

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 Authority to) Case No. 14-1297-EL-SSO
Provide for a Standard Service Offer)
Pursuant to R.C. 4928.143 in the Form of)
an Electric Security Plan.)

ENTRY

The attorney examiner finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) are electric distribution utilities as defined in R.C. 4298.01(A)(6) and public utilities as defined in R.C. 4905.02 and, as such, are subject to the jurisdiction of this Commission.
- (2) R.C. 4928.141 provides that an electric distribution utility shall provide customers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.
- (3) On August 4, 2014, FirstEnergy filed an application pursuant to R.C. 4928.141 to provide for an SSO to provide generation pricing for the period of June 1, 2016, through May 31, 2019. The application is for an ESP, in accordance with R.C. 4928.143.
- (4) On May 28, 2015, a supplemental stipulation and recommendation (Supplemental Stipulation) was filed by the following signatory parties: FirstEnergy; Ohio Power Company; Ohio Energy Group; City of Akron; Council of Smaller Enterprises; Cleveland Housing Network; Consumer Protection Association; Council for Economic Opportunities in Greater Cleveland; Citizens Coalition; Nucor Steel Marion, Inc.; Material Sciences Corp.; Association of Independent Colleges and Universities of Ohio; and the International Brotherhood of

Electrical Workers, Local 245. The Supplemental Stipulation modified certain provisions of the stipulation filed on December 22, 2014, in this proceeding and included additional provisions. Most notably, the Supplemental Stipulation indicated that FirstEnergy agreed to deploy a small-scale pilot program providing an alternative means for customers to obtain and pay for services otherwise provided by or through its Non-Market-Based Services Rider (Rider NMB).

- (5) By Entry issued May 29, 2015, the attorney examiner modified the procedural schedule in this proceeding. According to the Entry, the prehearing conference was set to take place on July 14, 2015, and the hearing was set to convene on July 27, 2015.
- (6) A prehearing conference was held on June 2, 2015, to resolve several pending discovery disputes. During the prehearing conference, numerous intervening parties raised concerns over the existing procedural schedule. Upon hearing their concerns, the attorney examiner modified the procedural schedule as follows:
 - (a) Discovery requests related to the Supplemental Stipulation (except as to notices of deposition) would be permitted until June 22, 2015.
 - (b) Intervenors should file additional supplemental testimony by July 6, 2015.
 - (c) Testimony on behalf of the Staff should be filed by July 10, 2015.
 - (d) A prehearing conference remained scheduled for July 14, 2015.
 - (e) The evidentiary hearing remained scheduled to convene on July 27, 2015.
- (7) On June 4, 2015, a second supplemental stipulation and recommendation (Second Supplemental Stipulation) was filed by the signatory parties to the Supplemental Stipulation and The Kroger Company. The Second Supplemental Stipulation includes FirstEnergy's intent to deploy a Commercial High Load

Factor (HLF) Experimental Time-of-Use rate proposed for commercial customers with certain operating characteristics.

- (8) On June 8, 2015, a joint motion to amend the procedural schedule was filed by the following parties: Retail Energy Supply Association; PJM Power Providers Group; Electric Power Supply Association; Ohio Consumers' Counsel; Ohio Partners for Affordable Energy; Ohio Manufacturers' Association Energy Group; and Northeast Ohio Public Energy Council (collectively, Joint Movants). In their memorandum in support, Joint Movants argue that the proposed Commercial HLF Experimental Time-of-Use rate is a completely new issue to consider and will require additional time to conduct discovery and address in supplemental testimony. Joint Movants further assert that this rate proposal is not related to any other aspect of FirstEnergy's application in this proceeding and it is unclear as to whether its terms are reasonable. Joint Movants contend that discovery is needed to determine the benefits, costs, and the parties bearing such costs associated with this rate proposal. As such, the Joint Movants request a ten-day extension of the existing procedural schedule.
- (9) On June 10, 2015, FirstEnergy filed a memorandum contra Joint Movants' motion to amend the procedural schedule, noting that the procedural schedule in this matter has been extended numerous times and no further modification is necessary because ample time to conduct discovery has been afforded to the parties. FirstEnergy also states that Joint Movants have provided no good cause for such an extension. Additionally, FirstEnergy argues that the Commercial HLF Experimental Time-of-Use rate is a very narrow provision that fails to present any novel issues, as FirstEnergy's tariffs currently contain several time-of-use rates, including rates involving critical peak pricing. Further, FirstEnergy argues that if additional discovery is required, there is no need to alter the existing deadlines for written discovery and intervenor supplemental testimony. Thus, FirstEnergy requests that Joint Movants' motion to amend the procedural schedule be denied.
- (10) On June 17, 2015, Joint Movants filed their reply to FirstEnergy's memorandum contra Joint Movants' motion to amend the procedural schedule. Joint Movants argue that the procedural schedule established on June 2, 2015, did not consider the filing

of the Second Supplemental Stipulation or the fourth supplemental testimony of FirstEnergy witness, Eileen M. Mikkelsen (Mikkelsen Testimony). Joint Movants further assert that because the Second Stipulation and Mikkelsen Testimony raise additional matters that have not been presented previously, the non-signatory parties should be allocated additional time to conduct discovery on these matters. Joint Movants also note that the recent Federal Energy Regulatory Commission (FERC) ruling approving PJM Interconnection LLC's capacity performance proposal will also need to be reviewed for the purposes of this proceeding. *PJM Interconnection, L.L.C., et al.*, 151 FERC ¶ 61,208 (2015). Additionally, Joint Movants contend their request is reasonable and they should not be deprived of the opportunity to evaluate these additional matters simply because the procedural schedule has been extended several times in this proceeding.

- (11) The attorney examiner finds that an extension of the procedural schedule would not be unduly prejudicial to any party and will permit adequate time for parties to submit additional discovery requests and supplemental testimony. Thus, in order to afford Staff and intervenors sufficient time to examine the proposed terms of the Supplemental and Second Supplemental Stipulations and provide additional testimony, the attorney examiner finds that the Joint Movants' motion to amend the procedural schedule is reasonable and should be granted, as modified by the examiner. Accordingly, the procedural schedule should be modified as follows:
 - (a) Discovery requests regarding the Supplemental and Second Supplemental Stipulations (except as to notices of deposition) shall be permitted until July 27, 2015.
 - (b) Intervenor additional supplemental testimony should be filed by August 10, 2015. Additional supplemental testimony should be limited to the matters raised in the Supplemental and Second Supplemental Stipulations.
 - (c) Testimony on behalf of the Staff should be filed by August 14, 2015.

- (d) The prehearing conference currently scheduled for July 14, 2015, will be rescheduled for August 18, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
 - (e) The evidentiary hearing shall convene on August 31, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio.
- (12) Additionally, the attorney examiner notes that the response time for discovery requests shall remain at seven days.
- (13) The attorney examiner also instructs parties attending the prehearing conference scheduled for August 18, 2015, to be prepared to identify any witness that will testify in the evidentiary hearing, provide the subject matter of any witness testimony, and indicate dates on which the witness is unavailable to testify, pursuant to Ohio Adm.Code 4901-1-26(A)(3).

It is, therefore,

ORDERED, That the modified procedural schedule set forth in Finding (11) be observed by the parties. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Gregory Price

By: Gregory A. Price
Attorney Examiner

JRJ/sc

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Case No(s). 14-1297-EL-SSO

Summary: Attorney Examiner Entry setting a modified procedural schedule as indicated in Finding (11). - electronically filed by Sandra Coffey on behalf of Gregory Price, Attorney Examiner, Public Utilities Commission of Ohio