

**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. 14-1297-EL-SSO
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.)	

**JOINT INTERLOCUTORY APPEAL,
REQUEST FOR CERTIFICATION TO FULL COMMISSION
AND APPLICATION FOR REVIEW
BY
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NORTHWEST OHIO AGGREGATION COALITION,
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THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Northeast Ohio Public Energy Counsel (“NOPEC”); Northwest Ohio Aggregation Coalition (“NOAC”); Ohio Manufacturers’ Association Energy Group (“OMAEG”); Ohio Partners for Affordable Energy (“OPAE”) and The Office of the Ohio Consumers’ Counsel (“OCC”) (collectively “Joint Appellants”) on behalf of the electric customers of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively “FirstEnergy” or “the Utility”) submit this Interlocutory Appeal to the Public Utilities Commission of Ohio (“PUCO” or “the Commission”). Joint Appellants respectfully request that this appeal be certified to the full commission for review of the Attorney Examiner March 23, 2015 Entry establishing the deadline for supplemental testimony addressing the Commission’s Order in *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, et al., Opinion and Order (February 25,

2015) (“AEP Ohio Order”). This appeal is being pursued to afford parties a fair opportunity to submit testimony that could be affected by pending applications for rehearing in the AEP Ohio Order and to provide the PUCO with a record that is sufficient to allow it to make “findings of fact and written opinions.”¹

The interlocutory appeal should be certified² for an immediate determination by the Commission because it presents a new or novel question of interpretation, law, and policy, departs from past general practices, and is necessary in order to prevent undue prejudice to Ohio consumers and their representatives. Upon review,³ the PUCO should reverse or modify the Attorney Examiner’s Entry. The Commission should establish a schedule for supplemental testimony that requires supplemental testimony after the applications for rehearing in the AEP Ohio ESP III case have been substantively ruled upon. Additionally, the procedural schedule should require FirstEnergy’s testimony to be filed first, with intervenor testimony responding to the Utility’s testimony to be filed thereafter.

The reasons for this Interlocutory Appeal, including the Request for Certification and the Application for Review, are explained in the attached Memorandum in Support.

Respectfully submitted,

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¹ R.C. 4903.09.

² Ohio Adm. Code 4901-1-15(B).

³ Ohio Adm. Code 4901-1-15(C).

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MEMORANDUM IN SUPPORT

I. BACKGROUND

On August 4, 2014, FirstEnergy filed an Application for their fourth electric security plan (“ESP IV”) seeking a monumental change in Ohio regulatory law. Specifically, FirstEnergy seeks authority to charge its distribution customers for costs associated with purchasing power from its generation affiliate and providing its affiliate a guaranteed return on equity.

While this case was pending, the PUCO issued the above-referenced AEP Ohio Order in consideration of AEP Ohio’s Application in Case No. 13-2385-EL-SSO (“AEP Ohio ESP III Case”). In that case, the PUCO specifically addressed some of the same concepts that are set forth in FirstEnergy’s ESP IV, most notably, a power purchase agreement rider (“PPA”). The PUCO approved the utility’s purchase power agreement as a placeholder rider and adopted factors for the utility to address in a future PPA filing (“AEP Ohio PPA factors”), over the objections of numerous parties, including the Joint Appellants. Joint Appellants argued, inter alia, that the PUCO lacked authority to approve the PPA under Ohio law and that the PUCO was preempted from approving the PPA under the Federal Power Act.

In response to the AEP Ohio ESP Order, on March 23, 2015, the Attorney Examiner issued a procedural Entry (*see*, “Attachment A”), that delayed the previously scheduled April 13 hearing and called for additional discovery and supplemental testimony addressing the AEP Ohio PPA factors. In doing so, the Attorney Examiner issued the following procedural schedule:

- (a) Discovery requests regarding the AEP Ohio Order factors, except for notices of deposition, should be served by April 13, 2015.
- (b) Supplemental testimony on behalf of FirstEnergy should be filed by May 4, 2015.
- (c) Supplemental testimony on behalf of the interveners should be filed by May 4, 2015.
- (d) Testimony on behalf of the Staff should be filed by May 29, 2015.
- (e) A prehearing conference shall be scheduled for March 31, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
- (f) The evidentiary hearing shall convene on June 15, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.⁴

This procedural schedule, built exclusively off of an interceding decision, presents a new and novel issue of law and policy. It treats the AEP Ohio Order (and the PPA factors) as conclusive, yet the Order is the subject of multiple pending applications for rehearing. These applications for rehearing allege, *inter alia*, that the PUCO has no jurisdiction to approve a PPA and that the PPA factors are unjust and unreasonable. The Attorney Examiner’s Entry in the above-captioned matter also requires the intervenors to file supplemental testimony at the same time as FirstEnergy. This precludes the

⁴ Entry at 3 (March 23, 2015).

intervenors from filing testimony that is responsive to the Utility's supplemental testimony on the AEP Ohio PPA factors.

