

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 April 4, 2008, an attorney examiner entry was issued to memorialize the procedural schedule established at the March 27, 2008 prehearing settlement conference conducted in this proceeding. The procedural schedule required company and intervenor testimony to be filed no later than June 20, 2008, and an evidentiary hearing to begin on July 15, 2008.
- (2) On June 3, 2008, the Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI), and The Toledo Edison Company (TE) (collectively, the Companies) filed a joint motion requesting that the Commission suspend the procedural schedule established by the April 4, 2008 attorney examiner entry including all filings, discovery, testimony, and the evidentiary hearing set for July 15, 2008.
- (3) In support of their motion, the Companies submit that, as a result of the new energy legislation (Am. Sub. S.B. 221) signed into law on May 1, 2008, all electric companies are required to file an electric security plan (ESP) with the Commission. The Companies assert that the ESP must include a proposal for the supply and pricing of retail generation service, and may include any number of other proposals, including, without limitation, deferrals and the recovery of deferrals. Also, the Companies assert that, while their ESPs are not yet filed with the Commission, they anticipate that their ESP filings will contain a proposal addressing the recovery of deferred fuel costs, which is also the subject matter of this proceeding. Next, the Companies assert that granting their request for a suspension of this proceeding in its entirety would permit the issue of recovery of deferrals to be considered and resolved in a single

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proceeding, the ESP proceeding, rather than in two different proceedings. Further, the Companies assert that, if the issue of recovery of deferred fuel costs is not resolved in the ESP, then the suspension of this proceeding could be lifted and the case reinstated at that time to finalize the issue. Finally, given the current procedural schedule, the Companies request that the Commission issue a decision on the Companies' motion on an expedited basis.

- (4) On June 4, 2008, Commission staff filed its report, in accordance with the April 4, 2008 attorney examiner entry.
- (5) On June 9, 2008, the Office of the Ohio Consumers' Counsel (OCC) filed a memorandum contra the Companies' motion to suspend the procedural schedule established for this proceeding. First, OCC contends that the ESP proceeding will only establish a plan and a procedure for determining the prudence of fuel costs; it will not audit or determine the prudence of the fuel costs. OCC argues that the current fuel deferral case will not overlap with the ESP proceeding, it should not be suspended, and it should not be incorporated into the ESP case. Second, OCC argues that the General Assembly did not contemplate that the ESP proceedings would review the prudence of costs incurred prior to the ESP submissions. Last, OCC contends that the time and efforts of the parties should not be lost through the Companies' motion to suspend this proceeding.
- (6) With respect to the Companies' motion to suspend the pending proceeding in its entirety (until the ESP case is completed), the attorney examiner finds that the Companies motion is not necessary at this time. Therefore, the Companies' motion to suspend this proceeding in its entirety should be denied.
- (7) Nonetheless, the attorney examiner recognizes that Am. Sub. S.B. 221 requires the electric utilities to prepare and submit an ESP within a timeframe that overlaps with the date that this proceeding is set for evidentiary hearing. Therefore, and in light of the time required for preparation of the Companies' ESP, the attorney examiner finds that a revision to the procedural schedule is warranted. Accordingly, the following revised procedural schedule should be established:

- (a) FirstEnergy and intervenor testimony filed no later than August 29, 2008.
 - (b) Motions for intervention filed no later than August 29, 2008.
 - (c) Discovery requests submitted no later than September 9, 2008.
 - (d) Staff testimony filed no later than September 12, 2008.
 - (e) Evidentiary hearing to begin on September 29, 2008.
- (8) This case should be scheduled for a hearing to begin on Monday, September 29, 2008, at 10:00 a.m. in hearing room 11-C at the Commission offices, 180 East Broad Street, 11th floor, Columbus, Ohio 43215-3793.
- (9) Further, the parties are reminded that the following procedures were established with respect to discovery and pleadings:
- (a) Discovery responses will be submitted within 14 days of service of the discovery request.
 - (b) Service of discovery requests and the responses will be completed electronically.
 - (c) Service of pleadings will be completed electronically.

It is, therefore,

ORDERED, That the Companies' motion to suspend the procedural schedule for this proceeding is denied. It is, further,

ORDERED, That the procedural schedule set forth in Finding (7) be adopted. It is, further,

ORDERED, That the hearing be scheduled to begin on September 29, 2008, in accordance with Finding (8). It is, further,

ORDERED, That the parties comply with the discovery and pleading procedures in Finding (9) above. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

By: Janet K. Stoneking
Attorney Examiner

JKS:ct

Entered in the Journal

JUN 11 2008

Renee J. Jenkins

Renee J. Jenkins
Secretary