

**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. 14-1297-EL-SSO**
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MOTION OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY TO AMEND THE PROCEDURAL SCHEDULE

Pursuant to Rule 4901-1-12, O.A.C., Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) respectfully move to amend the procedural schedule in this matter. Currently, the prehearing conference is scheduled for January 9, 2015, and the evidentiary hearing is scheduled to commence on January 20, 2015. The Companies respectfully request that the Attorney Examiner amend the procedural schedule so that the prehearing conference will be held on January 16, 2015 and the hearing will commence on January 28, 2015. As explained in the attached Memorandum in Support, in the absence of such a change in the procedural schedule, it will be unduly burdensome for the Companies to prepare for the prehearing conference and the hearing. Among other things, the most recent change in the procedural schedule reduced the time between the filing of the intervenors’ testimony and the start of the hearing from about *six* weeks to *four* weeks. Because parts of two of the four weeks in the current schedule fall on and between the Christmas and New Year holidays, the current schedule effectively reduces the time to take depositions of the witnesses that may be sponsored by over fifty intervenors to less than *two* weeks. The Companies have communicated this proposed change to the intervenors in this

proceeding and of the parties that have responded, twenty-five parties have no objection to amending the procedural schedule accordingly.¹

Date: November 5, 2014

Respectfully submitted,

/s/ David A. Kutik

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ATTORNEYS FOR OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE
TOLEDO EDISON COMPANY

¹The parties with no objection include: PUCO Staff, the Citizens Coalition, Direct Energy, Kroger, OHA, Monitoring Analytics, IBEW Local 245, Energy Professionals, NextEra, AEP, Duke Energy-Ohio, Hardin Wind LLC, Champaign Wind LLC and Buckeye Wind LLC, MAREC, Ohio Advanced Energy, OEG, AICUO, IEU, COSE, OMAEG, NUCOR, EnerNOC, Material Sciences Corporation and Walmart.

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MEMORANDUM IN SUPPORT

On August 29, 2014, the Attorney Examiner issued an Entry setting the following procedural schedule:

- December 1, 2014: Discovery cutoff
- December 5, 2014: Intervenor testimony due
- December 19, 2014: Staff testimony due
- January 9, 2015: Prehearing conference
- January 20, 2015: Hearing commences

On September 5, 2014, a group of parties filed a motion to modify the procedural schedule including a request to extend the prehearing conference date to January 23, 2015 and the hearing date to February 10, 2015 (“September 5 Motion”).¹

¹ The September 5, 2014 Motion to Modify the Procedural Schedule was joined by Sierra Club, OPAE, OCC, Direct Energy, IGS Energy, OHA, OMAEG, and Kroger.

On October 6, 2014, the Attorney Examiner issued another Entry revising the procedural schedule as follows, but did not extend the prehearing conference date or hearing date as requested:

- December 1, 2014: Discovery cutoff
- December 22, 2014: Intervenor testimony due
- January 9, 2015: Staff testimony due
- January 9, 2015: Prehearing conference
- January 20, 2015: Hearing commences

See Case No. 14-1297-EL-SSO, Entry at 5 (Oct. 6, 2014).

The Companies now request two changes to the revised schedule due to the modifications made to the procedural schedule in the October 6, 2014 Entry, with both requested changes more closely aligning with the dates requested by the parties to the September 5, 2014 Motion. First, the date for the prehearing conference should be changed from January 9, 2015 to January 16, 2015. Second, the date for the hearing should be changed from January 20, 2015 to January 28, 2015. Twenty-five parties have advised the Companies that they do not object to this motion. Certain other parties have indicated that they object to the proposed changes unless other dates are changed.² As demonstrated below, the objectors' proposed additional change would be counterproductive and would not relieve the issues with the current schedule.

The Prehearing Date Should Be Changed.

Currently, the prehearing conference and the due date for Staff testimony are scheduled for the same day, January 9, 2015. Left unchanged, the schedule will leave the Companies and the intervenors unable to review Staff's testimony prior to the prehearing conference. As such,

² These parties include NOPEC, the Cleveland Municipal School District, ELPC, OEC, EDF, RESA, the PJM Power Providers, Electric Power Supply Association and OPAAE.

neither the Companies nor the intervenors will be able to raise any concerns created by Staff's testimony at the prehearing conference. The Companies thus request that the date for the prehearing conference be changed to January 16, 2015.

The objectors proposed that if the prehearing conference date is moved to January 16, 2015, the due date for Staff testimony be similarly moved from January 9, 2015 to January 16, 2015. This proposed change defeats the purpose of moving the prehearing date. Moving the due date for Staff testimony to January 16, 2015, as the objectors propose, will once again make Staff testimony due on the same day that the prehearing conference would be scheduled under the Companies' proposal—the very result that the Companies are seeking to avoid by filing this Motion. Notably, Staff did not join in objecting to the Companies' motion or suggest the change to the Staff testimony filing proposed by the objectors.