Joint Applicants request that this interlocutory appeal of the Attorney Examiner's ruling be certified to the Commission. Additionally, Joint Appellants ask that the PUCO amend the March 23, Entry by adopting a procedural schedule that proceeds only after resolving the pending applications for rehearing in the AEP Ohio ESP III Case. A fair and reasonable schedule should also permit Joint Intervenors to file responsive testimony to the Utility's supplemental testimony on the AEP Ohio PPA factors. Joint Appellants present such a schedule in Section IV.

II. STANDARD OF REVIEW

If a party does not satisfy the criteria set forth in Ohio Adm. Code 4901-1-15(A), the Commissions' procedural rules require an interlocutory appeal to be certified to the Commission. The rule states, in pertinent part:

[N]o party may take an interlocutory appeal from any ruling issued under rule 4901-1-14 of the Administrative Code or any oral ruling issued during a public hearing or prehearing conference unless the appeal is certified to the commission by the legal director, deputy legal director, attorney examiner, or presiding hearing officer.

The legal director, deputy legal director, attorney examiner, or presiding hearing officer shall not certify such an appeal unless he or she finds that the appeal presents a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent and an immediate determination by the commission is needed to prevent the likelihood of undue prejudice or expense to one or more of the parties, should the commission ultimately reverse the ruling in question.⁵

Joint Appellants concede that the March 23, 2015 Entry does not fall under the purview of 4901-1-15(A). But the PUCO should reverse the Attorney Examiner's ruling because

⁵ Ohio Adm. Code 4901-1-15(B).

it is a new and novel question of interpretation, law, and policy that will cause undue prejudice if the procedural schedule is not adjusted.

III. CERTIFICATION OF INTERLOCUTORY APPEAL

The full Commission will review an Attorney Examiner's ruling if the Attorney Examiner (or other PUCO personnel) certifies the appeal. An interlocutory appeal should be certified if it presents "a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent and an immediate determination by the commission is needed to prevent the likelihood of undue prejudice..." That standard is met in this instance and the appeal should be certified.

A. The Entry raises a new and novel question of interpretation, law, and policy.

In the past 15 months, three of Ohio's four electric distribution utilities filed ground-breaking cases that seek riders to collect costs associated with PPAs as part of their ESP applications.⁶ Under these PPAs, the regulated distribution utilities are seeking to charge customers for generation services. The PUCO issued its first Opinion and Order in these series of cases when it declined to adopt AEP Ohio's PPA rider as proposed, but authorized establishment of a placeholder PPA rider at the initial rate of zero.⁷ The PUCO then explained that it would balance several factors, "in deciding whether to approve future cost recovery requests associated with PPAs." Those factors include "financial need of the generating plant; necessity of the generating facility, in

⁶ Ohio Power Company proposes the Power Purchase Agreement Rider ("PPA Rider") in Case No. 13-2385-EL-SSO, Application at 8-9 (December 20, 2013); Duke Energy Ohio proposes the Price Stabilization Rider ("Rider PSR") in Case No. 14-0841-EL-SSO, Application at 13-14 (May 29, 2014); and FirstEnergy proposes the Retail Rate Stability Rider ("Rider RRS") in Case No. 14-1297-EL-SSO, Application at 9-10 (August 4, 2014).

⁷ AEP Ohio Order at 25.

light of future reliability concerns, including supply diversity; description of how the generating plant is compliant with all pertinent environmental regulations and its plan for compliance with pending environmental regulations; and the impact that a closure of the generating plant would have on electric prices and the resulting effect on economic development within the state.”⁸ On March 27, 2015, a number of parties, including OCC, filed for rehearing on the PPA factors. In its application, OCC argued, *inter alia*, that the PUCO had no jurisdiction to approve the PPA rider; that the PUCO is preempted by the Federal Power Act from approving the PPA; and that the PPA factors adopted were unjust and unreasonable because they are “skewed in favor of approving the PPA rider without fully considering the PPA’s impact on customers.”⁹ The applications for rehearing are pending PUCO ruling.

After the PUCO issued the AEP Ohio Order, the Attorney Examiner in this case issued a procedural entry on March 23, 2015, which directed the parties “to address whether and how the Commission’s findings in the AEP Ohio Order should be considered in evaluating FirstEnergy’s application in this proceeding.”¹⁰ Specifically, the Entry was issued to provide the parties with “sufficient time [to] conduct additional discovery and to evaluate and offer supplemental testimony addressing the AEP Ohio Order.” Such a ruling sets forth a novel interpretation of law and policy – issuing a procedural schedule directing parties to address an interceding decision while and treating a non-final order as a final order without regard for the rehearing process.

⁸ Entry at 2.

⁹ AEP Ohio ESP III, Case No. 13-2385-EL-SSO, Application for Rehearing by the Office of the Ohio Consumers’ Counsel at 43 (March 27, 2015).

¹⁰ Entry at 2.

B. The Entry departs from past precedent.

Not only does the Entry raise a novel issue by requiring all parties to prematurely file testimony, but it departs from past precedent by requiring Intervenors to submit testimony on the AEP Ohio PPA at the same time as FirstEnergy is required to file testimony. Under this ruling, Intervenors are denied the opportunity to respond to FirstEnergy's testimony on the AEP Ohio PPA factors. Traditionally, however, the Utility files its application with supporting testimony then the intervening parties and Staff are afforded the opportunity to file responsive testimony.¹¹ Even when some parties enter into a stipulation, the Commission has allowed parties opposing the application and stipulation time to file responsive testimony. For instance, in FirstEnergy's last ESP case ("FirstEnergy ESP III"), FirstEnergy was permitted to file supplemental testimony in support of the stipulation by April 23, 2012 and non-signatory parties were granted two weeks to file responsive testimony on May 4, 2012.¹² Similarly, in AEP Ohio's last ESP case ("AEP Ohio ESP II") the PUCO set forth a procedural schedule whereby testimony in support of the stipulation was due on September 13, 2011 while testimony opposing the stipulation was not due for another two weeks.¹³ By requiring FirstEnergy and Intervenors to file testimony on the AEP Ohio PPA factors on the same day, the Attorney Examiner has departed from past precedent, and the Entry should be certified to the full Commission for review.

¹¹ See e.g., *AEP Ohio ESP III*, Case No. 13-2385-EL-SSO, Entry at 1 (January 24, 2014); *Duke ESP Case No. 14-841-EL-SSO*, Entry at 2 (June 6, 2014).

¹² *FirstEnergy ESP III*, Case No. 12-1230-EL-SSO Entry at 2 (April 19, 2012).

¹³ *AEP Ohio ESP II*, Case No. 11-346-LE-SSO, Entry at 3 (September 16, 2011)

C. An immediate determination by the Commission is needed to prevent the likelihood of undue prejudice to the Joint Appellants and other parties involved in this action.

1. Parties will suffer undue prejudice if the procedural schedule does not allow time for an entry on rehearing in the AEP ESP III case.

The Joint Appellants and other parties in this action will suffer undue prejudice if the procedural schedule is not amended to allow time for the PUCO to issue an entry on rehearing in the AEP Ohio ESP III Case. Numerous parties filed Applications for Rehearing on March 27, 2015, alleging that the AEP Ohio Order was unreasonable and unlawful. Many of those parties applying for rehearing specifically alleged that the Commission's ruling on AEP Ohio's Rider PPA was unreasonable and unlawful.¹⁴ Parties also challenged the reasonableness of the PPA factors.¹⁵

The Commission has until April 27, 2015 to grant or deny the applications for rehearing, unless they are denied by operation of law.¹⁶ Moreover, the Commission often grants rehearing to allow for "further consideration of the matters specified in their applications for rehearing,"¹⁷ thereby deferring issuing a substantive ruling until a later time.

It is quite possible that an entry on rehearing in the AEP Ohio ESP III case could result in changes to the AEP Ohio Order, including a change to the factors that the PUCO

¹⁴ See, R.C. 4903.10; Ohio Adm. Code 4901-1-35(A).

