

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric) Case No. 09-1820-EL-ATA
Illuminating Company, and The Toledo) Case No. 09-1821-EL-GRD
Edison Company for Approval of Ohio Site) Case No. 09-1822-EL-EEC
Deployment of the Smart Grid) Case No. 09-1823-EL-AAM
Modernization Initiative and Timely)
Recovery of Associated Costs.)

ENTRY ON REHEARING

The Commission finds:

- (1) Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI), and The Toledo Edison Company (TE) (collectively, 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 November 18, 2009, FirstEnergy filed an application in this proceeding for approval of its proposed Ohio Site Deployment, a three-year pilot program involving 44,000 customers in CEI's service territory, as part of FirstEnergy's Smart Grid Modernization Initiative.
- (3) Moreover, on March 23, 2010, FirstEnergy filed an application, pursuant to Section 4928.141, Revised Code, for a standard service offer for the period between June 1, 2011, and May 31, 2014. The application included a stipulation agreed to by various parties regarding the terms of a proposed electric security plan (ESP). *In re FirstEnergy, Case No. 10-388-El-SSO (FirstEnergy Second ESP Case)*. Among other terms of the stipulation, the signatory parties provided recommendations to resolve the following issues regarding cost recovery for FirstEnergy's smart grid pilot project:
 - (a) Costs shall be recovered from customers of OE, CEI, and TE, exclusive of rate schedule GT customers.

- (b) All costs associated with the project will be considered incremental for recovery under Rider AMI.
 - (c) Recovery of the costs shall be over a 10-year period for recovery under Rider AMI. The recovery of costs over a 10-year period is limited to the proposed ESP and shall not be used as precedent in any subsequent AMI or smart grid proceeding.
 - (d) Return on the investment shall be at the overall rate of return from *In re FirstEnergy, Case No. 07-551-EL-AIR, et al.*
 - (e) Rate base is defined as plant in service, depreciation reserve and accumulated deferred income taxes.
 - (f) All reasonably incurred operating expenses associated with the project will also be recovered.
 - (g) During the term of the ESP, the deployment of the smart grid initiative will not include prepaid smart meters, and there will be no remote disconnection for nonpayment without complying with the requirements of Rule 4901:1-18-05, Ohio Administrative Code.
 - (h) The Companies shall not complete any part of the Ohio Site Deployment that the United States Department of Energy (DOE) does not match funding in an equal amount (*FirstEnergy Second ESP Case, Stipulation, March 23, 2010, at 22-23*).
- (4) On June 30, 2010, the Commission issued its Finding and Order in this proceeding approving the application as modified by FirstEnergy on June 15, 2010. Further, in the Finding and Order, the Commission deferred ruling on the

specific cost recovery issues proposed to be resolved in the *FirstEnergy Second ESP Case*.

- (5) Section 4903.10, Revised Code, states that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days of the entry of the order upon the Commission's journal.
- (6) On July 30, 2010, *FirstEnergy* filed an application for rehearing and request for clarification, alleging that the Opinion and Order was unreasonable and unlawful on one ground.
- (7) The Ohio Consumers' Counsel (OCC) filed an application for rehearing on July 30, 2010, alleging that the Opinion and Order was unreasonable and unlawful on two separate grounds.
- (8) On August 9, 2010, Industrial Energy Users-Ohio (IEU-Ohio) filed a memorandum contra OCC's application for rehearing. Further, OCC filed a memorandum contra *FirstEnergy's* application for rehearing on August 9, 2010.
- (9) In its assignment of error, *FirstEnergy* claims that, although *FirstEnergy's* application in this proceeding requested approval of both the proposed Ohio Site Deployment and cost recovery, the Commission's Finding and Order failed to unambiguously approve cost recovery.

In its memorandum contra, OCC argues that the Commission should affirm its Finding and Order. OCC claims that many of the costs included in *FirstEnergy's* application have not been properly substantiated and that a prudence review of all costs should be completed before recovery of such costs is authorized.

