

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. 09-1947-EL-POR
Edison Company for Approval of Their) Case No. 09-1948-EL-POR
Energy Efficiency and Peak Demand) Case No. 09-1949-EL-POR
Reduction Program Portfolio Plans for 2010)
through 2012 and Associated Cost)
Recovery Mechanism.)

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric) Case No. 09-1942-EL-EEC
Illuminating Company, and The Toledo) Case No. 09-1943-EL-EEC
Edison Company for Approval of Their) Case No. 09-1944-EL-EEC
Initial Benchmark Reports.)

In the Matter of the Energy Efficiency and)
Peak Demand Reduction Program Portfolio) Case No. 09-580-EL-EEC
of Ohio Edison Company, The Cleveland) Case No. 09-581-EL-EEC
Electric Illuminating Company, and The) Case No. 09-582-EL-EEC
Toledo Edison Company.)

ENTRY

The legal director finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company (FirstEnergy or the Companies) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) On December 15, 2009, FirstEnergy filed an application in Case Nos. 09-1947, 1948, and 1949-EL-POR (09-1947 et al.) for approval of the Companies' energy efficiency and peak demand reduction program portfolio plans for 2010 through 2012 pursuant to Rule 4901:1-39-04, Ohio Administrative Code (O.A.C). In addition, FirstEnergy filed in Case Nos. 09-1942, 1943, and 1944-EL-EEC (09-1942 et al.) an application for approval of the Companies' initial benchmark report pursuant to Rule 4901:1-39-05, O.A.C. FirstEnergy filed testimony in support of the applications in 09-1942 et al. and 09-1947 et al.

- (3) On July 9, 2009, FirstEnergy filed in Case Nos. 09-580, 581, and 582-EL-EEC (09-580 et al.) an application for approval of two energy savings and peak demand reduction programs, the High Efficiency Light Bulb Program (CFL Program) and the Online Home Energy Education Tool Program (Home Tool Program), as part of its compliance with the 2009 energy efficiency and peak demand reduction benchmarks established in Section 4928.66, Revised Code. On September 16, 2009, FirstEnergy filed a letter in 09-580 et al. representing that it had reached a consensus with all interested parties regarding modifications to its CFL and Home Tool Programs. On September 23, 2009, the Commission approved the application, as modified on September 16, 2009, filed in 09-580 et al. On October 8, 2009, the Ohio Consumers' Counsel (OCC) filed an application for rehearing in 09-580 et al. Subsequently, on November 4, 2009, the Commission granted rehearing and directed FirstEnergy to provide additional details regarding a revised CFL Program. FirstEnergy included this revised CFL Program with its application in 09-1947 et al.
- (4) Chapter 4901:1-39, O.A.C., establishes procedural schedules for the various applications filed by FirstEnergy in these cases. In order to harmonize those procedural schedules, the following procedural schedule is established for these cases:
 - (a) To assist interested persons in understanding the various applications filed by FirstEnergy, a technical conference shall be held on January 21, 2010, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11th Floor, Hearing Room 11-B, Columbus, Ohio.
 - (b) Motions to intervene shall be filed by February 16, 2010.
 - (c) Pursuant to Rule 4901:1-39-04(D), O.A.C., all objections to the Companies' energy efficiency and peak demand reduction program portfolio plans for 2010 through 2012, including the revised CFL Program, and to the Companies' initial benchmark report shall be filed by February 16, 2010. Pursuant to the rule, any person filing objections shall specify the basis for the

objections, including any proposed additional or alternative programs or modifications to the electric utility's proposed program portfolio plan.

- (d) Testimony on behalf of intervenors regarding FirstEnergy's energy efficiency and peak demand reduction portfolio plans and the Companies' initial benchmark report shall be filed by February 16, 2010.
 - (e) Testimony on behalf of Staff regarding FirstEnergy's energy efficiency and peak demand reduction portfolio plans and the Companies' initial benchmark report shall be filed by February 23, 2010.
 - (f) The evidentiary hearing shall commence on March 2, 2010, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio.
- (5) Pursuant to Rule 4901:1-39-04(E), the Companies should publish legal notice of the scheduled hearing in a newspaper of general circulation in each county in the Companies' service territories. Publication of the notice should be completed by February 2, 2010. The hearing notice should not appear in the legal notices section of the newspaper. The notice should read as follows:

LEGAL NOTICE

The Public Utilities Commission of Ohio has scheduled a public hearing in Case Nos. 09-580, 581, and 582-EL-EEC, 09-1942, 1943, and 1944-EL-EEC, and 09-1947, 1948, and 1949-EL-POR, *In the Matter of the Applications of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanisms and for Approval of Their Initial Benchmark Reports*. The applications were filed pursuant to Section 4928.66 of the Ohio Revised Code and Rules

4901:1-39-04 through 07 of the Ohio Administrative Code. The companies are seeking PUCO approval of various proposed plans to increase energy efficiency by their customers and to reduce energy usage by their customers during times of peak demand. The companies are also seeking approval of recovery of their costs associated with the proposed plans and for approval of reports that demonstrate compliance with statutory requirements. The PUCO has scheduled a public hearing to consider the matters raised in the companies' applications. The hearing will commence on March 2, 2010, at 10:00 a.m., at the offices of the PUCO, 180 E. Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio. Any person seeking to participate in the hearing should file with the PUCO a motion to intervene by February 16, 2010. Pursuant to Rule 4901:1-39-04(D), O.A.C., all objections to the companies' energy efficiency and peak demand reduction program portfolio plans for 2010 through 2012 and to the Companies' initial benchmark report shall be filed with the PUCO by February 16, 2010. Pursuant to the rule, any person filing objections shall specify the basis for the objections, including any proposed additional or alternative programs or modifications to the electric utility's proposed program portfolio plan.

