

**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)	Case Nos. 12-2190-EL-POR
Approval of Their Energy Efficiency and Peak Demand)	12-2191-EL-POR
Reduction Program Portfolio Plans for 2013 through)	12-2192-EL-POR
2015)	

**REPLY OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY
AND THE TOLEDO EDISON COMPANY TO JOINT OBJECTION TO COMPANIES' PROPOSED
PROCEDURAL SCHEDULE**

On July 31, 2012 Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "Companies") submitted an application for approval of their Energy Efficiency and Peak Demand Reduction ("EEPDR") Program Portfolio Plans for 2013 through 2015 ("Plans"). These Plans are an extension of the EEPDR plans currently in effect and include one new program, existing measures and programs that have been combined and consolidated in order to streamline the administration of the current programs, and the addition of new measures within these consolidated programs.¹

Included in the Application was a proposed procedural schedule that was designed to complete the evidentiary hearings no later than October 31, 2012.² This request was made by the Companies for several reasons. First, Company counsel has a conflict starting in November with two cases in Pennsylvania, which will make the trying of this matter difficult after October. Moreover, counsel may have to be out for several weeks starting in November for personal reasons, but will not know for sure until mid-September. Second, one of the Companies' witnesses is unavailable during the first two weeks of November for personal reasons.³

¹ Company Exhibit 1, p. 7 (Dargie Testimony).

² Application, p. 13 (July 31, 2012).

³ Company Exhibit 1, p. 19 (Dargie Testimony).

Therefore, if the hearing is not completed by the end of October, it will have to be postponed until mid- to late-November in order to accommodate the witness' and (perhaps) counsel's availability, which would create an unnecessary delay. And, third, many of the intervening parties, including Ohio Partners for Affordable Energy, Ohio Hospital Association, Ohio Energy Group, Industrial Energy Users of Ohio, Nucor Steel Marion, Inc., and the Council of Smaller Enterprises, do not object to the schedule as proposed by the Companies.⁴ Indeed, to date, only the environmental coalition comprised of the Environmental Law & Policy Center, Natural Resources Defense Council, Ohio Environmental Council and Sierra Club (collectively "Coalition") is opposing the schedule and proposing one that would have the hearing starting the week of November 5, 2012, notwithstanding their knowledge of counsel's potential conflict and the unavailability of the Companies' witness.

A. The Coalition Paints Only Half the Picture.

The Coalition claims that the Companies are seeking an expedited procedural schedule that seeks to complete all events by the end of October. As a preliminary matter, notwithstanding the Coalition's claims to the contrary, the Companies are not seeking to have all briefs filed by the beginning of November.⁵ The Companies are simply seeking to have the evidentiary hearing completed by then. Moreover, the Companies do not view the proposed schedule as an expedited schedule. While they suggested a 45 day comment period, instead of a 60 day comment period, they also indicated that they were not wed to this schedule and would be willing to modify other due dates to accommodate a 60 day comment period -- even though they do not believe that such a lengthy review period is necessary -- provided that the evidentiary

⁴ This list only represents the potential intervenors with whom company counsel could reach to discuss the matter and does not necessarily reflect all potential parties' positions.

⁵ Coalition Obj., p. 2.

hearing could be completed by the end of October and sufficient time is available for discovery after intervenor testimony is filed.⁶

While the Coalition's claim that the Companies filed their application on July 31, 2012⁷ is true, the Coalition fails to recognize that the Companies also had their Electric Security Plan ("ESP") pending before the Commission, which also involved several issues that affected the Plans, including the extension of the Community Connections Program (which is referred to in the Plans as the Low Income Program), the extension of Riders ELR and OLR, and the Companies' approach to ownership of energy credits for purposes of bidding into the PJM Interconnection LLC capacity auctions.⁸ In order to provide more complete Plans and avoid the need to supplement the filing in this proceeding, the Companies waited to see if the issues affecting the Plans would be resolved in the ESP Case before they had to file the Plans. The Commission issued its order in the Companies' ESP Case on July 18, 2012 in which the outstanding issues were, in deed, resolved, and each resolved issue was incorporated into the Plans consistent with the Commission's ESP Order.

