

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF THE
NON-MARKET-BASED SERVICES RIDER
CONTAINED IN THE TARIFFS OF OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY,
AND THE TOLEDO EDISON COMPANY.

CASE NO. 19-2120-EL-RDR

ENTRY

Entered in the Journal on February 26, 2020

I. SUMMARY

{¶ 1} The Commission finds that the compliance tariff sheets, as proposed by FirstEnergy, are consistent with the Commission's prior orders in Case Nos. 12-1230-EL-SSO, 15-648-EL-RDR, and 14-1297-EL-SSO, and directs that such tariff sheets become effective no earlier than March 1, 2020.

II. DISCUSSION

{¶ 2} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) 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.

{¶ 3} 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.

{¶ 4} On August 25, 2010, the Commission issued an Opinion and Order approving a stipulation and two supplemental stipulations (Combined Stipulation), authorizing the Companies' second ESP for the period beginning June 1, 2011 through 2014. *In re Ohio Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 10-388-EL-SSO (ESP

II Case). Among other terms, the Combined Stipulation authorized the Companies' Non-Market-Based Services Rider (Rider NMB). Rider NMB is a non-bypassable rider that is designed to recover non-market-based transmission-related costs, such as Network Integration Transmission Service charges, imposed on or charged to the Companies by the Federal Energy Regulatory Commission or PJM Interconnection, LLC (PJM). *ESP II Case*, Opinion and Order (Aug. 25, 2010) at 12.

{¶ 5} On July 18, 2012, the Commission issued an Opinion and Order approving a stipulation between FirstEnergy and certain parties, which provided for an ESP for the period beginning June 1, 2014, through May 31, 2016, pursuant to R.C. 4928.143. *In re Ohio Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 12-1230-EL-SSO (*ESP III Case*). In that Opinion and Order, the Commission clarified that the Companies should file annually an application, in a separate docket, for a review of certain riders approved in that proceeding, including Rider NMB. *ESP III Case*, Opinion and Order (July 18, 2012) at 44.

{¶ 6} Subsequently, the Commission also specified that the Companies should make their filings for Rider NMB no later than January 15 of each year with rates to be effective no later than 75 days following the filing of the application. *In re Ohio Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 15-648-EL-RDR, Finding and Order (July 1, 2015) at 3-4.

{¶ 7} The Commission also approved the NMB Pilot Program, which will allow customers served under the program to be billed directly by PJM or their competitive retail electric service provider and to no longer be subject to the Rider NMB rates. *In re Ohio Edison Co., Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO (*ESP IV Case*), Opinion and Order (Mar. 31, 2016), Fifth Entry on Rehearing (Oct. 12, 2016). Participation in the NMB Pilot Program will provide these customers an opportunity to control their transmission-related costs by controlling their Network Service Peak Load.

{¶ 8} On December 16, 2019, FirstEnergy filed an application and tariff pages reflecting revisions to Rider NMB in order to comply with the Commission orders in the

Companies' *ESP III Case* and *ESP IV Case*. FirstEnergy supplemented its tariff filings on January 29, 2020, and January 30, 2020. Pursuant to the Commissions' orders in the ESP proceedings, the Companies request that the Rider NMB rates, which reflect the current and projected costs through February 28, 2021, become effective March 1, 2020.

{¶ 9} Staff filed its review and recommendation on February 20, 2020, after reviewing the December 16, 2019 application and schedules for consistency with the Commission's orders in previous cases to ensure proper accounting treatment was applied. Based on its review, Staff concludes that the proposed Rider NMB rates reflect the current and projected costs through February 28, 2021; however, Staff does note that Rider NMB is subject to reconciliation in its next application. Staff additionally states that it is continuing to audit the Legacy Regional Transmission Expansion Plan (RTEP) charges authorized by the Commission on October 23, 2019. *See Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 18-1818-EL-RDR, Second Finding and Order (Oct. 9, 2019) at ¶ 33, Third Finding and Order (Oct. 23, 2019) ¶ 15.

{¶ 10} Staff suggests that the Commission direct FirstEnergy to work with Staff in developing standard information that would be provided to Staff when the annual Rider NMB application is filed in order to facilitate a more efficient review, including, but not limited to: support for the costs and revenues reflected in the application's schedules, such as general ledger screenshots and copies of invoices; support for forecasted costs/credits and billing determinants; and typical bill comparisons. Ultimately, Staff recommends that the Commission approve FirstEnergy's application, as supplemented, for rates effective March 1, 2020.

{¶ 11} The Commission has reviewed the Companies' application and Staff's review and recommendations. The Commission finds that, in accordance with Staff's recommendations, the Companies' application, as supplemented, is consistent with the stipulations approved by the Commission in the *ESP III Case* and *ESP IV Case*, does not appear to be unjust or unreasonable, and should be approved for rates effective March 1, 2020. The Commission notes that all costs or credits included in Rider NMB may be subject

to further adjustments following the audit in the next Rider NMB update filing or the audit currently being conducted of the Legacy RTEP costs.

{¶ 12} As a final matter, Ohio Adm.Code 4901:1-36-03(F) provides that affected parties may file a motion to intervene and detailed comments on any issues concerning any application filed under this rule within 40 days of the date of the filing of the application. Therefore, motions to intervene were due to be filed by January 25, 2020.

{¶ 13} On January 24, 2020, the Ohio Consumers' Counsel (OCC) filed a timely motion to intervene, claiming to satisfy all of the Commission's intervention requirements set forth in Ohio Adm.Code 4901-1-11 and R.C. 4903.221. Specifically, OCC posits that, given OCC's statutory authority to represent the interests of the Companies' residential electric customers under R.C. Chapter 4911, and the fact no other parties have intervened in this proceeding, its participation will assist the Commission in reviewing the complex issues associated with Rider NMB.

{¶ 14} No memoranda contra OCC's motion to intervene were filed.

{¶ 15} Upon review, the Commission finds that OCC has satisfied the intervention requirements set forth in R.C. 4903.221 and Ohio Adm.Code 4901-1-11. Accordingly, its motion to intervene should be granted.

III. ORDER

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That FirstEnergy be authorized to file, in final form, two complete copies of tariffs, consistent with this Finding and Order, and that the final tariffs be approved, subject to final review by the Staff and the Commission. FirstEnergy shall file one copy in its TRF docket and one copy in this case docket. It is, further,

{¶ 18} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date of this Finding and Order and the date upon which two complete copies are filed with the Commission. The new tariffs shall be effective upon filing. It is, further,

{¶ 19} ORDERED, That FirstEnergy notify all customers regarding the availability of the new tariffs via a bill message, via a bill insert, or via a separate mailing within 30 days of the effective date of the tariffs. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

{¶ 20} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 21} ORDERED, That OCC's motion to intervene be granted. It is, further,

{¶ 22} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

MJA/mef

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