

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 electric distribution utilities as defined in R.C. 4298.01(A)(6) and public utilities as defined in R.C. 4905.02 and, as such, are subject to the jurisdiction of this Commission.
- (2) R.C. 4928.141 provides that an electric distribution utility shall provide customers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.
- (3) On August 4, 2014, FirstEnergy filed an application pursuant to R.C. 4928.141 to provide for an SSO to provide generation pricing for the period of June 1, 2016, through May 31, 2019. The application is for an ESP, in accordance with R.C. 4928.143 (ESP IV).
- (4) Three stipulations have previously been filed in this proceeding by FirstEnergy and several other parties: the stipulation and recommendation filed on December 22, 2014, as modified by the Errata filed on January 21, 2015; the supplemental stipulation and recommendation filed on May 28, 2015; and the second supplemental stipulation and

recommendation filed on June 4, 2015 (collectively, Prior Stipulations).

- (5) An evidentiary hearing considering the application and the Prior Stipulations began on August 31, 2015, and concluded on October 29, 2015.
- (6) On December 1, 2015, a third supplemental stipulation and recommendation (Third Supplemental Stipulation) to resolve the issues raised in the ESP IV proceeding was filed by the following signatory parties: FirstEnergy; Staff; Ohio Power Company; Ohio Energy Group; City of Akron; Council of Smaller Enterprises; Cleveland Housing Network; Consumer Protection Association; Council for Economic Opportunities in Greater Cleveland; Citizens Coalition; Nucor Steel Marion, Inc.; Material Sciences Corp.; Association of Independent Colleges and Universities of Ohio; The Kroger Company; and the International Brotherhood of Electrical Workers, Local 245 (collectively, Signatory Parties). Signatory Parties state that the Third Supplemental Stipulation, together with the Prior Stipulations (collectively, Stipulated ESP IV) is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process. Additionally, Signatory Parties state that FirstEnergy and numerous other parties have engaged in a wide range of discussions over a period of time related to the development of the Stipulated ESP IV.
- (7) Further, the Signatory Parties request that the Commission set an expedited procedural schedule for the Stipulated ESP IV, noting that expedited treatment would permit adequate time for FirstEnergy to prepare for and conduct their SSO competitive procurement auctions and ensure the benefits of the Stipulated ESP IV are realized.
- (8) On December 1, 2015, a joint motion to reopen the hearing record and to establish a procedural schedule to address the Third Supplemental Stipulation was filed by the following parties: Buckeye Association of School Administrators, Constellation New Energy, Inc., Electric Power Supply Association, Exelon Generation Company, LLC, Interstate Gas Supply, Inc., Northeast Ohio Public Energy Council, Ohio Association of School Business Officials, Ohio Consumers' Counsel, Ohio Hospital Association, Ohio Manufacturer's Association Energy Group, Ohio School Boards Association,

Ohio Schools Council, PJM Power Providers Group, Retail Energy Supply Association, and Sierra Club (collectively, Joint Movants). Joint Movants contend that the Third Supplemental Stipulation raises new issues that were not adequately addressed in the prior evidentiary hearing, thus requiring the record to be reopened and an additional hearing to take place, pursuant to Ohio Adm.Code 4901-1-34. Joint Movants' motion also contained a proposed procedural schedule for the attorney examiner's consideration.

- (9) Thereafter, on December 2, 2015, Environmental Law and Policy Center, the Ohio Environmental Council, and the Environmental Defense Fund (collectively, Environmental Movants) jointly filed a similar motion to that of Joint Movants. Although Environmental Movants agree with the arguments proffered by Joint Movants, they request that parties be afforded additional time because a number of the new issues raised in the Third Supplemental Stipulation involve environmental-related questions that will require significant new discovery, specifically referencing the installation of Volt/Var technology, resource diversification initiatives aimed to reduce carbon emissions, support for the development of renewable energy projects, and an agreement that may affect energy efficiency and distributed generation deployment.
- (10) On December 2, 2015, and December 3, 2015, FirstEnergy filed memoranda contra Joint Movants' and Environmental Movants' motions to reopen the hearing record and establish a procedural schedule, respectively. FirstEnergy states Joint Movants and Environmental Movants have had ample opportunity throughout this proceeding to obtain information through discovery and litigate the issues, noting that any further delay will have a significant negative impact on FirstEnergy's ability to procure generation for its non-shopping customers. Additionally, FirstEnergy provides it is willing to offer another opportunity for all parties to depose Ms. Mikkelsen, the witness proffered by FirstEnergy to support the Third Supplemental Stipulation. As FirstEnergy contends that the Third Supplemental Stipulation raises no new issues apart from those already litigated in this proceeding, it proposes a more accelerated procedural schedule, which does not involve the opportunity for written discovery and schedules the evidentiary hearing to begin on December 16, 2015.

- (11) Joint Movants and Environmental Movants filed a joint reply on December 3, 2015, in support of their motions, arguing that FirstEnergy's proposed procedural schedule would be unreasonable given the nature of the Third Supplemental Stipulation and, in order to provide the Commission with an adequate record upon which to base its decision, the attorney examiner should grant their motions to reopen the record in this proceeding and set a procedural schedule consistent with those proposed in their respective motions.
- (12) The attorney examiner finds that a hearing should be held regarding the provisions of the Third Supplemental Stipulation and its effect on the Stipulated ESP IV. Further, in order to provide the parties sufficient time and opportunity to present evidence related to the Third Supplemental Stipulation, the attorney examiner finds that the following procedural schedule is reasonable and should be established for this proceeding:
  - (a) Signatory Parties should file testimony regarding the Third Supplemental Stipulation by December 15, 2015.
  - (b) Opposing parties should file testimony regarding the Third Supplemental Stipulation by December 30, 2015.
  - (c) Discovery requests (except as to notices of deposition) shall be permitted until December 28, 2015.
  - (d) The evidentiary hearing shall commence on January 14, 2016, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
- (13) Additionally, the attorney examiner notes that the response time for discovery requests shall remain at seven days and rebuttal testimony will continue to be filed consistent with Commission practice.

It is, therefore,

ORDERED, That Joint Movants' and Environmental Movants' motions be granted to the extent provided in this Entry. It is, further,

ORDERED, That the procedural schedule set forth in Finding (12) 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/Megan Addison

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By: Megan J. Addison  
Attorney Examiner

JRJ/sc

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/9/2015 10:41:24 AM**

**in**

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

Summary: Attorney Examiner Entry setting a new procedural schedule. - electronically filed by Sandra Coffey on behalf of Megan Addison, Attorney Examiner, Public Utilities Commission of Ohio