¹⁵ See *AEP Ohio ESP III*, Case No. 13-2385-EL-SSO, OCC Application for Rehearing at 17-47; See also Industrial Energy Users-Ohio Application for Rehearing at 11-50; See also Ohio Manufacturers' Association Application for Rehearing at 4-13; See also Interstate Gas Supply, Inc. Application for Rehearing at 4; (March 27, 2015)

¹⁶ See, R.C. 4903.10(B).

¹⁷ See e.g., *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Entry on Rehearing at 3 (Feb. 1, 2012).

will consider when addressing future requests for PPAs. It is not uncommon for the PUCO to grant entries on rehearing that result in substantive changes to the original Opinion and Order. In fact, the Commission did an about-face in AEP Ohio ESP II. In that case, the PUCO issued an Opinion and Order in December 2011 adopting (with modifications) a stipulation and recommendation. But the Commission issued an entry on rehearing just two months later finding, that the stipulation did not satisfy the three-prong test.¹⁸ Later that year, the PUCO issued an Opinion and Order on AEP Ohio's amended ESP II plan in August 2012, but again granted certain applications for rehearing, in part.¹⁹

As previously mentioned, the March 23, 2015 Entry in this case directs the parties to file supplemental testimony on May 4 addressing the AEP Ohio PPA factors. But until the Commission has an opportunity to substantively rule on the applications for rehearing, those factors could change. For instance, OCC set forth nine additional factors that the PUCO should be required to address in future PPA rider filings.²⁰ If those factors are adopted on rehearing, then there would need to be additional testimony issued by the parties in this case. The testimony ordered by the Attorney Examiner in this case would be incomplete and would fail to address the additional factors. This could prevent the Commission from having a complete record on this matter on which to make an informed decision, per R.C. 4903.09. Parties, including FirstEnergy will have spent

¹⁸ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Opinion and Order at 6 (August 8, 2012).

¹⁹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Entry on Rehearing at 15, 24, 40, 42, 55 (January 30, 2013).

²⁰ *AEP Ohio ESP III*, Case No. 13-2385-EL-SSO, Application for Rehearing by the Office of the Ohio Consumers' Counsel at 43-46 (March 27, 2015).

substantial time and resources addressing factors that may no longer apply. The principles of judicial economy justify waiting to file supplemental testimony until the PUCO has substantively ruled on the applications for rehearing in the AEP Ohio ESP III case.

Although the Commission was well-intended in its effort to allow the parties ample time to provide testimony to address the AEP Ohio PPA factors, it failed to consider that rehearing applications on those factors would be filed by parties. The PUCO should wait until a final order is issued on rehearing, and a reasonable time thereafter, before requiring responsive testimony on the AEP Ohio PPA factors. Given the significance of FirstEnergy's proposal for a PPA, a thorough proceeding that creates a "complete" record is warranted. Otherwise, undue prejudice will result to all parties involved, including the PUCO.

2. Intervenors will suffer undue prejudice if the procedural schedule does not permit time to respond to FirstEnergy's supplemental testimony.

Irrespective of whether the PUCO decides to extend the entire procedural schedule in relation to an entry on rehearing in the AEP Ohio ESP Case, at a minimum, the Intervenors will be unduly prejudiced by the March 23, 2015 Entry. They must be afforded an opportunity to file testimony responsive to FirstEnergy's supplemental testimony addressing the AEP Ohio ESP III Case factors. Under the current procedural schedule, FirstEnergy is permitted to file supplemental testimony at the same time Intervenors are required to file their supplemental testimony. Permitting First Energy to provide additional testimony to address the factors detailed in the AEP Ohio ESP case is tantamount to permitting FirstEnergy to amend its application. Joint Appellants will be at a distinct disadvantage of not having the ability to respond to the effectively amended

application. Lack of a record responding to FirstEnergy's supplemental testimony on the PPA rider factors will also limit the effectiveness of the evidentiary hearing in developing a record under R.C. 4903.09. The PUCO should have adequate information before it to make "findings of fact and written opinions."²¹ Under the Attorney Examiner's Entry the PUCO may be thwarted in carrying out its statutory duty.

The Commission should prevent this undue prejudice in the interests of fairness as well as maximizing judicial economy by reversing the March 23, 2015 Entry and adopting a procedural schedule described in more detail below.

