

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE FILING BY OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY
AND THE TOLEDO EDISON COMPANY OF
A GRID MODERNIZATION BUSINESS
PLAN.

CASE NO. 16-481-EL-UNC

IN THE MATTER OF THE FILING BY OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY
AND THE TOLEDO EDISON COMPANY
APPLICATION FOR APPROVAL OF A
DISTRIBUTION PLATFORM
MODERNIZATION PLAN.

CASE NO. 17-2436-EL-UNC

IN THE MATTER OF THE APPLICATION OF
OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY AND THE TOLEDO EDISON
COMPANY TO IMPLEMENT MATTERS
RELATING TO THE TAX CUTS AND JOBS
ACT OF 2017.

CASE NO. 18-1604-EL-UNC

IN THE MATTER OF THE APPLICATION OF
OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY AND THE TOLEDO EDISON
COMPANY FOR APPROVAL OF A TARIFF
CHANGE.

CASE NO. 18-1656-EL-ATA

ENTRY

Entered in the Journal on November 26, 2018

{¶ 1} In this Entry, the Attorney Examiner shortens the response time for discovery to ten days for all discovery requests served after the issuance of this Entry.

{¶ 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 consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric service to customers, including a firm supply of electric generation service. 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 March 8, 2017, the Commission announced that we would undertake a detailed policy review of grid modernization, entitled PowerForward. Over three phases, the Commission heard from 127 industry experts on a variety of grid modernization topics, and, on August 29, 2018, the Commission released *PowerForward: A Roadmap to Ohio's Electricity Future*.

{¶ 5} On March 31, 2016, in Case No. 14-1297-EL-SSO, the Commission approved FirstEnergy's application for its fourth ESP (*ESP IV*). *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and the Toledo Edison Co. for Authority to Provide for a Std. Serv. Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Elec. Security Plan*, Case No. 14-1297-EL-SSO, Opinion and Order (Mar. 31, 2016) (*ESP IV Case*). Moreover, on October 12, 2016, the Commission issued the Fifth Entry on Rehearing in the *ESP IV Case*, further modifying *ESP IV*. *ESP IV Case*, Fifth Entry on Rehearing (Oct. 12, 2016) at 87-88.

{¶ 6} Among other terms, *ESP IV* requires the Companies to undertake grid modernization initiatives that promote customer choice in Ohio and to file a grid modernization business plan. *ESP IV Case*, Opinion and Order at 22, 95-96. Accordingly, on February 29, 2016, the Companies filed a grid modernization plan with the Commission in Case No. 16-481-EL-UNC. Subsequently, in the Fifth Entry on Rehearing in the *ESP IV Case*, the Commission noted that we intended to undertake PowerForward and that FirstEnergy's grid modernization business plan would be addressed following such review. *ESP IV Case*, Fifth Entry on Rehearing at 96-97.

{¶ 7} On December 4, 2017, the Companies filed an application for approval of a distribution platform modernization plan (DPM Plan) in Case No. 17-2436-EL-UNC. The DPM Plan is a portfolio of projects with an estimated capital expenditure of \$450 million intended to improve reliability, modernize the Companies existing distribution system and provide for more gradual rate impacts resulting from the implementation of grid modernization initiatives.

{¶ 8} Further, the Commission opened an investigation on January 10, 2018, into the financial impacts of the Tax Cuts and Jobs Act of 2017 (TCJA) on the Commission's jurisdictional rate-regulated public utilities. On October 24, 2018, having considered numerous comments filed in the proceeding, the Commission directed Ohio rate-regulated public utilities to file an application pursuant to R.C. 4909.18, by January 1, 2019, to pass along to consumers the tax savings resulting from the TCJA, unless otherwise ordered by the Commission. *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, Finding and Order (Oct. 24, 2018) at 1-2, 18.

{¶ 9} Subsequently, on October 30, 2018, the Companies filed an application in Case No. 18-1604-EL-UNC, requesting that the Commission establish a process specific to the Companies to facilitate an efficient resolution of TCJA matters relating to the Companies.

{¶ 10} On November 9, 2018, a Stipulation and Recommendation (Global Stipulation) was filed in Case No. 18-1656-EL-ATA, as well as Case Nos. 16-481-EL-UNC, 17-2436-EL-UNC and 18-1604-EL-UNC, recommending a resolution of all issues in each case. The Global Stipulation was signed by the Companies, Direct Energy Services, LLC and Direct Energy Business, LLC, Environmental Defense Fund, Ohio Energy Group, Industrial Energy Users-Ohio, Ohio Cable Telecommunications Association, Ohio Hospital Association, Interstate Gas Supply, Inc. and Staff (Signatory Parties). The Signatory Parties request that the Commission act expeditiously and approve the Global Stipulation by December 31, 2018. As a final matter, on November 13, 2018 the Companies filed a motion to consolidate the

above-captioned cases into a single proceeding, in order to achieve further process and administrative efficiencies.

{¶ 11} Thereafter, on November 15, 2018, the Attorney Examiner established a procedural schedule to consider the Stipulation and Recommendation with an evidentiary hearing in this proceeding commencing on February 4, 2019.

{¶ 12} On November 19, 2018, the Environmental Law & Policy Center (ELPC) and Natural Resources Defense Council (NRDC) filed a motion to modify the procedural schedule requesting to shorten the default twenty-day discovery response period provided under Ohio Adm.Code 4901-1-19 to a seven-day discovery response period. ELPC and NRDC request an expedited ruling in accordance with Ohio Adm.Code 4901-1-12(C) but do not certify that their request for an expedited ruling is uncontested.

{¶ 13} On November 20, 2018, FirstEnergy filed a memorandum contra ELPC and NRDC's motion to modify the procedural schedule. FirstEnergy states that a seven-day response period is unreasonable. In the alternative, the Companies recommend to shorten the default twenty-day discovery response period to a ten-day response period for all discovery requests served after the issuance of this Entry. Further, in recognition of the upcoming holidays, the Companies request that the deadline to respond to requests served after 12:00 P.M. or on the last day before a legal holiday be calculated from the first business day after the weekend or legal holiday.

{¶ 14} The Attorney Examiner finds that the Companies' proposed alternative in response to ELPC and NRDC's motion to modify the procedural schedule is reasonable and that the motion should be granted, in part. Accordingly, for all discovery requests served after the issuance of this Entry, responses should be provided no later than ten calendar days after service of the requests. In light of the upcoming holidays, the deadline to respond to requests served after 12:00 P.M. or on the last day before a legal holiday shall be calculated from the first business day after the weekend or legal holiday. Discovery requests and replies shall be served by hand delivery, e-mail, or facsimile (unless otherwise agreed by the

parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by the parties). To the extent that a party has difficulty responding to a particular discovery request, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the Environmental Law & Policy Center and Natural Resources Defense Council's motion to modify the procedural schedule be granted to the extent set forth in Paragraph 14. It is, further,

{¶ 17} ORDERED, That the response time for discovery be ten days for all discovery requests served after the issuance of this Entry in accordance with Paragraph 14. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Gregory A. Price

By: Gregory A. Price
Attorney Examiner

JRJ/hac

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in

Case No(s). 16-0481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, 18-1656-EL-ATA

Summary: Attorney Examiner Entry granting motion to modify procedural schedule and setting response time for discovery electronically filed by Heather A Chilcote on behalf of Gregory A. Price, Attorney Examiner, Public Utilities Commission of Ohio