

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF THE
NON-MARKET-BASED SERVICES RIDER
CONTAINED IN THE TARIFFS OF OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY, AND
THE TOLEDO EDISON COMPANY.

CASE NO. 17-2378-EL-RDR

FINDING AND ORDER

Entered in the Journal on February 28, 2018

I. SUMMARY

{¶ 1} The Commission finds that the compliance tariff sheets, as proposed by FirstEnergy, are consistent with the Commission's prior orders in Case Nos. 12-1230-EL-SSO, 15-648-EL-RDR, and 14-1297-EL-SSO, and directs that such tariff sheets become effective no earlier than March 1, 2018.

II. DISCUSSION

{¶ 2} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) are electric distribution utilities as defined in R.C. 4928.01(A)(6) and public utilities as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} 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.

{¶ 4} On July 18, 2012, the Commission issued an Opinion and Order approving a stipulation between FirstEnergy and certain parties, which provided for an ESP for the period beginning June 1, 2014, through May 31, 2016, pursuant to R.C. 4928.143. *In re Ohio*

Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co., Case No. 12-1230-EL-SSO (*ESP III Case*). In that Opinion and Order, the Commission clarified that the Companies should file annually an application, in a separate docket, for a review of certain riders approved in that proceeding. One such rider was the Companies' Non-Market-Based Services Rider (Rider NMB). Rider NMB is a non-bypassable rider¹ that is designed to recover non-market-based transmission-related costs, such as Network Integration Transmission Service (NITS) charges, imposed on or charged to the Companies by the Federal Energy Regulatory Commission or PJM Interconnection, LLC (PJM). *ESP III Case*, Opinion and Order (July 18, 2012) at 44.

[¶ 5] Subsequently, the Commission also specified that the Companies should make their filings for Rider NMB no later than January 15 of each year with rates to be effective no later than 75 days following the filing of the application. *In re Ohio Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 15-648-EL-RDR, Finding and Order (July 1, 2015) at 3-4.

[¶ 6] The Commission also approved the NMB Pilot Program, which will allow customers served under the program to be billed directly by PJM or their competitive retail electric service provider and to no longer be subject to the Rider NMB rates. *In re Ohio Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO (*ESP IV Case*), Opinion and Order (Mar. 31, 2016), Fifth Entry on Rehearing (Oct. 12, 2016). Participation in the NMB Pilot Program will provide these customers an opportunity to control their transmission-related costs by controlling their Network Service Peak Load.

[¶ 7] On December 15, 2017, FirstEnergy filed an application and tariff pages reflecting revisions to Rider NMB in order to comply with the Commission Orders in the Companies' *ESP III Case* and *ESP IV Case*. Pursuant to those Orders, the Companies request that the Rider NMB rates become effective March 1, 2018.

¹ Bypassable charges are recovered only from SSO customers; non-bypassable charges are recovered from all of FirstEnergy's distribution customers.

{¶ 8} Thereafter, on February 9, 2018, Staff filed its review and recommendations regarding the Companies' application. In its review, Staff states that it reviewed the filings and believes that the Companies' proposed Rider NMB rates reflect both recovery of the current costs paid by the Companies and projected costs through February 28, 2018; however, Staff also adds that Rider NMB is subject to reconciliation in its next update application. Furthermore, Staff notes that the proposed rates do not include any adjustment to reflect the potential reduction in costs associated with the recent reduction in the new federal corporate income tax rate, which became effective January 1, 2018, adding that the reduced costs resulting from the lower tax rate will ultimately flow through Rider NMB. Accordingly, Staff recommends that the Commission approve FirstEnergy's application for rates effective March 1, 2018.

{¶ 9} The Commission has reviewed the Companies' application and Staff's review and recommendations. The Commission finds that, in accordance with Staff's recommendations, the Companies' application is consistent with the stipulations approved by the Commission in the *ESP III Case* and *ESP IV Case*, does not appear to be unjust or unreasonable, and should be approved for rates effective March 1, 2018. In light of a recent Supreme Court decision, however, we find that FirstEnergy should amend the proposed tariffs to include language to clarify that the charges contained in Rider NMB shall be subject to reconciliation and refund following any audits conducted by Staff or due to the Tax Cuts and Jobs Act of 2017 (TCJA) and the Commission investigation opened to review the impact of the TCJA on rates charged to consumers by rate-regulated public utilities in Ohio. See *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI.

III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That FirstEnergy's application be approved, as modified by this Finding and Order. It is, further,

{¶ 12} ORDERED, That FirstEnergy's proposed tariff sheets for Rider NMB, as modified by this Finding and Order, be approved and become effective no earlier than March 1, 2018, subject to further review by the Commission. It is, further,

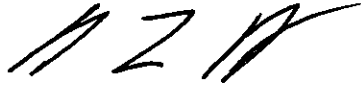
{¶ 13} ORDERED, That the Companies are authorized to file, in final form, completed copies of their approved tariffs in each company's respective TRF docket, as well as in this case docket. It is, further,

{¶ 14} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date of this Finding and Order, and the date upon which the final tariffs are filed with the Commission. It is, further,

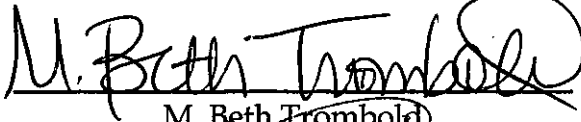
{¶ 15} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 16} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



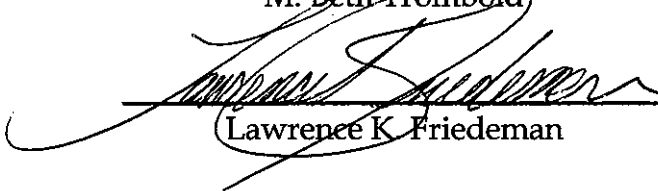
Asim Z. Haque, Chairman



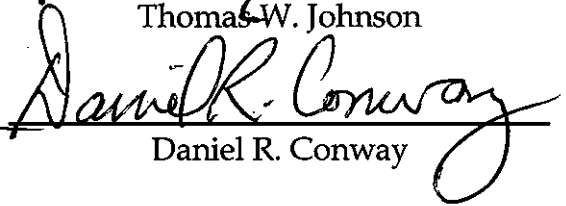
M. Beth Trombold



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Secretary