

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE 2015 REVIEW OF
THE DELIVERY CAPITAL RECOVERY RIDER
CONTAINED IN THE TARIFFS OF OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY, AND
THE TOLEDO EDISON COMPANY.

CASE NO. 15-1739-EL-RDR

ENTRY

Entered in the Journal on December 28, 2016

{¶ 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. 4928.01(A)(6) and public utilities as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 2} On August 25, 2010, the Commission issued an Opinion and Order in *In re Application of Ohio Edison Co., The Cleveland Electric Illuminating Co., and the Toledo Edison Co. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 10-388-EL-SSO (*ESP II Case*). In that Opinion and Order, the Commission approved a combined stipulation, as modified, authorizing FirstEnergy to establish a delivery capital recovery rider (Rider DCR) effective January 1, 2012. Rider DCR provides for recovery of property taxes, commercial activity tax, and associated income taxes, and the opportunity to earn a return on and of plant-in-service associated with distribution, subtransmission, and general and intangible plant. Additionally, under the terms of the combined stipulation, FirstEnergy agreed to submit to an annual audit review process of Rider DCR. Thereafter, on July 18, 2012, the Commission issued an Opinion and Order in Case No. 12-1230-EL-SSO (*ESP III Case*), approving a stipulation filed by various parties extending, with modifications, the combined stipulation approved by the Commission in the *ESP II Case*.

{¶ 3} By Entry issued December 9, 2015, the Commission selected Blue Ridge Consulting Services, Inc. (Blue Ridge) to conduct the 2015 annual audit and investigation of FirstEnergy's Rider DCR. On April 22, 2016, Blue Ridge submitted its compliance audit of FirstEnergy's Rider DCR.

{¶ 4} On July 20, 2016, Ohio Consumers' Counsel (OCC) filed a motion to compel, requesting that the Commission direct FirstEnergy to provide documents and information regarding the 2015 audit and investigation conducted by Blue Ridge. FirstEnergy filed a memorandum contra OCC's motion to compel on August 4, 2016, to which OCC filed a reply on August 11, 2016.

{¶ 5} Subsequent to its motion to compel, OCC submitted a public records request regarding the same type of information that is the subject of the motion to compel. On October 28, 2016, FirstEnergy filed a motion for protective order. OCC filed a memorandum contra FirstEnergy's motion for protective order on November 14, 2016.

{¶ 6} At a prehearing conference held on November 30, 2016, the attorney examiner granted OCC's motion to compel and denied FirstEnergy's motion for protective order, directing FirstEnergy to provide the requested information to the extent that it did not constitute confidential or proprietary trade secret information. Consistent with the attorney examiner's directives, FirstEnergy was provided an opportunity to redact certain confidential or proprietary trade secret information from the responsive documents.

{¶ 7} By Entry issued December 19, 2016, the attorney examiner directed FirstEnergy to produce a privilege log explaining the basis for each redaction and scheduled an additional prehearing conference in order to resolve the pending confidentiality issues in this proceeding and allow for an in-camera review of the disputed documents and associated privilege log, if necessary. The prehearing conference was set for January 4, 2017.

{¶ 8} On December 21, 2016, FirstEnergy, OCC and Staff filed a joint motion to continue the prehearing conference to February 2 or 3, 2017. In support of their request, the parties state that the brief extension will allow them to attempt to resolve the remaining issues informally or, in the alternative, allow sufficient time to prepare for the prehearing conference. The parties further allege that the continuance may also narrow the issues necessary to address at the prehearing conference.

{¶ 9} The attorney examiner finds the joint motion is reasonable and should be granted. Accordingly, the prehearing conference shall be rescheduled for Thursday, February 2, 2017, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215. The parties should notify the attorney examiner as soon as possible in the event they are able to reach a resolution amongst themselves and no longer require the scheduled prehearing conference.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the prehearing conference in this case be rescheduled in accordance with Paragraph 9. It is, further,

{¶ 12} 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 J. Addison
Attorney Examiner

SEF/sc

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12/28/2016 3:31:19 PM

in

Case No(s). 15-1739-EL-RDR

Summary: Attorney Examiner Entry rescheduling the prehearing conference to 02/02/2017 in accordance with Paragraph 9. - electronically filed by Sandra Coffey on behalf of Megan Addison, Attorney Examiner, Public Utilities Commission of Ohio