

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF CITY OF TOLEDO,

COMPLAINANT,

v.

CASE NO. 14-1944-EL-CSS

FIRSTENERGY SOLUTIONS CORP.,

RESPONDENT.

ENTRY

Entered in the Journal on July 25, 2016

{¶ 1} 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.

{¶ 2} 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.

{¶ 3} On November 4, 2014, pursuant to R.C. 4905.26, the City of Toledo (Toledo) filed a complaint against FES, as well as a request for relief from termination of electric service. Toledo alleges several counts relating to specific costs that FES incurred from PJM Interconnection LLC (PJM) in January 2014 and passed through to Toledo. Toledo's complaint states that its competitive retail electric service (CRES) contract with FES during the time in question was for fixed-price power and contained a provision designating ancillary services as FES's sole responsibility. Consequently, Toledo alleges

that FES is required to cover the charges in question and that the increased charges do not qualify as a regulatory pass-through event. Toledo further contends that FES's actions constitute unfair, misleading, deceptive, or unconscionable acts in violation of R.C. 4928.08 and Ohio Adm.Code Chapter 4901:1-21.

{¶ 4} On November 6, 2014, FES filed an unopposed motion for a protective order regarding information filed by Toledo in its complaint. Thereafter, on November 24, 2014, FES filed its answer to the complaint denying the allegations contained in the complaint. Further, contemporaneously with its answer, FES filed a motion to dismiss this case. Toledo subsequently filed a memorandum contra to FES's motion to dismiss, and on March 4, 2015, FES filed its reply in support of its motion to dismiss.

{¶ 5} On January 6, 2016, the Commission issued an Entry granting FES's motion for a protective order, denying FES's motion to dismiss for lack of subject matter jurisdiction, granting Toledo's motion to stay termination of service, and directing the attorney examiner to set this matter for hearing.

{¶ 6} Accordingly, the attorney examiner finds that this case should be scheduled for hearing. The hearing will commence on October 4, 2016, at 10:00 a.m., in Hearing Room 11-A, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215. As is the case in all Commission complaint proceedings, the complainants have the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St. 2d 189, 214 N.E. 2d 666 (1966).

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That this case be scheduled for hearing on October 4, 2016, at 10:00 a.m., in Hearing Room 11-A, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Bryce McKenney

By: Bryce A. McKenney
Attorney Examiner

JRJ/sc

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Case No(s). 14-1944-EL-CSS

Summary: Attorney Examiner Entry scheduling this matter for hearing on 10/04/2016 in Hearing Room 11-A in accordance with Paragraph 6. - electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio