

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) Case No. 14-1297-EL-SSO
to 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 (ESP IV). In addition to its application, FirstEnergy filed a motion for protective order in order to protect the competitively sensitive information contained in the application's supporting testimony that belonged to non-party FirstEnergy Solutions (FES).

- (4) On September 30, 2014, FirstEnergy and Sierra Club entered into a negotiated protective agreement to allow more efficient access to confidential information during the course of the proceeding.
- (5) On December 1, 2014, the attorney examiner granted a motion for protective order filed by FirstEnergy on August 4, 2014, noting that the confidential business information belonging to FES qualified as trade secret information, pursuant to R.C. 1333.61(D).
- (6) On December 30, 2015, Sierra Club filed under seal the confidential version of the Third Supplemental Testimony of Tyler Comings (Sierra Club Ex. 96C). As Sierra Club witness Comings utilized confidential information belonging to FES in his cost projections, Sierra Club also filed a motion for protective order regarding the confidential information.
- (7) On March 31, 2016, the Commission issued its Opinion and Order in this proceeding, approving FirstEnergy's application and the stipulations filed in this proceeding with several modifications (Opinion and Order). In its Opinion and Order, the Commission granted Sierra Club's motion for protective order (Opinion and Order at 37-38).
- (8) On April 22, 2016, Sierra Club filed a separate motion to modify its protective order, pursuant to Ohio Adm.Code 4901-1-12. Sierra Club requests that the Commission remove redactions from certain portions of Sierra Club Ex. 96C as those they do not contain any plant-specific data or qualify as trade secrets under R.C. 1333.61(D), and are vital for the public's review and understanding of the Opinion and Order. Specifically, Sierra Club seeks to remove the following redactions from Sierra Club Ex. 96C: page 1, line 24; page 2, lines 6-8; page 3, line 13; page 4, Competitively Sensitive Confidential Figure 1; page 5, lines 18, 22, footnote 6; page 6, lines 1-3, 6, 10-11, 22, 24; and page 7, lines 10-15, 17. Sierra Club also indicated it is prepared to file a revised public version of the Third Supplemental Testimony of Tyler Comings in the event the attorney examiner grants its request.

- (9) Additionally, on April 22, 2016, FirstEnergy filed a motion to renew and enforce the Commission's protective order. Pursuant to the protective agreement signed between both parties, Sierra Club had notified FirstEnergy that it intended to make publicly available certain information subject to the protective agreement and the various motions for protective order already granted by the Commission. FirstEnergy asserts, among other things, that protective treatment is warranted for this information, and is consistent with Ohio and Commission precedent. FirstEnergy is specifically seeking continued protective treatment for the redacted information listed in Finding (8).
- (10) In order to provide sufficient time for the attorney examiner to consider the arguments provided in these motions and issue a ruling before applications for rehearing are due in this proceeding, the attorney examiner finds that an abbreviated response period is appropriate. Accordingly, parties wishing to file memoranda contra to the motions of FirstEnergy and Sierra Club are directed to do so by April 26, 2016. The attorney examiner also notes that no replies to the filed memoranda contra will be considered.

It is, therefore,

ORDERED, That parties file memoranda contra the motions of FirstEnergy and Sierra Club in accordance with Finding (10). It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Megan Addison

By: Megan Addison
Attorney Examiner

GAP/sc

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in

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

Summary: Attorney Examiner Entry scheduling a deadline for memoranda contra motions to be filed. - electronically filed by Sandra Coffey on behalf of Megan Addison, Attorney Examiner, Public Utilities Commission of Ohio