

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Procurement of)	
Standard Service Offer Generation as)	
Part of the Fourth Electric Security Plan)	
for Customers of Ohio Edison)	Case No. 16-0776-EL-UNC
Company, The Cleveland Electric)	
Illuminating Company, and The Toledo)	
Edison Company)	

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S MEMORANDUM CONTRA
THE MOTION OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL TO
POSTPONE THE FIRSTENERGY UTILITIES' JANUARY STANDARD SERVICE
OFFER AUCTION**

I. INTRODUCTION

On December 29, 2022, the Office of the Ohio Consumers' Counsel ("OCC") filed a motion asking the Commission to indefinitely postpone the January 10, 2023 Standard Service Offer ("SSO") procurement auction of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the "Companies") until the Commission has resolved pending issues related to NOPEC's certification and its return of residential customers to the Companies' SSO.¹ OCC sought expedited treatment of the motion. On December 30, 2022, the Attorney Examiner issued an entry ordering that memoranda contra be filed by January 3, 2023.²

II. DISCUSSION

While the Companies agree on the importance of providing customers reasonably priced SSO service, the Companies disagree that postponing the January 10 auction based on the status

¹ See Motion to Protect Consumers by Postponing the FirstEnergy Utilities' January Standard Service Offer Auction and Request for Expedited Ruling by Office of the Ohio Consumers' Counsel ("OCC's Motion"), 12/29/2022, at 1.

² Entry, 12/30/2022 at ¶ 9.

of a single retail market participant is an appropriate way to achieve that result. The Companies respectfully request that the Commission deny OCC's Motion for at least five reasons.

First, OCC presents no facts supporting a delay nor any precedent where the Commission has delayed a SSO auction due to the pending certification status of one retail market participant. Further, the examples of changes to the Companies' auctions that OCC does cite were not postponements³ and they are inapposite here, because they were necessary due to FERC orders that affected the timing of PJM's base residual auctions.

Second, there can be no assurance that a delay would result in lower prices. Even if the auction could be delayed without adverse consequences (which it cannot, as explained further below), market forces unrelated to NOPEC's certification status could drive the clearing price. In fact, as evidenced by the fall 2022 auction clearing prices of all Ohio EDUs,⁴ prices are fairly consistent, even across geographic areas with few or no NOPEC aggregations.⁵ Moreover, postponing the auction could actually increase prices in the long run, because the delay could be perceived by prospective suppliers as creating regulatory uncertainty, which in turn could lead to a decline in participation and an increase in risk premium. Changing the process rules and auction timing in reaction to current market conditions is at odds with the purpose of the process. There

³ OCC refers to the Commission's February 9, 2022 Finding and Order in this docket; however, that adjustment was not a postponement. Rather, the Commission approved the Companies' proposal to truncate a 24-month product to a 12-month product and to conduct an additional auction. Finding and Order at ¶¶ 8-9. OCC also refers to the Commission's August 26, 2020 Finding and Order in this docket; however, that adjustment was to truncate the 36-month product for both the fall 2020 and spring 2021 auctions to 12-month products. Finding and Order at ¶¶ 11-12.

⁴

Utility	Auction Date	Contract Term	Tranche Target	Clearing Price
Duke	9/20/2022	June 1, 2023 - May 31, 2024	40	\$115.75
FEOU	10/4/2022	June 1, 2023 - May 31, 2024	33	\$122.30
AEP	11/1/2022	June 1, 2023 - May 31, 2024	50	\$119.98
AES Ohio	11/29/2022	June 1, 2023 - May 31, 2024	35	\$113.42

is always a chance that market uncertainties, regulatory uncertainties, and other factors can impact auction clearing prices. This is why the Companies schedule multiple procurements per year and work to establish a ladder schedule that evenly weights a range of market conditions into the SSO price. Postponing the January auction to an unknown date in the future is not a viable price-reduction strategy.

Third, the Companies and their independent auction manager, CRA International, Inc. (“CRA”) began the process of advertising and preparing for the upcoming auction on November 22, 2022, and significant time and resources have been expended. CRA has conducted the bidder information session, and bidders have completed the application process and have submitted pre-bid security. The Companies have adequate supplier representation for the auction, and the qualified bidders are experienced market participants.

Fourth, OCC is incorrect – there is insufficient time for the PUCO to resolve the issues related to NOPEC’s certification and its return of customers to the Companies’ SSO and reschedule the January 10 auction for a later date while still allowing power to be delivered by June 1. It is presently unknown when the Commission will issue a decision regarding NOPEC’s certification, if any party might file an application for rehearing, and when any decision on any application(s) for rehearing may be rendered. The Companies’ SSO procurement auctions are multi-step processes involving multiple parties. The process takes approximately two months. The Companies’ next SSO procurement auction is scheduled for March 20, 2023, meaning the process for that auction will begin in late January.⁶ Therefore, even if the Commission were to issue its decision on January 25, the anticipated first Commission meeting after the January 20 deadline for reply comments in the NOPEC certification docket, and even if there were no

⁶ See Letter of Notification, 12/8/2022.

applications for rehearing filed, there will be insufficient time to postpone the January 10 auction and conduct it prior to the next auction on March 20. As a result, any postponement of the January 10 auction would result in a cancellation of that auction and result in the Companies procuring all 67 remaining tranches for the remaining term of ESP IV in the March auction. Having one auction instead of two creates a risk of upward pressure on prices. There will also not be time to conduct a postponed auction after the Companies' March 20 auction, because the Companies' PIPP supply auction, which must follow their March 20 SSO auction, is scheduled for April 3. Conducting another SSO auction after the March 20 auction will delay the April 3 PIPP supply auction and prevent the Companies from timely submitting their Rider GEN tariff filings for Commission approval as required.⁷

Fifth, customers are protected by safeguards built into the Commission-approved auction process, including the involvement of the independent auction manager and the Commission's consultant, as well as Commission oversight and approval. Moreover, to the extent that SSO suppliers build a premium into their bid prices in the Companies' January auction, or if market prices decline in the future, customers have the option to shop for their generation rather than remain on SSO.

III. CONCLUSION

For the forgoing reasons, the Companies respectfully request that the Commission deny OCC's Motion.

⁷ See Case No. 16-0541-EL-RDR, Finding and Order (5/25/2016) at ¶ 13 ("the Companies shall, for the remaining term of the ESP, file the PIPP and non-PIPP generation rates for Commission review no later than 30 days following the date of the last auction, and the final Rider GEN tariffs reflecting the updated PIPP and non-PIPP generation rates shall be approved effective June 1 of each year, contingent upon the Commission's review.").

Respectfully submitted,

/s/Christine E. Watchorn

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio (“PUCO”) on this 3rd day of January 2023. The PUCO’s e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/Christine E. Watchorn

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1/3/2023 4:49:18 PM

in

Case No(s). 16-0776-EL-UNC

Summary: Memorandum Contra the Motion of the Office of the Ohio Consumers' Counsel to Postpone the FirstEnergy Utilities' January Standard Service Offer Auction electronically filed by Ms. Christine E. Watchorn on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company