Further information may be obtained by contacting the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793; by calling the PUCO hotline at 1-800-686-7826; or by going to the PUCO website at www.puco.ohio.gov, selecting DIS, and inserting a case number referenced above.

- (6) By entry dated September 23, 2009, the Commission granted intervention in Case Nos. 09-580 et al. to the Industrial Energy Users-Ohio (IEU-Ohio), Natural Resources Defense Council (NRDC), OCC, and Ohio Partners for Affordable Energy (OPAE). IEU-Ohio, NRDC, and OPAE have filed motions to

intervene and a motion pro hac vice on behalf of David C. Rinebolt in 09-1942 et al. and 09-1947 et al. The legal director finds that the motions to intervene and the motion pro hac vice are reasonable and should be granted.

- (7) On October 19, 2009, the Neighborhood Environmental Coalition, the Empowerment Center of Greater Cleveland, United Clevelanders Against Poverty, Cleveland Housing Network, and the Consumers for Fair Utility Rates (Citizens Coalition) filed to intervene in 09-580 et al. On October 23, 2009, Citizen Power, Inc. filed a motion to intervene in 09-580 et al. On October 27, 2009, FirstEnergy filed a memorandum contra the motions to intervene. FirstEnergy contends that the motions to intervene filed by the Citizens Coalition and Citizen Power were not timely filed, their interests are already adequately represented by existing parties, they have not established that they have legal or factual arguments helpful to the Commission, and their participation could unduly prolong or delay the proceedings. On November 6, 2009, the Citizens Coalition filed a reply and on November 9, 2009, Citizen Power filed a reply to FirstEnergy's memorandum contra. The Citizens Coalition and Citizen Power meet the standards for intervention and intervention in 09-580 et al. should be granted.
- (8) On December 1, 2009, the Sierra Club filed a motion to intervene in 09-580 et al. On December 21, 2009, the Ohio Energy Group filed a motion to intervene in 09-580 et al., 09-1942 et al., and 09-1947 et al. On December 22, 2009, the Ohio Environmental Council filed a motion to intervene in 09-580 et al., 09-1942 et al., and 09-1947 et al. On December 23, 2009, the Association of Independent Colleges and Universities of Ohio filed a motion to intervene in 09-580 et al., 09-1942 et al., and 09-1947 et al. There is no opposition to these motions. The legal director finds that these movants meet the standards for intervention and intervention in these cases should be granted.
- (9) The legal director believes that any party that meets the standards for intervention in 09-580 et al. will also meet those standards in 09-1942 et al. and 09-1947 et al. To conserve resources, any party granted intervention in 09-580 et al. shall be granted intervention in 09-1942 et al. and 09-1947 et al. unless a notice is filed by January 29, 2009, by the party that indicates its intent not to participate in those cases. If

FirstEnergy wishes to oppose this extension of intervention with regard to any party; it should file by January 29, 2009, a document entitled "memorandum contra," which explains why any such party should not be granted intervention in 09-1942 et al. and 09-1947 et al. Any party wishing to file a response to any memorandum contra shall do so by February 5, 2009. The legal director recognizes that motions to intervene filed after December 23, 2009, are not addressed in this entry. Those motions will be addressed by subsequent entry because the time for filing memoranda contra and replies has not yet expired.

- (10) As set forth above, the hearing in these cases will commence on March 2, 2009. Efforts to resolve issues between the parties and reach consensus prior to the start of the hearing should be conducted as expeditiously as possible because requests to delay the start date of the hearing will not be viewed with favor. To help insure that all parties are properly prepared for hearing, responses to discovery requests shall be due in 10 days instead of the 20 days provided by Rule 4901-1-19, O.A.C. Parties are encouraged to serve discovery requests and responses electronically. Should the need arise, motions to compel should be filed as early as possible. A response to a motion to compel shall be filed within three business days.

It is, therefore,

ORDERED, That the procedural schedule set forth in Finding (4) be observed. It is, further,

ORDERED, That the Companies comply with the legal notice requirements set forth in finding (5). It is, further,


ORDERED, That the motions to intervene and the motions pro hac vice filed in these proceedings are granted to the extent discussed in findings (6), (7), (8), and (9). It is, further,

ORDERED, That the parties comply with the requirements regarding intervention set forth in finding (9). It is, further,

ORDERED, That the parties comply with the discovery-related requirements set forth in finding (10). It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

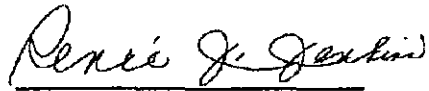
THE PUBLIC UTILITIES COMMISSION OF OHIO

By: 
Paul J. Duffy
Legal Director

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Entered in the Journal

JAN 14 2010



Renee J. Jenkins
Secretary