

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF OHIO  
EDISON COMPANY, THE CLEVELAND  
ELECTRIC ILLUMINATING COMPANY,  
AND THE TOLEDO EDISON COMPANY'S  
COMPLIANCE WITH R.C. 4928.17 AND  
OHIO ADM.CODE CHAPTER 4901:1-37.

CASE NO. 17-974-EL-UNC

### ENTRY

Entered in the Journal on April 29, 2020

{¶ 1} In this Entry, the attorney examiner finds that interested persons should file supplemental comments regarding the audit report by May 29, 2020, and supplemental reply comments by June 15, 2020. Further, the attorney examiner grants the motion for leave to file motion to intervene and the motion to intervene filed by Retail Energy Supply Association.

{¶ 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 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} To assist the Commission with the review of FirstEnergy's compliance with the corporate separation rules set forth in Ohio Adm.Code Chapter 4901:1-37, the Commission directed Staff to issue a request for proposal (RFP) for audit services. On July 5, 2017, the Commission issued an Entry selecting Sage Management Consultants, LLC (Sage) to conduct the requested audit services, in accordance with the terms set forth in the RFP. Pursuant to the terms of the RFP, a draft audit report was to be submitted by February 28, 2018, with the final audit report due on March 14, 2018. The deadline for the draft audit report and final audit report was extended to April 30, 2018, and May 14, 2018, respectively. Sage filed the final audit report on May 14, 2018.

{¶ 4} On September 20, 2018, the attorney examiner directed that all motions to intervene in this proceeding be filed by October 9, 2018.

{¶ 5} On November 30, 2018, the attorney examiner granted motions to intervene filed by Ohio Consumers' Counsel (OCC) and Interstate Gas Supply, Inc. (IGS). The attorney examiner also established a comment period regarding the audit report. Comments were filed by IGS, OCC, Northeast Ohio Public Energy Council (NOPEC), the Companies, and Retail Energy Supply Association (RESA). Reply comments were filed by NOPEC, FirstEnergy Solutions Corp. (FES), OCC and the Companies. Joint reply comments were filed by RESA and IGS.

{¶ 6} In their comments, the Companies noted that, on March 20, 2018, FES filed a voluntary petition in the United States Bankruptcy Court for relief pursuant to Chapter 11 of Title 11 of the United States Code. Further proceedings in this case were deferred until the resolution of FES' bankruptcy proceeding.

{¶ 7} On March 20, 2020, the Companies filed a notice in this proceeding. The Companies represented that FES had emerged from bankruptcy as Energy Harbor Corp. (Energy Harbor) and that Energy Harbor is no longer an affiliate of the Companies' parent, FirstEnergy Corp.

{¶ 8} Further, on January 17, 2020, Suvon, LLC d/b/a FirstEnergy Advisors (Suvon) filed an application for certification as a CRES power broker and aggregator in the state of Ohio. *In re Suvon LLC*, Case No. 20-103-EL-AGG. Suvon is an affiliate of the Companies. The Commission approved Suvon's application on April 22, 2020. The Commission also ruled that, although various parties in that case had raised issues both with Suvon's use of a trade name and with compliance with the corporation separation requirements by the Companies and other affiliates of FirstEnergy Corp., those issues were best addressed in this proceeding. *Suvon*, Case No. 20-103-EL-AGG, Finding and Order (Apr. 22, 2020) at ¶ 20, 22.

{¶ 9} In light of both the emergence of Energy Harbor from bankruptcy and the Commission's ruling in Suvon's certification case, the attorney examiner finds that interested persons should have the opportunity to file supplemental comments and supplemental reply comments regarding the audit report filed in this proceeding.

Supplemental comments should be filed by May 29, 2020, and supplemental reply comments should be filed by June 15, 2020. The examiner notes that this opportunity for interested persons to file supplemental comments and supplemental reply comments should not be construed to modify or extend the existing intervention deadline in this proceeding of October 9, 2018. Entry (Sep. 20, 2018).

{¶ 10} Further, the attorney examiner will take administrative notice in this proceeding of the certification application filed by Suvon in its certification case on January 1, 2020, and the supplement filed by Suvon on April 1, 2020. *Suvon*, Case No. 20-103-EL-AGG.

{¶ 11} Further, on January 19, 2019, RESA filed a motion for leave to file motion to intervene and a motion to intervene in this proceeding. RESA acknowledges that motions to intervene in this case were due by October 9, 2018. However, RESA notes that the issues in this proceeding are substantially similar to claims made by RESA in a complaint filed against the Companies and that, on January 15, 2019, the attorney examiner issued a stay of the complaint proceeding for that reason. *Retail Energy Supply Association v. Ohio Edison Co., et al.*, Case No. 18-736-EL-CSS, Entry (Jan. 15, 2019). Thus, RESA claims that good cause exists to grant intervention in this proceeding. No party opposed RESA's motions.

{¶ 12} The attorney examiner notes that RESA filed its complaint against the Companies on April 25, 2018, prior to the intervention deadline in this case. The issues raised in the complaint are substantially similar to the issues raised in the audit report filed on May 14, 2018. However, at the time of the intervention deadline, RESA could not reasonably foresee that the attorney examiner would stay the complaint proceedings, in the interest of administrative efficiency, pending the outcome of this proceeding. Accordingly, the attorney examiner finds that RESA has demonstrated extraordinary circumstances in this case and that its motion for leave to file the motion for intervention should be granted. Further, the examiner finds that the motion to intervene is reasonable and should be granted.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That interested persons file supplemental comments by May 29, 2020, and supplemental reply comments by June 15, 2020. It is, further,

{¶ 15} ORDERED, That RESA's motion for leave to file motion to intervene and motion to intervene be granted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Gregory A. Price

By: Gregory A. Price  
Attorney Examiner

NJW/hac

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

**Commission of Ohio Docketing Information System on**

**4/29/2020 1:08:50 PM**

**in**

**Case No(s). 17-0974-EL-UNC**

Summary: Attorney Examiner Entry setting deadline for supplemental comments and supplemental reply comments, granting RESA's motion for leave to file motion to intervene, and granting motion to intervene electronically filed by Heather A Chilcote on behalf of Gregory A. Price, Attorney Examiner, Public Utilities Commission of Ohio