

**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 Provide for a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan

Case No. 12-1230-EL-SSO

MOTION FOR WAIVER OF RULES, REQUEST FOR EXPEDITED TREATMENT AND MEMORANDUM IN SUPPORT THEREOF

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (hereinafter collectively referred to as the “Companies”), have filed their Application requesting regulatory authority to continue the availability of a standard service offer (“SSO”) pursuant to R.C. § 4928.141 and, more particularly, pursuant to and consistent with the provisions of R.C. § 4928.143, to provide for a comprehensive electric security plan. As is explained in the Application, time is of the essence and the Commission must act quickly on the Application (by May 2, 2012) as such expedited approval is required in order to have the Companies to bid demand response resources and energy efficiency resources into the PJM 2015-2016 Base Residual Auction on May 7, 2012, but in no event later than June 20, 2012, which would be too late to bid into the PJM 2015/2016 BRA on May 7, 2012, but should still permit adequate time to implement changes to the competitive bidding process for a three year bid period to take advantage of historically low market prices for wholesale electric generation, all to the benefit of customers.

The Companies have made a good faith effort to conform their Application to substantive requirements of rules adopted by the Commission pursuant to R.C. § 4928.143(A) or other applicable Revised Code sections. However, to effect expedited consideration and approval, certain of the Commission's rules and procedures will require waiver. The waiver of such Commission rules is particularly appropriate because the electric security plan ("ESP") proposed in the Application is the result of a Stipulation reflecting the participation of numerous interested parties who already have considerable familiarity with the subject matter and issues presented, such waivers will not present undue prejudice and, in the circumstances is reasonable and warranted. As follows, the Companies, pursuant to O.A.C. 4901:1-35-02(B), specifically herein request the following waivers for good cause shown. Additionally, pursuant to O.A.C. 4901-1-12(C), expedited consideration of this Motion is requested.¹

A. O.A.C. 4901:1-35-03(C)

(C)(2) *Financial Projections.* The Companies are unable, upon the filing of their Application, to provide pro forma financial projections of the effect of the ESP's implementation and thus hereby request a waiver of such provision.

(C)(3) *Projected Rate Impacts.* With very limited exceptions, the rate schedules under the proposed ESP merely carry forward the existing rate schedules with which the Commission and the interested parties are already familiar. Moreover, significantly influencing the rate levels under this ESP are future generation auction prices, an unknown factor. Given these circumstances, any such projections would be speculative and thus be of little, if any, additional value to the Commission and interested parties and the Companies therefore request a waiver of this provision.

¹ As the Application initiating this matter is being filed contemporaneously with this Motion, formal intervention has not yet been granted and the undersigned counsel makes no representation regarding the position of any such potential intervenors with respect to the Commission's expedited consideration.

(C)(4) Corporate Separation Plan. The Commission approved the Companies' corporate separation plan by Opinion and Order issued on August 25, 2010 in Case Nos. 10-388-EL-SSO. The Companies' corporate separation plan currently is in full force and effect and is in compliance with statutory and rule requirements. The Companies specifically request a waiver of (C)(4) to the extent that such provision contemplates additional information to satisfy this requirement.

(C)(5) Operational Support Plan. The Companies' operational support plan was implemented as directed by the Commission in Opinion and Order issued on July 19, 2000 in Case Nos. 99-1212-EL-ETP *et al.* and related orders. There are no outstanding problems with the implementation. The Companies specifically request a waiver of (C)(5) to the extent that such provision contemplates additional information to satisfy this requirement.

(C)(6) Governmental Aggregation. The Companies will continue to maintain systems necessary to account for customer participation in governmental aggregation programs. The Companies herein request a waiver of the provision to provide a description as to how the Companies propose to implement divisions (I), (J), (K) of R.C. § 4928.20.

