

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF**

**CENTRAL OHIO TECHNICAL COLLEGE,  
CLEVELAND STATE UNIVERSITY,  
KENT STATE UNIVERSITY,  
NORTHWEST STATE COMMUNITY COLLEGE,  
OHIO UNIVERSITY,  
UNIVERSITY OF AKRON, AND  
UNIVERSITY OF TOLEDO,**

**CASE No. 15-455-EL-CSS**

**COMPLAINANTS,**

**v.**

**FIRSTENERGY SOLUTIONS CORP.,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on July 7, 2016

**I. SUMMARY**

{¶ 1} In this Entry, the attorney examiner finds that the joint motion for a continuance of the procedural schedule be granted. The attorney examiner finds that the deadline for filing testimony shall be August 11, 2016, and the hearing should be scheduled for August 18, 2016.

**II. DISCUSSION**

{¶ 2} FirstEnergy Solutions Corp. (FES) is an electric services company as defined in R.C. 4928.01(A)(9), and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory. Pursuant to R.C.

4928.16, the Commission has jurisdiction under R.C. 4905.26, upon complaint of any person, regarding the provision by an electric services company subject to certification under R.C. 4928.08 of any service for which it is subject to certification.

{¶ 4} On March 2, 2015, pursuant to R.C. 4905.26, a complaint was filed by Central Ohio Technical College, Cleveland State University, Kent State University, Northwest State Community College, Ohio University, University of Akron, and University of Toledo (collectively, Complainants) against FES, the Toledo Edison Company, Ohio Edison Company, The Cleveland Electric Illuminating Company (FirstEnergy), and Ohio Power Company (AEP Ohio). The Complainants allege several counts relating to FES's pass-through of specific costs it received from PJM Interconnection, LLC (PJM) to the Complainants. The complaint asserts that the Complainants contracted both fixed rates and discounted rates with FES and, in those contracts, FES failed to disclose the potential of additional charges from the pass-through event. Further, even if the contract did allow for the charges, imposing them was unlawful. In doing so, the Complainants allege that FES engaged, among other things, in unfair, misleading, deceptive, or unconscionable acts or practices related to the administration of a competitive retail electric service (CRES) contract in violation of R.C. 4928.10, Ohio Adm.Code 4901:1-21-02(E), 4901:1-21-03(A)(1)-(3), 4901:1-21-11(A), 4901:1-21-12(A)(7)(a), and 4901:1-21-12(A)(7)(b). Additionally, according to the Complainants, the actions of FES were unjust, unreasonable, and unlawful pursuant to R.C. 4905.26.

{¶ 5} On March 23, 2015, FirstEnergy, AEP Ohio, and FES each filed answers to the complaint, denying all of the allegations made by the Complainants.

{¶ 6} On March 17, 2015, FirstEnergy filed a motion to dismiss the complaint for lack of subject matter jurisdiction. Thereafter, on March 23, 2015, AEP Ohio filed a motion to dismiss the complaint, and, on March 26, 2015, FES filed a motion to dismiss the complaint.

{¶ 7} On December 16, 2015, the Commission granted the motions to dismiss filed by FirstEnergy and AEP Ohio, and denied FES's motion to dismiss. The Commission then directed the attorney examiner to issue a procedural schedule setting this matter for hearing.

{¶ 8} Thereafter, by Entry issued on March 1, 2016, the attorney examiner scheduled this matter for hearing to take place on July 18, 2016.

{¶ 9} On July 6, 2016, the parties filed a joint motion for a 30-day continuance of the procedural schedule and a request for expedited ruling. The parties assert that Counsel for the Complainants has a scheduling conflict and that granting the continuance will allow the parties to continue discussions on narrowing the issues in dispute.

{¶ 10} The attorney examiner finds that the joint motion to continue the hearing in this case is reasonable and should be granted. However, the attorney examiner finds that the continuance should be for 31 days, such that the hearing will begin on August 18, 2016. Accordingly, the deadline for filing testimony shall be August 11, 2016, and the hearing shall be scheduled for August 18, 2016, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793.

{¶ 11} Finally, the attorney examiner notes that all discovery requests should be conducted in accordance with Ohio Adm.Code 4901-1-16 and 4901-1-24. Further, any party intending to present direct, expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony be filed and served upon all parties no later than seven days prior to the commencement of the hearing.

**III. ORDER**

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the joint motion for a continuance of the procedural schedule be granted. It is, further,

{¶ 14} ORDERED, That the hearing in this case be scheduled for August 18, 2016, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Bryce A. McKenney

By: Bryce A. McKenney  
Attorney Examiner

JRJ/dah

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

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**Case No(s). 15-0455-EL-CSS**

Summary: Attorney Examiner Entry ordering the joint motion for a continuance of the procedural schedule be granted; and that the hearing in this case be scheduled for August 18, 2016, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793. Entry electronically filed by Debra Hight on behalf of Bryce A. McKenney, Attorney Examiner.