

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF THE  
DISTRIBUTION MODERNIZATION RIDER  
OF OHIO EDISON COMPANY, THE  
CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON  
COMPANY.

CASE No. 17-2474-EL-RDR

## ENTRY

Entered in the Journal on February 26, 2020

### I. SUMMARY

{¶ 1} In this Entry, the Commission finds that the Staff's motion for an extension of time is moot and that this case should be dismissed and closed of record.

### II. DISCUSSION

{¶ 2} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) are electric distribution utilities as defined by 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 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 4928.143.

{¶ 4} On March 31, 2016, in Case No. 14-1297-EL-SSO, the Commission approved FirstEnergy's application for an ESP. *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*). Further, on October 12, 2016, the Commission issued the Fifth Entry on Rehearing in the *ESP IV Case*. On rehearing, the Commission authorized

FirstEnergy to implement a distribution modernization rider (Rider DMR). *ESP IV Case*, Fifth Entry on Rehearing (Oct. 12, 2016) at ¶185. Additionally, the Commission ruled that Staff will review the expenditure of Rider DMR revenues to ensure that Rider DMR revenues are used, directly or indirectly, in support of grid modernization. *ESP IV Case*, Fifth Entry on Rehearing (Oct. 12, 2016) at ¶282.

{¶ 5} On January 24, 2018, the Commission selected Oxford Advisors, LLC (Oxford) to serve as the third-party monitor. In the *ESP IV Case*, the Commission directed the monitor to file a final report of its review of Rider DMR within 90 days after its termination or extension. *ESP IV Case*, Eighth Entry on Rehearing (Aug. 16, 2017) at ¶113.

{¶ 6} On June 19, 2019, the Supreme Court of Ohio issued its decision on appeal of the Commission decision in the *ESP IV Case*, affirming the Commission's order in part, reversing it in part as it relates to Rider DMR, and remanding with instructions to remove Rider DMR from FirstEnergy's ESP. *In re Application of Ohio Edison Co. v. Pub. Util. Comm.*, 157 Ohio St.3d 73, 2019-Ohio-2401, 131 N.E.3d 906 at ¶¶ 14-29.

{¶ 7} On August 22, 2019, pursuant to the *Ohio Edison* decision, the Commission directed the Companies to immediately file proposed revised tariffs setting Rider DMR to \$0.00. The Companies were further directed to issue a refund to customers for monies collected through Rider DMR for services rendered after July 2, 2019, subject to Commission review. Once the refund had been appropriately issued, the Companies were instructed to file proposed, revised tariffs removing Rider DMR from the Companies' ESP. *ESP IV Case*, Order on Remand (Aug. 22, 2019) at ¶¶ 14-16.

{¶ 8} The Companies complied with the Commission's directives as instructed in the Order on Remand and filed tariffs removing Rider DMR from their ESP on October 18, 2019. On February 18, 2020, Staff requested an extension of time for the filing of the final report. Staff represents that Oxford needs additional time to complete the final report and requests that the date for filing the report be extended to March 31, 2020.

{¶ 9} The Commission finds that the provisions for a final review of Rider DMR were an essential part of the terms and conditions related to Rider DMR in ESP IV. *ESP IV Case*, Fifth Entry on Rehearing at ¶282, Eighth Entry on Rehearing at ¶113, Ninth Entry on Rehearing (Oct. 11, 2017) at ¶¶ 17-20. In *Ohio Edison*, the Court directed the Commission to eliminate Rider DMR from ESP IV. In support of this ruling, the Court specifically objected to the usefulness of the proposed final review, questioning the lack of an effective remedy resulting from such review. *Ohio Edison* at ¶26. We find that elimination of the provisions for Rider DMR necessarily eliminated all terms and conditions of Rider DMR, including the provisions for a final review of Rider DMR. Accordingly, the Commission finds that Staff's motion for an extension of time to file the final report is moot and that this case should be dismissed and closed of record.

### III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That Staff's motion for an extension of time be denied as moot. It is, further,

{¶ 12} ORDERED, That this case be dismissed and closed of record. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman  
M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

GAP/mef

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Summary: Entry that the Commission finds that the Staff's motion for an extension of time is moot and that this case should be dismissed and closed of record electronically filed by Docketing Staff on behalf of Docketing