

**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
Edison Company for Approval of a New
Rider and Revision of an Existing Rider.**

Case No. 10-176-EL-ATA

**MEMORANDUM OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY
CONTRA MOTION TO ESTABLISH A PROCEDURAL SCHEDULE BY THE
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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ATTORNEYS FOR APPLICANTS OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND
THE TOLEDO EDISON COMPANY

Come now Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (“Companies”) and respectfully submit this Memorandum Contra the OCC’s Motion for a Procedural Schedule and request that the Motion be denied on the basis that the setting of a procedural schedule on an accelerated basis is unnecessary and may be harmful to the process of reaching an appropriate long term solution.

The OCC seeks to have a procedural schedule established in this proceeding, stating that such procedural schedule must be established *now*. While the Commission may establish a procedural schedule at its discretion, the OCC provides no meaningful basis for the need for such a schedule at this moment. The Commission is well aware of the issues in this case and has already issued multiple Orders and Entries in this proceeding. In its initial Finding and Order, the Commission ordered that the Companies file tariffs “for the all-electric residential subscribers that will provide bill impacts commensurate with FirstEnergy’s December 31, 2008, charges for those customers.” *Finding and Order*, p. 3. In its Second Entry on Rehearing, the Commission expanded the number of customers to whom “all-electric” credits apply by ordering that the credits should be given to customers who were successor accounts to a customer that had “previously qualified under the “all-electric” rate schedules, notwithstanding the provisions of the stipulation in *In re FirstEnergy*, Case No. 05-1125-EL-ATA, et al.” *Second Entry on Rehearing*, p. 2. Further in its Second Entry on Rehearing, it renewed its direction to its Staff to investigate the matter and develop a process that allows interested parties to participate in the resolution of issues raised in this proceeding. *Id.* OCC has not demonstrated that there is any exigency that suggests the need to set a procedural schedule now, much less an accelerated one.

Most importantly, the Commission stated in its Second Entry on Rehearing that the rate relief already granted in the case will remain in effect at least through the 2010-2011 heating season, which under the Companies' tariffs runs through May 31, 2011. *Id.* Further, because the "all-electric" credits ordered by the Commission do not apply during the summer months, any changes to the credits would not take effect until September 2011 at the earliest. With nearly a year before any changes would be implemented and the Commission's temporary ruling in place for the upcoming heating season, there is no need to rush the process at this juncture.

While the Companies are not suggesting that the process be delayed until next summer, the Staff of the Commission should be given adequate time to investigate the issue, consider alternatives, and make its recommendation to the Commission. Interested parties should then be given time to review Staff's report and provide comments as to what discount, if any, should remain in place and how recovery of the previously authorized deferrals should be allocated to the customer classes, when that recovery should commence and over what time period it should take place.

The only purpose in moving forward now on an expedited basis would be to implement an adjustment to the all-electric credit prior to the cold weather months in the 2010-2011 non-summer period – an issue the Commission has already addressed through its prior orders discussed *supra*. However, the Commission could reduce the previously-approved credit for that timeframe which would lessen the amount currently expected to be deferred by the Companies, which would then reduce the burden on other customers in the future.

Finally, any procedural schedule which may be established by the Commission should not be set to reach a final resolution until after the completion of the auctions to procure supply for the Companies' standard service offer, which were established in the Companies' most

recently approved ESP. The results of these auctions will provide the foundation for generation pricing commencing June 2011. This pricing information is critical to the determination of whether the credit should be continued, and, if so, at what amount and for what time period.

For the above reasons, the Companies respectfully request that the Commission deny the instant Motion for a Procedural Schedule.

DATED: September 23, 2010

Respectfully submitted,

/s/ James W. Burk

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AND THE TOLEDO EDISON COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra Motion to Establish a Procedural Schedule was delivered to the following persons by first class mail, postage prepaid this 23rd day of September, 2010.

/s/ James W. Burk

An Attorney For Applicants Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/23/2010 10:39:50 AM

in

Case No(s). 10-0176-EL-ATA

Summary: Memorandum of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company Contra Motion to establish a procedural schedule by the Office of The Ohio Consumers' Counsel electronically filed by Mr. George A Yurchisin on behalf of FirstEnergy Corp. and James W Burk