



Office of the Ohio Consumers' Counsel

Your Residential Utility Consumer Advocate

Janine L. Migden-Ostrander  
Consumers' Counsel

FILE

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PUCO

March 30, 2010

Renee J. Jenkins, Secretary  
Public Utilities Commission of Ohio  
180 E. Broad St.  
Columbus, Ohio 43215

Re: Attachment to Interlocutory Appeal, *In re FirstEnergy 2010 ESP Proceeding*,  
Case No. 10-388-EL-SSO

Dear Ms. Jenkins:

The Office of the Ohio Consumers' Counsel provides the attachment (PUCO Entry dated March 24, 2010) to the Joint Interlocutory Appeal that was missing from the filing on March 29, 2010 in the above-captioned case.

Very truly yours,

Jeffrey L. Small  
Assistant Ohio Consumers' Counsel

cc: All Parties

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Ohio Edison Company, )  
The Cleveland Electric Illuminating )  
Company, and The Toledo Edison )  
Company for Authority to Establish a ) Case No. 10-388-EL-SSO  
Standard Service Offer Pursuant to Section )  
4928.143, Revised Code, in the Form of an )  
Electric Security Plan. )

ENTRY

The attorney examiner finds:

- (1) Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI), and the Toledo Edison Company (TE) (collectively, FirstEnergy) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) On August 17, 2009, FirstEnergy Service Company, on behalf of six of its affiliates, including OE, CEI, TE, and American Transmission Systems, Inc., filed an application with the Federal Energy Regulatory Commission (FERC) in FERC Docket No. ER09-1589. The application requested permission for the FirstEnergy affiliates to withdraw their transmission facilities from the Midwest Independent Transmission System Operator and transfer operational control to PJM Interconnection, Inc. (PJM). The application characterized this transfer as the RTO realignment.

Subsequently, on September 4, 2009, the Commission opened Case No. 09-770-EL-UNC to review the impact of RTO realignment upon stakeholders in this state. During this proceeding, the Commission received written comments from 11 stakeholders and heard oral presentations regarding the RTO realignment on September 15, 2009, and January 7, 2010.

- (3) Further, on October 20, 2009, FirstEnergy filed an application, in Case No. 09-906-EL-SSO, for its standard service offer (SSO), commencing June 1, 2011, pursuant to Section 4928.141, Revised Code. This application was for a market rate offer (MRO) in accordance with Section 4928.142, Revised Code. On

October 29, 2009, a technical conference was held regarding FirstEnergy's application. Staff filed comments regarding the application on November 24, 2009; in its comments, Staff recommended that FirstEnergy consider a new electric security plan (ESP) for its SSO rather than the proposed MRO. The hearing in this proceeding commenced on December 15, 2009, and concluded on December 22, 2009.

- (4) Subsequently, on March 23, 2010, FirstEnergy filed an application, pursuant to Section 4928.141, Revised Code, for a SSO for the period between June 1, 2011, and May 31, 2014. This application is for an ESP, in accordance with Section 4928.143, Revised Code, and the application includes a stipulation agreed to by various parties regarding the terms of the proposed ESP. FirstEnergy states in the application that, since the directive by the Commission in the MRO proceeding for Staff to submit comments related to FirstEnergy's proposed SSO or alternative SSOs and Staff's recommendation to consider an ESP, FirstEnergy and numerous parties have engaged in a wide range of discussions over several months regarding various aspects of an ESP, all of which culminated in the filing of the proposed ESP. In addition, among other terms of the stipulation, the signatory parties recommend that the Commission close the RTO realignment proceeding, Case No. 09-778-EL-UNC.
- (5) In the application filed in this proceeding, FirstEnergy requests that all parties who intervened in its recent MRO proceeding, Case No. 09-906-EL-SSO, be granted intervention in this proceeding without the need for the filing of additional motions, and that all attorneys who are authorized to appear *pro hac vice* in the market rate offer proceeding be authorized to appear *pro hac vice* in this proceeding. The attorney examiner finds that these requests are reasonable and should be granted.
- (6) Further, FirstEnergy requests the Commission set an expedited procedural schedule for the stipulated electric security plan because the plan includes provisions for a competitive bid process to be conducted in July 2010. Accordingly, the attorney examiner finds that the following procedural schedule should be established for these proceeding:

- (a) Testimony on behalf of FirstEnergy should be filed by March 31, 2010.
  - (b) Pursuant to Rule 4901:1-35-05, Ohio Administrative Code (O.A.C.), a technical conference regarding the application should be held on April 5, 2010, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11th Floor, Hearing Room 11-B, Columbus, Ohio.
  - (c) Pursuant to Rule 4901:1-35-06(B), O.A.C., motions to intervene in this proceeding should be filed by April 5, 2010.
  - (d) Testimony on behalf of intervenors and Staff should be filed by April 13, 2010.
  - (e) The evidentiary hearing shall commence on April 20, 2010, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio.
- (7) Local public hearings will be scheduled, and publication of notice required, by subsequent entry.
- (8) In light of the time frame for preparation for the hearing in this matter, the attorney examiner requires that, in the event that any motion is made in this proceeding, any memoranda contra shall be required to be filed within five business days after the service of such motion, and any reply memorandum within three business days after the service of a memorandum contra. Moreover, the provisions of Rule 4901-1-07(B), O.A.C., which permits three additional days to take action if service is made by mail, will not apply. Parties are encouraged to take advantage of Rule 4901-1-05(C), O.A.C., which provides that service of pleadings may occur by facsimile transmission or electronic message. In addition, response time for discovery should be shortened to 10 days. Discovery requests and replies shall be served by hand delivery, e-mail or facsimile (unless otherwise agreed by the parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by the parties). To the extent that a party has

difficulty responding to a particular discovery request within the 10-day period, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.

It is, therefore,

ORDERED, That the procedural schedule set forth in Finding (6) be observed by the parties. It is, further,

ORDERED, That all parties granted intervention in Case No. 09-906-EL-SSO be granted intervention in this proceeding. It is, further,

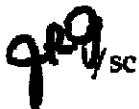
ORDERED, That all attorneys authorized to appear *pro hac vice* in Case No. 09-906-EL-SSO be authorized to appear *pro hac vice* in this proceeding. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record in this proceeding and all parties of record in Case No. 09-906-EL-SSO.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Gregory A. Price  
Attorney Examiner



Entered in the Journal

**MAR 24 2010**



Renee J. Jenkins  
Secretary