

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric) Case No. 19-2121-EL-ATA
Illuminating Company and The Toledo)
Edison Company for Approval of a New)
Tariff.)

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY AND THE TOLEDO EDISON COMPANY’S MEMORANDUM CONTRA
THE MOTION TO AMEND LEGACY GENERATION RESOURCE RIDER TARIFFS
AND FOR AN EXPEDITED RULING BY THE CITIZENS’ UTILITY BOARD OF OHIO**

The Motion to Amend Legacy Generation Resource Rider Tariffs and for an Expedited Ruling (the “Motion”) filed by the Citizens Utility Board of Ohio (“CUB Ohio”) should be denied. The Motion asks the Commission to amend the Legacy Generation Resource Rider (“Rider LGR”) tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”), to broaden their existing refund language. CUB Ohio’s stated objective is to make amounts the Companies collect under Rider LGR subject to refund to the Companies’ customers if Ohio Revised Code 4928.148 is repealed or otherwise modified to reduce the amount collected. This objective, however, requires relief well beyond the Companies’ Rider LGR tariff, and implicates the Companies’ remittance of all funds collected through Rider LGR to other electric distribution utilities (“EDUs”).

The Motion mistakenly assumes that the Companies retain funds collected through Rider LGR. To the contrary, the Companies pass through all the money they collect through Rider LGR to the Ohio EDUs with ownership interests in the Ohio Valley Electric Corporation (“OVEC”).¹

¹ For purposes of this memorandum contra, EDUs with OVEC ownership interests are, collectively, the “OVEC EDUs.”

Since the Companies do not retain any funds collected under Rider LGR, granting CUB Ohio's requested relief would be a fruitless exercise.

I. THE OBJECTIVE OF CUB OHIO'S MOTION REQUIRES A BROADER SOLUTION THAN MODIFYING THE COMPANIES' RIDER LGR TARIFF LANGUAGE

The Companies Rider LGR tariffs already include refund language. CUB Ohio's Motion is simply based on an incorrect premise. CUB Ohio's Motion asserts that the requested change in tariff language may forestall a "windfall" to the Companies through Rider LGR. CUB Ohio Motion, p. 2, Memo in Support, p. 7. However, the Commission ordered the Companies to remit all funds collected through Rider LGR to the OVEC EDUs,² and the Companies follow the Commission's directive. The Companies do not recognize any revenue or earnings from Rider LGR. To the contrary, the funds the Companies collect through Rider LGR are tracked through an accounts payable account. The Companies are merely bill collectors that pass through every dollar they collect from Rider LGR to the OVEC EDUs.

As a result, the focus of CUB Ohio's motion is inappropriately placed exclusively on the Companies. The Companies do not keep any funds collected through Rider LGR. Therefore, granting CUB Ohio's motion would be a fruitless exercise because it does not address the broader implications of CUB Ohio's desired outcome. Any serious attempt to craft a Rider LGR refund process must take into consideration the Companies' obligation to remit all funds from Rider LGR.

In fact, the Companies raised this very issue in their Reply Comments in Case No. 19-1808-EL-UNC. There, the Companies explained that Rider LGR, and its remittance process, need to work in the reverse as well. The Companies recommended that the Commission provide a

² *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Entry at p. 12 (Nov. 21, 2019).

methodology for the OVEC EDUs to reimburse the Companies, in order for the Companies to be able to make refunds to their customers.³

Despite a number of proceedings before the Commission related to Rider LGR tariffs where CUB Ohio could have raised its concerns, CUB Ohio chose to focus exclusively on the Companies' Rider LGR tariff update proceeding. CUB Ohio seeks to expand Rider LGR refund language only for the Companies, the only Ohio EDUs with no ownership interest in OVEC, who act as bill collectors and remit everything they collect. CUB Ohio's Motion is incomplete and should not be granted.

II. CONCLUSION

Because CUB Ohio's Motion is based on an incorrect premise and proposes an unworkable solution to achieve its desired outcome, the Motion should be denied.

Respectfully Submitted,

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³ See Case No. 19-1808-EL-UNC, Replies of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Comments on Staff Recommendation, p. 3 (Oct. 28, 2019).

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Memorandum Contra was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 8th day of October, 2020. The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/Christine E. Watchorn

One of the Attorneys for the Companies

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Case No(s). 19-2121-EL-ATA

Summary: Memorandum Contra the Motion to Amend Legacy Generation Resource Rider Tariffs and for an Expedited Ruling electronically filed by Ms. Christine E. Watchorn on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company