

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 08-124-EL-ATA
Edison Company for Authority to Modify) Case No. 08-125-EL-AAM
Certain Accounting Practices and for Tariff)
Approvals.)

ENTRY

The attorney examiner finds:

- (1) On February 8, 2008, The Cleveland Electric Illuminating Company (CEI), The Toledo Edison Company (TE), and Ohio Edison Company (OE) (collectively, FirstEnergy or the Companies) filed an Application on Remand to establish a recovery mechanism for fuel costs deferred during 2006-2007. FirstEnergy's application was filed pursuant to a Commission order issued in Case No. 07-1003-EL-ATA on January 9, 2008, which directed FirstEnergy to apply for an alternative recovery mechanism to collect the 2006-2007 deferred fuel costs and associated carrying costs previously established in Case Nos. 03-2144-EL-ATA (the rate stabilization plan (RSP) proceeding) and 05-1125-EL-ATA (the rate certainty plan (RCP) proceeding).
- (2) In its application, FirstEnergy explains that the application is a product of the Supreme Court's August 29, 2007 opinion issued in *Elyria Foundry Co. v. Public Util. Comm.* (2007), 114 Ohio St.3d 305, 2007-Ohio-4164, which was an appeal as of right from the RCP proceeding. In that opinion, the Court affirmed the Commission's approval of the RCP, except with regards to the collection of the deferred fuel costs through distribution base rates in future distribution rate cases. The Court reversed the Commission's order on this sole issue and remanded the case to the Commission to modify the RCP accordingly.
- (3) In response to the Court's ruling, on September 10, 2007, FirstEnergy filed an Application on Remand in Case No. 07-1003-EL-ATA, proposing to establish two generation-related fuel cost recovery riders to collect the actual fuel costs incurred in 2006 through 2008 that are above the 2002 fuel cost baseline

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and that are in excess of the fuel costs that have already been collected from customers via the fuel recovery mechanism.

- (4) On January 9, 2008, the Commission approved FirstEnergy's Fuel Cost Recovery Rider that would recover ongoing fuel costs incurred from September 30, 2007 through December 31, 2008. However, the Commission denied FirstEnergy's request to implement the Deferred Fuel Cost Recovery Rider that would recover fuel costs deferred from the inception of the fuel deferral under the RCP through September 30, 2007, plus carrying costs on the unrecovered deferred cost balance. Instead, the Commission ordered FirstEnergy to file an application to establish an alternative recovery mechanism to collect the 2006-2007 deferred fuel costs and associated carrying costs.
- (5) Motions to intervene and memoranda in support have been filed by the Industrial Energy Users-Ohio (IEU-Ohio), the Ohio Energy Group (OEG), and the Office of the Ohio Consumers' Counsel (OCC). No memoranda contra were filed opposing the motions. The attorney examiner finds that the motions to intervene are reasonable and should be granted.
- (6) Among other things, the Companies' application proposes that a comment period be established to provide interested parties with an opportunity to provide comments on its application. The attorney examiner, however, finds that this matter should be set for hearing. Accordingly, a hearing should be scheduled for 10:00 a.m. on May 19, 2008, in Hearing Room 11-C at the Public Utilities Commission of Ohio's (Commission) offices, 180 East Broad Street, 11th floor, Columbus, Ohio 43215-3793. Furthermore, a prehearing conference should be scheduled for March 27, 2008, at 10:00 a.m., in Hearing Room 11-C at the Commission's offices, to discuss other procedural issues.


It is, therefore,

ORDERED, That the motions to intervene filed by IEU-Ohio, OEG, and OCC are granted. It is, further,

ORDERED, That the hearing and prehearing conference be scheduled in accordance with Finding (6). It is, further,

ORDERED, That a copy of this Entry be served upon FirstEnergy and all other interested persons of record in this case.

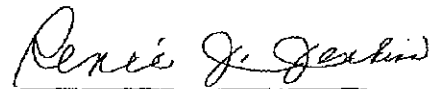
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Kimberly W. Bojko
Attorney Examiner

KWB:ct ^{vs}

Entered in the Journal

FEB 29 2008


Renee J. Jenkins
Secretary