The Commission disagrees with *FirstEnergy's* contention that we failed to unambiguously approve cost recovery for the Ohio Site Deployment. In the Finding and Order, the Commission approved *FirstEnergy's* application subject

only to: (1) the modifications agreed to by FirstEnergy in its letter docketed on June 15, 2010; and (2) deferring ruling on the specific cost recovery issues contained in the stipulation filed in the *FirstEnergy Second ESP Case*.

In the Finding and Order, the Commission noted that FirstEnergy's application in this proceeding sought approval for "recovery of actual costs incurred, but that are not reimbursed by DOE, for implementing and maintaining the Ohio Site Deployment through revised Rider AMI." Finding and Order at 2. The Commission also noted that the stipulation in the *FirstEnergy Second ESP Case* included recommendations "to resolve *certain issues* regarding cost recovery for FirstEnergy's smart grid pilot project" and that the Commission would "defer ruling on *those issues* until we address the stipulation filed in the *FirstEnergy Second ESP Case*." Finding and Order at 8-9 (emphasis added). Finally, the Commission ordered that "*the application* filed by FirstEnergy in this proceeding, as modified by its letter dated June 15, 2010, *be approved*." Finding and Order at 11.

- (10) Nonetheless, the Commission will clarify that our Finding and Order approved recovery of actual costs incurred, but not reimbursed by DOE, for implementing and maintaining the Ohio Site Deployment through revised Rider AMI, subject only to the specific cost recovery issues included in the stipulation filed in the *FirstEnergy Second ESP Case*. Further, the Commission notes that those recommendations were approved by the Commission today in our Opinion and Order in that proceeding. Accordingly, with the above clarification, the Commission finds that the relief requested by FirstEnergy was granted in the Finding and Order and that FirstEnergy's application for rehearing is moot and should be denied.
- (11) In its first assignment of error, OCC argues that the Commission unreasonably and unlawfully based recovery of the Ohio Site Deployment costs on a fixed customer charge rather than allocating it on a kWh basis, requiring lower use customers to pay a disproportionate amount of costs.

In its memorandum contra OCC's application for rehearing, IEU-Ohio claims that, with respect to this assignment of error, OCC raises no new substantive arguments for the Commission's consideration and that OCC acknowledges in its application for rehearing that this issue was addressed by OCC and others in their comments filed in this proceeding.

The Commission finds that OCC has raised no new arguments on rehearing and that we thoroughly addressed OCC's arguments in our Finding and Order (Finding and Order at 9). Accordingly, rehearing on this assignment of error should be denied.

- (12) In its second assignment of error, OCC requests that the Commission correct, *nunc pro tunc*, the second sentence of the first full paragraph on page 10 of the Finding and Order to clarify that the comparison should be between customers who are and who are not in the alternative pricing program. The Commission agrees that this sentence is incorrect, and we will grant rehearing for the sole purpose of correcting this sentence, *nunc pro tunc*. Accordingly, as corrected, the second sentence of the first full paragraph on page 10 of the Finding and Order should read as follows:

Therefore, we will direct the Staff to ensure that the evaluation methodology compares the energy savings by customers who are included in the alternative pricing program with the energy savings measured for customers who are not in the alternative pricing program to ensure that lost distribution revenues do not include conservation efforts which would be implemented by customers irrespective of the smart grid deployment.

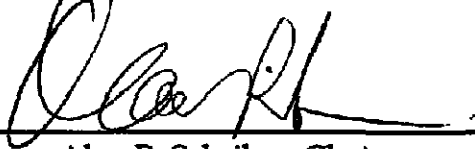
It is, therefore,

ORDERED, That the application for rehearing filed by FirstEnergy be denied and that the application for rehearing filed by OCC be granted, in part, and denied, in part. It is, further,

ORDERED, That the second sentence of the first full paragraph on page 10 of the Finding and Order be revised, *nunc pro tunc*, as set forth above in Finding (12). It is, further,

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

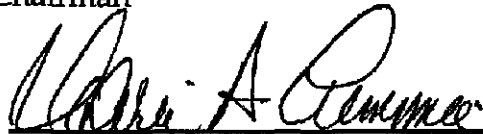
THE PUBLIC UTILITIES COMMISSION OF OHIO



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AUG 25 2010



Renee J. Jenkins
Secretary