IV. APPLICATION FOR REVIEW

The PUCO should reverse the Attorney Examiner's March 23, 2015 procedural Entry because it is unjust and unreasonable. As previously mentioned, the aforementioned Entry does not contemplate the possibility of an entry on rehearing from the Commission in the AEP Ohio ESP III case which could have a profound impact on the AEP Ohio PPA factors that the parties in this case have been directed to address. An entry amending the factors to be considered is likely to require additional testimony to address changes in the AEP Ohio PPA factors. In the interests of judicial economy, this Commission should reverse the Attorney Examiner's Entry and issue a procedural schedule that allows time to respond to a full and final order in the AEP Ohio ESP III case.

The March 23, 2015 Entry should also be reversed to allow time for Intervenor to file testimony responsive to what the Utility may file to address the AEP Ohio PPA factors. Intervenor is already at a disadvantage of combating the resources and

²¹ R.C. 4903.09.

information in controlled by the Utility. It would be unjust and unreasonable to exacerbate this inequality by eliminating the ability to file testimony responsive to FirstEnergy's supplemental testimony. Such a procedural schedule only serves to deprive the Commission of a full and complete record that adequately addresses these issues of monumental importance.

Moreover, Joint Appellants' Application for Review meets the terms of Ohio Adm. Code 4901-1-15(C), because the application has been filed "within five days after the ruling is issued" and the application does "set forth the basis of the appeal and citations of any authorities relied upon." The PUCO should reverse or modify the Attorney Examiner Entry, consistent with Ohio Adm. Code 4901-1-15(E).

Under the March 23, 2015 Entry, the Attorney Examiner granted 21 days for additional discovery "regarding the AEP Ohio Order factors." FirstEnergy and Intervenors then have 21 days from the close of discovery to submit their supplemental testimony, and Staff then has 25 additional days to file testimony. A prehearing conference is scheduled for the week after Staff's testimony, and the hearing begins approximately two weeks after the prehearing conference. Incorporating many of the same deadlines from the date of a future Entry on Rehearing instead of the February 25, 2015 Opinion and Order, the PUCO should adopt the following procedural schedule:

- (a) Discovery requests regarding the AEP Ohio Order factors, except for notices of deposition, should be served 10 days prior to the date Intervenors Testimony is due.
- (b) Supplemental testimony on behalf of FirstEnergy should be filed 40 days after the final Entry on Rehearing.
- (c) Supplemental testimony on behalf of the interveners should be filed 21 days after FirstEnergy's deadline to file Supplemental testimony set forth in sub-section (b).

- (d) Testimony on behalf of the Staff should be filed 25 days after Intervenor's deadline to file Supplemental testimony set forth in sub-section (c).
- (e) A prehearing conference shall be held 5 days after Staff's deadline to file testimony set forth in sub-section (d), at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
- (f) The evidentiary hearing shall convene 14 days after the prehearing set forth in sub-section (e), at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.

The proposed schedule, in lieu of the schedule imposed by the Attorney Examiner, will allow for testimony to address any changes to the PUCO's AEP ESP Order. Additionally, it will permit intervenors to file testimony in response to the Utility's testimony. This will assist the PUCO in acquiring all the information it needs to make "findings of fact and written opinions."

V. CONCLUSION

For the reasons discussed above, this Appeal should be certified to the full Commission and the Commission should reverse or modify the Attorney Examiner's ruling. The PUCO should establish a procedural schedule that allows discovery and testimony on the PPA factors after it has substantively ruled on applications for rehearing in the AEP Ohio ESP proceeding. Additionally, a new procedural schedule should permit intervenors to file testimony responding to the utility's filed testimony as set forth in Section IV.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Interlocutory Appeal was served via electronic service upon the parties this 30th day of March 2015.

/s/ Larry Sauer

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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) Case No. 14-1297-EL-SSO
Authority to Provide for a Standard)
Service Offer Pursuant to R.C. 4928.143)
in the Form of an Electric Security Plan.)

