Commission noted that the confidential reports contained sensitive information including the names of unsuccessful bidders; price information, including starting price methodologies and round prices/quantities for individual bidders; information contained in Part I and Part II bidder applications; and indicative pre-auction offers. The Commission determined that this information should be deemed confidential and should remain under seal.
- (6) On May 17, 2011, Columbus Southern Power Company and Ohio Power Company (AEP Ohio) requested the public disclosure of the report filed by Boston Pacific. AEP Ohio contends that, pursuant to Rule 4901-1-24, Ohio Administrative Code (O.A.C.), the protective order issued by the Commission expired on November 14, 2009, and that, therefore, the document should be released.
- (7) The attorney examiner finds that AEP Ohio has misconstrued the Commission's Finding and Order issued on May 14, 2009. In the Finding and Order, the Commission granted Staff's motion for a protective order. However, the Commission did not intend for the provisions of Rule 4901-1-24(F), O.A.C., to apply; instead, the Commission ordered that the Boston Pacific report remain under seal indefinitely.
- (8) However, in light of AEP Ohio's request for disclosure of the Boston Pacific report, the attorney examiner finds that it is appropriate to review whether the report should remain confidential. The attorney examiner notes that the report includes sensitive information such as the names of unsuccessful bidders; price information, including starting price methodologies and round prices/quantities for individual bidders; information contained in Part I and Part II bidder applications; and indicative pre-auction offers. Therefore, the attorney examiner finds that interested persons should be provided 15 days to file comments in this proceeding regarding whether the information in the Boston Pacific report should remain under seal.

It is, therefore,

ORDERED, That interested persons file comments in 15 days regarding whether the Boston Pacific report should be deemed confidential and should remain under seal. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Gregory A. Price
Attorney Examiner

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Betty McCauley
Secretary