The Coalition also claims that several Collaborative Group meetings were cancelled.⁹ While it is true that meetings scheduled in the spring did not go forward as previously planned, the Coalition again fails to acknowledge the very good reason why. With the expectation that the ESP case would be resolved before the July 31, 2012 Plan filing deadline, there was no need to rush the meetings with the Collaborative Group in the spring, especially since the outstanding issues in the ESP Case affected how the Plans would be designed. It simply made more sense to hold the meetings later.

⁶ Company Exhibit 1, p. 21 (Dargie Testimony).

⁷ Coalition Obj., p. 2.

⁸ See *In the Matter of the [Companies'] Application for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO ("ESP Case").

In re [the Companies']

⁹ Coalition Obj., pp. 2-3.

The Coalition next claims that the Plans are “large, complex plans”¹⁰ and that they “need time to carefully review all elements of the Proposed Plans.”¹¹ First, the procedural schedule proposed by the Companies provides a reasonable amount of time for review of the Plans. Second, this claim by the Coalition seems at odds with at least one Coalition member’s actions in which two of its members apparently had already reviewed the Plans and given an interview within 24 hours of the Plans being filed, providing their thoughts on the Plans.¹² Furthermore, the Coalition cites to comments already filed in Case Nos. 12-1533-EL-EEC et al, in which the Coalition apparently has already evaluated the vast majority of the programs included in the Plans being proposed and has already identified issues in their objection to the procedural schedule that they feel should be addressed in the proposed Plans.¹³

Finally, the Coalition again fails to tell the entire story. The Coalition makes it sound as if they had no notice of what was to be included in the Plans. This simply is not true. The Companies shared their thoughts on the programs and measures to be included in the Proposed Plans, starting in September 2011. They met with the Collaborative Group subcommittees on November 15, 2011 and with the full Collaborative Group on December 19, 2011 to review preliminary thoughts on the Proposed Plans. Another update on plan development and on the development of the market potential study was provided during the Collaborative Group meeting held on February 24, 2012. Modeling results were provided to the Collaborative Group on June 29, 2012 and, on July 10, 2012, the Companies presented the almost final results of both the Proposed Plans and the market potential study. At each of the meetings, including the last one held on July 10th, the Companies solicited input and suggestions on how the Proposed Plans

¹⁰ Coalition Obj., p. 2.

¹¹ Id. at 6 (italics excluded).

¹² See “*Sierra Club Says FirstEnergy Plan Needs Improvement*”, Gongwer Ohio Report (Aug. 1, 2012).

¹³ Coalition Obj., pp. 6-7.

could be improved.¹⁴ The Companies will host a technical workshop on August 22, 2012 in which they will respond to any questions regarding the Plans, the market potential study, and the modeling used to develop the Plans and the programs. This workshop will provide interested parties an opportunity to have many of their outstanding issues and questions addressed. Finally, the Companies informed members of the Collaborative Group that if they were interested in the text to be included in the Plans, they should review the EEPDR plans currently in effect because the text to be included in the Plans was not expected to change significantly from that included in the existing plans. This, when coupled with the summary of program costs, program descriptions, a matrix of programs and measures and the presentations on both the Plans and the market potential study, provided parties with a relatively complete picture of the Plans that were going to be filed by the Companies well before filing.