The Hearing Date Should Be Changed.

The hearing for this proceeding is scheduled to commence on January 20, 2015. The current due date for intervenor testimony is Monday, December 22, 2014, the start of the first of two holiday weeks. Realistically, given the holidays, it will prove very difficult for the Companies to schedule and take depositions any time before January 5, 2015, and likely later. In fact, prior to filing this Motion, the Companies asked the intervenors if they were willing to commit to present any witnesses for deposition during the week of December 29. Not one intervenor was willing to do so.

The current schedule thus effectively leaves the Companies less than ten business days to take depositions of the intervenors' witnesses. Given that there are over fifty parties that have moved to intervene, the schedule would require the Companies potentially to take as many as fifty depositions (and potentially more if an intervenor offers more than one witness) in less than ten days. This would be in addition to addressing any issues that may arise following the

prehearing conference. Thus, the Companies are understandably concerned that the current schedule does not provide a workable timeframe in which to conduct depositions. The Companies thus request that the Attorney Examiner change the commencement date of the hearing to January 28, 2015.

The objectors also propose that if the hearing date is moved to January 28: (a) the cutoff date for discovery be moved from December 1, 2014 to December 8, 2014; and (b) the due date for intervenor testimony be moved from December 22, 2014 to December 30, 2014. These proposed changes defeat the purpose of this Motion. The reason the Companies proposed moving the hearing commencement date to January 28, 2015, was to provide the Companies with the requisite time to schedule and take a large number of depositions. Moving the discovery cutoff date and the due date for intervenor testimony, as the objectors propose, will simply reestablish the current problems regarding the Companies' ability to schedule and take depositions, as well as prepare for the hearing. Allowing intervenors to file testimony on December 30 would allow only two business days (on either side of the New Year holiday) before the Companies could begin taking depositions on January 5.

Other intervenors have proposed moving the intervenor testimony deadline to December 30 (a one week extension) and the hearing to February 4 (a two week extension). This is unacceptable, given that the Companies need to have a decision on this ESP by April 8, 2015, sufficiently before the PJM Base Residual Auctions in May 2015, and within the Commission's 275-day decision timeline for an ESP.

The Commission's Precedents Favor The Schedule Changes Sought Here.

The Commission routinely grants motions to amend procedural schedules so that the movants and other parties to proceedings have adequate time to prepare for hearing. *See, e.g., In the Matter of the Review of the Fuel Adjustment Clauses of Columbus Southern Power Company*

and Ohio Power Company, Case No. 09-872-EL-UNC, 2010 Ohio PUC LEXIS 1296 at *3-4 (Dec. 3, 2010) (amending procedural schedule to extend hearing date so that parties had adequate time to prepare for hearing); *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a New Rider and Revision of an Existing Rider*, Case No. 10-176-EL-ATA, 2010 Ohio PUC LEXIS 1211 at *6 (Nov. 12, 2010) (granting continuance of hearing so that “all parties” would have “a fair opportunity” to prepare testimony and conduct discovery on new issues); *In the Matter of the Application of Commerce Energy, Inc. d/b/a Just Energy for Certification as a Competitive Retail Natural Gas Provider*, Case No. 02-1828-GA-CRS, 2010 Ohio PUC LEXIS 1025 at *2-3 (Oct. 7, 2010) (granting 7-day continuance of hearing date so that parties could more adequately prepare for hearing); *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set the Annually Adjusted Component of its Market-Based Standard Service Offer*, Case No. 10-1268-EL-RDR, 2010 Ohio PUC LEXIS 991 at *3-4 (Sept. 29, 2010) (granting extension of testimony due date and hearing date to allow parties adequate time to prepare for hearing).

The amendments to the procedural schedule proposed above will not prejudice any party to this proceeding and in fact are more in line with the proposed dates requested by certain parties in the September 5 Motion. Further, the Companies communicated the proposed changes in the prehearing conference and the hearing commencement dates to the intervenors to this proceeding on October 23rd and most have not objected. The Companies thus respectfully request that the Attorney Examiner amend the procedural schedule so that the prehearing conference date is January 16, 2015 and the hearing commencement date is January 28, 2015.

Date: November 5, 2014

Respectfully submitted,

/s/ David A. Kutik

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ATTORNEYS FOR OHIO EDISON
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TOLEDO EDISON COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on November 5, 2014.

/s/ David A. Kutik

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Summary: Motion of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company to Amend the Procedural Schedule electronically filed by MR. DAVID A KUTIK on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company