

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Applications of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company for Authority to Continue)
and Modify Certain Regulatory Accounting) Case No. 03-2144-EL-ATA
Practices and Procedures, for Tariff Approv-)
als and to Establish Rates and Other Charges)
Including Regulatory Transition Charges)
Following the Market Development Period.)

ENTRY

The Commission finds:

- (1) On October 21, 2003, the Cleveland Electric Illuminating Company (CEI), the Toledo Edison Company, and Ohio Edison Company (FirstEnergy, companies) filed an application in this docket for authority to continue and modify certain regulatory accounting practices and procedures, for tariff approvals, and to establish regulatory transition charges following the market development period.
- (2) On June 9, 2004, the Commission issued its Opinion and Order (03-2144 Order) in this proceeding. In the order, the Commission established the FirstEnergy shopping credit values for 2005, directed FirstEnergy to undertake a competitive bidding process for generation service after the end of the MDP, and established a rate stabilization plan (RSP). On August 4, 2004, the Commission issued an entry granting and denying applications for rehearing. On September 29, 2004, the Commission issued an entry granting and denying applications for rehearing to the August 4, 2004, entry, filed by various parties to this proceeding. On November 23, 2004, the Commission issued an entry denying FirstEnergy's application for rehearing to the September 29, 2004, entry.
- (3) On January 4, 2006, the Commission issued its Opinion and Order in Case No. Case No. 05-704-EL-ATA *et al, In the Matter of the Joint Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for*

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Approval of a Generation Charge Adjustment Rider; In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Modify Certain Accounting Practices and for Tariff Approvals regarding the establishment of a rate certainty plan (RCP), approving, as clarified, the stipulation and supplemental stipulation entered into by FirstEnergy and various parties to these proceedings.

- (4) The RSP provided the companies the opportunity to recover changes in fuel costs during the January 1, 2006 through 2008 time period; the companies were required to seek approval of any rider by which such costs would be recovered. The RCP is an alternative to that rider. As part of the approved stipulation, the companies were granted authorization to establish, as regulatory assets, the fuel cost increases deferred each year under the stipulation. Thereby, the approval of the stipulation made the request for the fuel costs rider moot. The RCP is intended to mitigate over the 2006-2008 time period the effects of the recovery of increased fuel costs and the acceleration of the recovery of shopping incentive deferral balances approved in the RSP along with the attendant reduction of carrying charges associated with those balances. The RCP also intended to maintain level distribution rates during the 2006-2008 time period, defer a portion of the companies' expenditures for system infrastructure and reliability improvements, continue current rates for the customers of CEI through April 30, 2009, account for grants previously provided by the companies to support a continuation of a low-income housing energy efficiency improvements program, and fund and implement demand-side management programs. By Entry dated March 1, 2006, applications for rehearing filed by Constellation NewEnergy, Inc., Direct Energy Services LLC, WPS Energy Services, Inc. and Elyria Foundry were denied.
- (5) On May 3, 2006, the Supreme Court of Ohio issued an Opinion in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St. 3d 328 (2006), in an appeal from Case No. 03-2144-EL-ATA. The Opinion affirmed the Commission's decision in regard to propositions of law that challenged the 03-2144 Order as to the approval of the rate stabilization charge, FirstEnergy's

corporate separation plan, shopping credits and interest on shopping credits. The decision did conclude that the RSP as adopted by the Commission did not comply with Section 4928.14(B), Revised Code, because it failed to provide an option for customer participation in the electric market through competitive bids or other reasonable means. The court remanded that portion of the case back to the Commission for further consideration. The court stated that the decision of the PUCO was affirmed in all other respects.

- (6) The Commission, therefore, finds that the RSP, as amended by the RCP, shall remain effective as the Section 4928.14(A), Revised Code, standard service offer. As ordered by the court, the Commission will follow the provisions of Section 4928.14(B), Revised Code, to provide an option for customers to purchase electric service at a price determined through a competitive bid process, or through another means if the Commission is satisfied that the option would be readily available and accessible to customers.
- (7) On July 20, 2006, FirstEnergy filed notice that it would continue to offer the RSP, as amended by the RCP, as a standard service offer, conditioned on the Commission approving the company's plan for the competitive retail electric service option. FirstEnergy provided a conceptual framework for the plan in its filing.
- (8) On July 20, 2006, the office of the Ohio Consumers' Counsel and the communities of the Northwest Ohio Aggregation Coalition filed a proposal for a voluntary competitive bidding option for certain tariff schedules of FirstEnergy as a process to meet the court's directive.
- (9) FirstEnergy is ordered to file in a new docket, its plan for complying with the requirements of Section 4928.14, Revised Code, within forty-five days of this entry.

It is, therefore,

ORDERED, That FirstEnergy is ordered to file its plan for complying with the requirements of Section 4928.14, Revised Code, within forty-five days of this entry. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman



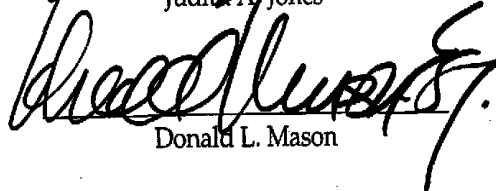
Ronda Hartman Fergus



Judith A. Jones



Valerie A. Lemmie

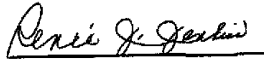


Donald L. Mason

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Renee J. Jenkins
Secretary