ENTRY

The attorney examiner finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) are public utilities as defined in R.C. 4905.02 and, as such, are subject to the jurisdiction of this Commission.
- (2) On August 4, 2014, FirstEnergy filed an application pursuant to R.C. 4928.141 to provide for a standard service offer (SSO) to provide generation pricing for the period of June 1, 2016, through May 31, 2019. The application is for an electric security plan (ESP), in accordance with R.C. 4928.143.
- (3) By Entry issued February 4, 2015, the attorney examiner established the current procedural schedule in this proceeding. Thereafter, by Entries issued October 6, 2014, December 1, 2014, January 14, 2015, and February 4, 2015, the attorney examiner modified the procedural schedule following the filing of motions by the parties and a stipulation and recommendation, which has been submitted for Commission review in this proceeding. According to the procedural schedule, the prehearing conference was set to take place on March 31, 2015, and the hearing was set to convene on April 13, 2015.
- (4) On February 25, 2015, the Commission modified and approved an ESP for Ohio Power Company d/b/a AEP Ohio (AEP Ohio), which will ultimately determine AEP Ohio's SSO rates from June 1, 2015, through May 31, 2018.

In re Ohio Power Co., Case No. 13-2385-EL-SSO, et al., Opinion and Order (Feb. 25, 2015) (AEP Ohio Order). The Commission declined to adopt the purchase power agreement (PPA) rider proposal, as put forth in the AEP Ohio proceeding; however, the Commission authorized the establishment of a placeholder PPA rider, at the initial rate of zero, with AEP Ohio being required to justify any requested cost recovery in future filings before the Commission. The Commission also presented several factors it may balance, but not be bound by, in deciding whether to approve future cost recovery requests associated with PPAs. Those factors were listed as follows: financial need of the generating plant; necessity of the generating facility, in light of future reliability concerns, including supply diversity; description of how the generating plant is compliant with all pertinent environmental regulations and its plan for compliance with pending environmental regulations; and the impact that a closure of the generating plant would have on electric prices and the resulting effect on economic development within the state. AEP Ohio Order at 25. In addition, the Commission indicated that the rider proposal must address additional issues specified by the Commission. AEP Ohio Order at 25-26.

- (5) In order for the parties to address whether and how the Commission's findings in the AEP Ohio Order should be considered in evaluating FirstEnergy's application in this proceeding, the attorney examiner finds that amending the procedural schedule at this time is reasonable. In order to provide the parties in this proceeding sufficient time conduct additional discovery and to evaluate and offer supplemental testimony addressing the AEP Ohio Order, as applied in this case, the attorney examiner establishes the following procedural schedule:
 - (a) The prehearing conference currently scheduled for March 31, 2015, at 10:00 a.m., will proceed at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio, in order to address pending discovery issues.

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- (b) Discovery requests regarding the AEP Ohio Order factors, except for notices of deposition, should be served by April 13, 2015.
 - (c) Supplemental testimony on behalf of FirstEnergy should be filed by May 4, 2015.
 - (d) Supplemental testimony on behalf of the intervenors should be filed by May 4, 2015.
 - (e) Testimony on behalf of the Staff should be filed by May 29, 2015.
 - (f) A prehearing conference shall be scheduled for June 2, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
 - (g) The evidentiary hearing shall convene on June 15, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
- (6) Further, the attorney examiner reiterates that the response time for discovery should be shortened to 10 days for all discovery served after the issuance of this Entry. Discovery requests and replies shall be served by hand delivery, e-mail or facsimile (unless otherwise agreed by the parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by the parties). To the extent that a party has difficulty responding to a particular discovery request within the 10-day period, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.
- (7) Finally, the attorney examiner notes that, pursuant to Ohio Adm.Code 4901-1-26(A)(3), parties attending the prehearing conference scheduled for June 2, 2015, shall be prepared to identify any witness that will testify in the evidentiary hearing, provide the subject matter of any witness

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testimony, and indicate dates on which the witness is
unavailable to testify.

It is, therefore,

ORDERED, That, the modified procedural schedule set forth in Finding (5) be
observed by the parties. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Gregory A. Price

By: Gregory A. Price
Attorney Examiner

CMTP/dah

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in

Case No(s). 14-1297-EL-SSO

Summary: Attorney Examiner Entry that, the modified procedural schedule set forth in Finding (5) be observed by the parties;
electronically filed by Debra Hight on behalf of Gregory A. Price, Attorney Examiner.

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in

Case No(s). 14-1297-EL-SSO

Summary: Application Joint Interlocutory Appeal, Request for Certification to Full Commission and Application for Review by Northeast Ohio Public Energy Counsel, Northwest Ohio Aggregation Coalition, Ohio Manufacturers' Association Energy Group, Ohio Partners for Affordable Energy and the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Sauer, Larry S.