B. The Coalition's Request for an Extension of Programs into 2013 is Premature and Inappropriate.

The Coalition also asks the Commission to "allow the Companies to continue implementing their current plans past January 1, 2013 with full cost recovery if necessary until [the Companies] can begin implementing the new plans pursuant to Commission ruling."¹⁵ While the Companies generally do not oppose the concept, the Coalition's request is premature and the Coalition has no standing to make such a request. The current EEPDR plans are in effect through December, 2012. At this point, there is no indication that the authorization sought by the Coalition is necessary. Therefore, there is no need to resolve this issue in August. The Companies will assess the need for any such request later in the year and will discuss the matter with the full Collaborative Group before approaching the Commission with any suggested solution should they find that the Plans will not be approved in a time frame that will allow them

¹⁴ Co. Exh. 1 at 10 (Dargie Testimony)

¹⁵ Coalition Obj., p. 2

to be implemented on January 1, 2013. Moreover, unless the Coalition intends to assume responsibility for compliance with the energy efficiency and peak demand reduction targets as set forth in R.C. 4928.66, the Coalition has no standing to make such a request. These are the Companies' Plans, both current and proposed, and it is up to the Companies to determine how they are administered. The Coalition's request is misplaced and should be rejected.

C. The Request for Expedited Discovery Should be Rejected or, at a Minimum, Revised.

Finally, the Coalition asks the Commission to adopt a 10 day expedited discovery period.¹⁶ While the Companies will try to accommodate such a request in general, without knowing the volume or nature of discovery that will be received, the Companies cannot guarantee that they can do so in each instance. Therefore, the Companies ask that the Commission only require the Companies to make reasonable efforts to meet the ten day response period. Further, the Companies ask that if such a response period is established, then the same response period should apply to all parties and not just the Companies. Finally, the Companies ask the Commission to order that all discovery be done via electronic mail in WORD format in order to support efforts to meet any ordered expedited discovery time frames.

D. Conclusion

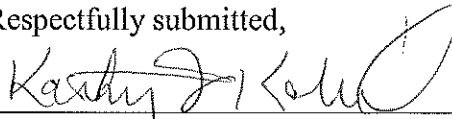
In sum, the difference between the Companies' proposed procedural schedule and that proposed by the Coalition is a matter of two weeks. Given that (i) many of the parties are not objecting to the Companies' proposed schedule; (ii) the Plans being proposed are generally an extension of the EEPDR plans currently in effect; (iii) the level of information provided both pre- and post-filing should answer many of the interested parties' questions; and (iv) the Companies' reasons for their proposed procedural schedule are reasonable and valid, the Companies urge the Commission to adopt the schedule as proposed in the Application:

¹⁶ Coalition Obj., p. 2

Companies File Proposed Plans	July 31, 2012
Company-Sponsored Technical Conference	August 22, 2012
Objections and Motions to Intervene Due	September 17, 2012
Intervenor Testimony Due	October 5, 2012
Evidentiary Hearings	Week of October 22, 2012
Briefs and Reply Briefs Due	As agreed at close of hearing
Commission Order Issued	No later than December 12, 2012

In doing so, the Commission avoids the potential month long delay that may have to occur should counsel be made unavailable for personal reasons or due to conflicts with other cases in which she will be involved in other jurisdictions after October, or the half month delay due to the witness' unavailability during the first two weeks of November. Moreover, given all of the advanced discussions and information sharing that has occurred, the upcoming technical conference and the limited changes included in the Plans, a 45 day comment period is sufficient. Nevertheless, should the Commission find it necessary to allow for a 60 day comment period, the Companies ask that the remainder of the schedule be compressed to accommodate the completion of an evidentiary hearing by the end of October.

Respectfully submitted,

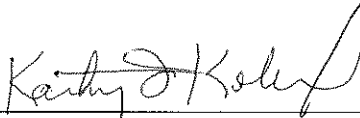


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CERTIFICATE OF SERVICE

I hereby certify that this Reply to Objections to the Proposed Procedural Schedule submitted by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company, was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 10th day of August, 2012.



Kathy J. Kolich

One of the Attorneys for Applicants, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company

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Case No(s). 12-2190-EL-POR, 12-2191-EL-POR, 12-2192-EL-POR

Summary: Response to Joint Objection to Companies' Proposed Procedural Schedule electronically filed by Ms. Kathy J Kolich on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company