(C)(7) Impact of Unavoidable Generation Charge on Large-Scale Governmental Aggregation. The overall effect of the ESP's unavoidable charge(s)² is beneficial to customers served by large-scale aggregation groups, just as it is beneficial for all customers. The unavoidable generation charge(s) help provide the risk mitigation arrangements that are essential for the Companies to have the financial capacity to propose the ESP in its present form for the benefit of all customers. Such charge(s) have no disproportionate effect on large scale governmental aggregation.

² R.C. § 4928.20(K) directs the Commission to consider the effect on large-scale governmental aggregation of non-bypassable generation charges established by an electric security plan, except for those non-bypassable generation charges that relate to a cost whose deferral was authorized by the Commission prior to July 31, 2008.

(C)(8) State Policy. The Companies herein request a waiver of a discussion as to how the state policy is advanced by the ESP, to the extent a waiver is required. The Commission previously determined that the prior ESP was consistent with state policy. Given that the current proposal largely mirrors that plan, no new or additional discussion should be required.

(C)(9) The Companies specifically request a waiver of (C)(9) to the extent that such provision requiring “Specific Information” may be applicable to the ESP and not otherwise provided for in the Companies’ Application, Stipulation, or supporting testimony.

(C)(10) The Companies specifically request a waiver of (C)(10) to the extent that such provision requiring “Additional Required Information” may be applicable to the ESP and not otherwise provided for in the Companies’ Application, Stipulation, or supporting testimony.

B. O.A.C. 4901:1-35-03(F)

As stated above in O.A.C. 4901:1-35-03(C)(4), the Commission approved the Companies’ corporate separation plan by Opinion and Order issued on August 25, 2010 in Case No. 10-388-EL-SSO. The Companies’ corporate separation plan currently is in full force and effect and is in compliance with statutory and rule requirements. The Companies specifically request a waiver of O.A.C. 4901:1-35-03(F) to the extent that such provision contemplates additional information to satisfy this requirement.

O.A.C. 4901:1-35-03(G)

With limited exceptions, the proposed ESP essentially carries forward for an additional two years the provisions, schedules and impacts of the existing ESP, the workpapers for which were fully available and reviewed during consideration of Case No. 10-388-EL-SSO. Accordingly, in these circumstances the Companies request waiver of the requirement here as preparation of

workpapers as contemplated by the rule would provide the Commission and interested parties with little, if any, information with which they are not already familiar.

C. O.A.C. 4901:1-35-04

The Companies will publish a notice for newspaper publication as ordered by the Attorney Examiner(s). However, to the extent more is required to be included with the Application, the Companies herein request a waiver of this rule requirement.

D. O.A.C. 4901:1-35-06

As stated above, expedited approval by May 2, 2012 is required in order to have the Companies to bid demand response resources and energy efficiency resources into the PJM 2015-2016 Base Residual Auction on May 7, 2012, but in no event later than June 20, 2012, which would be too late to bid into the PJM 2015/2016 BRA on May 7, 2012, but should still permit adequate time to implement changes to the competitive bidding process for a three year bid period to take advantage of historically low market prices for wholesale electric generation, all to the benefit of customers. In an effort to facilitate such a procedural schedule the Companies herein request that no party that participated as an intervenor in Case No. 10-388-EL-SSO need move to intervene in this proceeding in order to be deemed a party hereto. The Companies further request as to any other potential intervening parties to waive the forty-five day period for intervention and instead request that all interventions be due by April 20, 2012. The Companies have been actively working with numerous interested parties and such parties have had an opportunity to familiarize themselves with the Companies' Application.

E. Additional Waivers

In addition to the matters specifically itemized above, to the extent waiver of the requirements of any other provisions of the Commission's rules may be required in order to

accommodate the Commission's expeditious consideration of the Application, such waiver is also herein requested.

For the foregoing reasons, the Companies request the Commission issue its Entry granting the Motion as requested herein.

Respectfully submitted,

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Summary: Motion for Waiver of Rules and Request for Expedited Treatment electronically filed by Ms. Laura C. McBride on behalf of Ohio Edison Company and The Toledo Edison Company and The Cleveland Electric Illuminating Company