

**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)**

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S MEMORANDUM CONTRA
THE APPLICATION FOR REHEARING OF THE OHIO MANUFACTURERS'
ASSOCIATION ENERGY GROUP**

I. INTRODUCTION

The Application for Rehearing of the Commission's May 25, 2016 Finding and Order ("May 25 Order") filed by the Ohio Manufacturers' Association Energy Group ("OMAEG") fails to state valid grounds for rehearing. OMAEG's Application for Rehearing challenges the Commission's May 25 Order approving the Companies' compliance tariffs on two bases: (1) the Rider RRS included in the compliance filing is inconsistent with the Rider RRS approved by the Commission in its Opinion and Order of March 31, 2016 (the "March 31 Order"); and (2) Rider RRS must have a specified rate of zero. As demonstrated below, OMAEG has failed to raise any valid objection to the Rider RRS tariff sheets approved by the Commission in the May 25 Order. As a result, the Commission did not err when it approved the Companies' compliance tariff filing, and the Commission should deny OMAEG's Application for Rehearing.

II. ARGUMENT

A. The Companies' Compliance Tariff Filing Did Not Violate The Commission's March 31, 2016 Order.

OMAEG argues in its first assignment of error that the Companies' compliance tariff filing is inconsistent with the Commission's March 31 Order.¹ Specifically, OMAEG asserts that the Companies' compliance tariff filing relates to the proposed modifications regarding how Rider RRS is calculated (the "Proposal"), not to the Commission-approved Rider RRS.² For example, OMAEG points out that, unlike the approved Rider RRS, the Proposal is not tied to an underlying purchase power agreement ("PPA") between the Companies and their affiliate, FirstEnergy Solutions Corp. ("FES").³ Without a PPA in place, OMAEG asserts that the Companies' compliance tariff filing is inconsistent with the March 31 Order.⁴ But OMAEG's argument fundamentally misunderstands the March 31 Order. In the March 31 Order, the Commission expressly stated that Rider RRS is not dependent on there being a PPA between the Companies and FES: "[t]he Companies are under no requirement by this Commission or FERC to enter into the arrangements proposed under the Economic Stability Program."⁵ Consequently, the absence of a PPA has absolutely no bearing on whether the Companies' compliance tariff filing is consistent with the March 31 Order.

¹ OMAEG Application For Hearing ("AFR"), pp.4-7.

² OMAEG AFR, pp. 4-5.

³ OMAEG AFR, p. 5.

⁴ OMAEG AFR, pp. 5-6.

⁵ March 31 Order, p. 87.

OMAEG also claims that the Companies' compliance tariffs do not include any language concerning quarterly reconciliations, Commission review or full information sharing.⁶ As to quarterly reconciliations, OMAEG is demonstrably wrong. The compliance tariffs unequivocally state: "The charges contained in this Rider shall be updated on a quarterly basis."⁷ This is consistent with the March 31 Order's requirement of quarterly reconciliation. Additionally, while Commission review and full information sharing are process elements of the Stipulated ESP IV, as modified by the March 31 Order, there is no requirement to include those elements in the text of Rider RRS. Indeed, if the Commission on rehearing approves the Proposal, which also includes Commission review and information sharing, no changes would be required to the text of Rider RRS.

OMAEG also argues that the Companies' compliance tariffs are materially different from the approved Rider RRS because the tariff rate is "noticeably void of any value, rather than an established rate of zero"⁸ However, as shown below, the Companies did not have costs to include in the proposed modified Rider RRS; accordingly, the compliance tariff filing did not contain a specified rate.

The Companies' compliance tariff filing reflects the Rider RRS approved in the March 31 Order. Consequently, the Commission should deny OMAEG's Application for Rehearing.

⁶ OMAEG AFR, pp. 5-6.

⁷ Companies' Tariff Filing, Attachment 2, Rider RRS (P.U.C.O. No. 11, Original Sheet 127) (May 13, 2016).

⁸ OMAEG AFR, p. 6.

B. The Commission's Approval Of Rider RRS Without A Specified Rate Was Reasonable And Cannot Serve As A Basis For The Commission To Grant Rehearing.

OMAEG contends that the Commission was unreasonable in approving the Companies' compliance tariff filing because the Companies did not assign a rate of zero (\$0.00) to its Rider RRS kWh value contained in the filed tariff.⁹ OMAEG claims that by not assigning a rate of zero to the tariff filing, the Companies' compliance tariffs violate the March 31 Order.¹⁰ OMAEG's argument is meritless. Currently, Rider RRS does not have a mechanism in place to set the charge; consequently, the Companies filed the tariff, temporarily, with no specified rate. And the Companies could not delay filing their compliance tariffs. On May 10, 2016, the Attorney Examiner directed the Companies to file their proposed tariffs consistent with the March 31 Order no later than May 13, 2016.¹¹ Without a mechanism in place to set the charge and with a fast approaching deadline to file their proposed tariffs, the Companies filed the compliance tariffs, temporarily without any value. OMAEG overlooks these important contextual considerations. As such, the Commission's approval of the Companies' compliance tariff filing was reasonable and cannot serve as a basis for the Commission to grant rehearing.

⁹ OMAEG AFR, p. 7.

¹⁰ *Id.*

¹¹ Attorney Examiner Entry, p. 2.

III. CONCLUSION

OMAEG has not asserted any valid grounds for revisiting the May 25 Order. For the foregoing reasons, the Commission should deny OMAEG's Application for Rehearing.

Respectfully Submitted,

/s/ Carrie M. Dunn

Carrie M. Dunn (0076952)
Counsel of Record
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
Telephone: (330) 384-5861
Fax: (330) 384-8375
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

David A. Kutik (0006418)
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Fax: (216) 579-0212
dakutik@jonesday.com

James F. Lang (0059668)
N. Trevor Alexander (0080713)
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
Telephone: (216) 622-8200
Fax: (216) 241-0816
jlang@calfee.com
talexander@calfee.com

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

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I certify that this Memorandum Contra was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 5th day of July, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. Further, a courtesy copy has been served upon parties via electronic mail.

/s/ James F. Lang
One of Attorneys for the Companies

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Summary: Memorandum Contra OMAEG Application For Rehearing electronically filed by Mr. Nathaniel Trevor Alexander on behalf of Ohio Edison Company and The Cleveland Illuminating Company and The Toledo Edison Company