

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE DETERMINATION
OF THE EXISTENCE OF SIGNIFICANTLY
EXCESSIVE EARNINGS FOR 2017 UNDER
THE ELECTRIC SECURITY PLANS OF OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY,
AND THE TOLEDO EDISON COMPANY.

CASE NO. 18-857-EL-UNC

ENTRY

Entered in the Journal on October 31, 2018

{¶ 1} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) are electric distribution utilities, as defined by 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} Pursuant to the directives of R.C. 4928.143(F), the Commission is required to evaluate the earnings of each electric utility's approved electric security plan to determine whether the plan or offer produces significantly excessive earnings for the electric utility.

{¶ 3} On May 15, 2018, FirstEnergy filed an application for the administration of the significantly excessive earnings test, as required by R.C. 4928.143(F) and Ohio Adm.Code 4901:1-35-10 for 2017.

{¶ 4} On June 5, 2018, the Ohio Energy Group (OEG) moved to intervene in this proceeding. In support of its motion, OEG states that it has a real and substantial interest in the proceeding because it represents the interests of large industrial customers that purchase electric distribution services from FirstEnergy. OEG further asserts that the Commission's disposition of this proceeding may impair or impede OEG's ability to protect said interest, and that intervention would not unduly delay the proceeding nor unjustly prejudice any existing party. No memoranda contra OEG's motion to intervene were filed.

{¶ 5} On June 29, 2018, the Ohio Consumers' Counsel (OCC) moved to intervene in this proceeding. In support of its motion, OCC asserts that it is the state agency that represents Ohio's residential utility consumers and that it seeks intervention to protect the interests of FirstEnergy's residential utility customers. OCC adds that it satisfies the intervention standard in R.C. 4903.221 because the interest of Ohio's residential customers may be "adversely affected" by this case. OCC avers that its role as a residential utility consumer advocate complies with the standards set forth in Ohio Adm.Code 4901-1-11(A)(2), which require that a party must have a real and substantial interest in a proceeding to intervene. Further, OCC asserts that the Supreme Court of Ohio has confirmed OCC's right to intervene. *See Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940. No memoranda contra OCC's motion to intervene were filed.

{¶ 6} By Entry issued September 6, 2018, the attorney examiner scheduled this matter for hearing on October 30, 2018.

{¶ 7} On October 5, 2018, Industrial Energy Users-Ohio (IEU-Ohio) moved to intervene in this proceeding. In support of its motion, IEU-Ohio states that it has a direct, real, and substantial interest in the issues and matters involved in this proceeding because IEU-Ohio's members purchase electric services from FirstEnergy. Further, IEU-Ohio states that the disposition of this proceeding may impair or impede IEU-Ohio's ability to protect said interest. IEU-Ohio believes that its participation will not unduly prolong or delay this proceeding and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in the proceeding.

{¶ 8} Thereafter, on October 26, 2018, FirstEnergy, Staff, and the OEG (Signatory Parties) filed a stipulation (Stipulation) agreeing that the returns on equity earned in 2017 by the Companies do not reflect significantly excessive earnings for the Companies under their ESP for 2017. Further, the Signatory Parties recommend that the Commission admit the Companies' Application and accompanying materials filed May 15, 2018, into the record

of this proceeding and issue its Opinion and Order determining that significantly excessive earnings under R.C. 4928.143(F) did not occur with respect to the Companies' ESP in 2017.

{¶ 9} OCC moved to modify the procedural schedule on October 29, 2018, in order to allow additional time for the parties to file testimony regarding the Stipulation stating that there was insufficient time for the parties to file supplemental testimony. OCC proposes an amendment to the procedural schedule such that any testimony in support of the Stipulation be filed by November 9, 2018, testimony in opposition to the Stipulation be filed by November 16, 2018, and a hearing on the Stipulation be scheduled for November 29, 2018. OCC avers there are no objections to its motion to modify the procedural schedule and requests an expedited ruling in accordance with Ohio Adm.Code 4901-1-12(C).

{¶ 10} As an initial matter, the attorney examiner finds that OEG, OCC, and IEU-Ohio have satisfied the intervention requirements set forth in R.C. 4903.221 and Ohio Adm.Code 4901-1-11. Accordingly, the attorney examiner determines that OEG's, OCC's, and IEU-Ohio's motions to intervene are reasonable and should be granted.

{¶ 11} In order to allow for additional time to review the Stipulation and file supplemental testimony in response to the Stipulation, the attorney examiner finds OCC's request to amend the procedural schedule is reasonable and should be granted. Accordingly, this matter should be set for hearing on November 29, 2018, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. Visitors should register at the lobby desk and then proceed to the 11th floor in order to participate in the settlement conference. Testimony in support of the Stipulation should be filed by November 9, 2018. Testimony in opposition to the Stipulation should be filed by November 16, 2018.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That OEG's, OCC's, and IEU-Ohio's motions to intervene be granted. It is, further,

{¶ 14} ORDERED, That the evidentiary hearing be rescheduled in accordance with Paragraph 11. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Megan J. Addison

By: Megan J. Addison
Attorney Examiner

JRJ/LLA/mef

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Case No(s). 18-0857-EL-UNC

Summary: Attorney Examiner Entry granting motions to intervene and setting an evidentiary hearing for 11/29/18 at 10:00am electronically filed by Ms. Mary E Fischer on behalf of Megan J. Addison, Attorney Examiner, Public Utilities Commission of Ohio