

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF THE
POLITICAL AND CHARITABLE SPENDING
BY OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON
COMPANY.

CASE NO. 20-1502-EL-UNC

ENTRY

Entered in the Journal on October 20, 2020

{¶ 1} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the FirstEnergy Utilities 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} R.C. 4905.06 states, in relevant part, that the Commission has general supervision over all public utilities within its jurisdiction as defined in R.C. 4905.05, and may examine such public utilities and keep informed as to their general condition, capitalization, and franchises, and as to the manner in which their properties are leased, operated, managed, and conducted with respect to the adequacy or accommodation afforded by their service, the safety and security of the public and their employees, and their compliance with all laws, orders of the Commission, franchises, and charter requirements.

{¶ 3} R.C. 4905.05 states, in relevant part, that the jurisdiction, supervision, powers, and duties of the Commission extend to every public utility, the plant or property of which lies wholly within this state and when the property of a public utility lies partly within and partly without this state to that part of such plant or property which lies within this state; to the persons or companies owning, leasing, or operating such public utilities; and to the records and accounts of the business thereof done within this state.

{¶ 4} The Commission opened this proceeding on September 15, 2020, to review the political and charitable spending by the FirstEnergy Utilities in support of Am. Sub. H.B.6 and the subsequent referendum effort. Also on September 15, 2020, the attorney examiner

directed the Companies to show cause, by September 30, 2020, demonstrating that the costs of any political or charitable spending in support of Am. Sub. H.B. 6, or the subsequent referendum effort, were not included, directly or indirectly, in any rates or charges paid by ratepayers in this state. Further, the attorney examiner directed interested parties to file comments regarding the Companies' response by October 29, 2020, and to file reply comments by November 13, 2020.

{¶ 5} On September 21, 2020, the Ohio Consumers' Counsel (OCC) filed an interlocutory appeal and request for certification to the Commission regarding the attorney examiner's September 15, 2020 Entry. The Companies filed a memorandum contra the interlocutory appeal and request for certification to the Commission on September 28, 2020.

{¶ 6} The Companies timely filed their response to the show cause order on September 30, 2020. As part of the response, the Companies included an affidavit of Santino L. Fanelli.

{¶ 7} On October 9, 2020, OCC filed a notice to take deposition and request for production of documents, seeking to depose Mr. Fanelli on October 22, 2020. On October 16, 2020, the Companies filed a motion for protective order to preclude the deposition of Mr. Fanelli.

{¶ 8} The attorney examiner notes that, pursuant to Ohio Adm.Code 4901-1-12, memoranda contra the motion for protective order are due by November 2, 2020. Further, any party may file a reply to a memorandum contra within seven days after the service of such memorandum contra. Moreover, the attorney examiner finds that, after any replies have been filed, a prehearing conference should be held, on the record, to hear arguments on and address the issues raised by the motion for protective order.

{¶ 9} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are

required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. Given the current COVID-19 health emergency, the prehearing conference will be held remotely. The attorney examiners will set the date for the prehearing conference and provide additional information on how to participate in the prehearing conference by subsequent entry.

{¶ 10} In order to prevent any prejudice to any party or interested person if the deposition is not held before the dates set for the filing of comments to the Companies' response to the September 15, 2020 Entry and for the filing of reply comments, the attorney examiner will vacate the existing deadlines for the filing of comments and reply comments. New dates for the filing of comments to the Companies' response to the September 15, 2020 Entry and for the filing of reply comments will be set by subsequent entry.

{¶ 11} Finally, the attorney examiner notes that OCC's interlocutory appeal and request for certification regarding the September 15, 2020 Entry will be addressed by subsequent entry.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That memoranda contra the Companies' motion for a protective order be filed by November 2, 2020. It is, further,

{¶ 14} ORDERED, That a prehearing conference be held, on the record, to hear arguments on and address the issues raised in the motion for protective order on a date to be established by subsequent entry. It is, further,

{¶ 15} ORDERED, That the existing deadlines for the filing of comments to the Companies response to the September 15, 2020 Entry be vacated. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Gregory A. Price

By: Gregory A. Price
Attorney Examiner

JRJ/mef

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Case No(s). 20-1502-EL-UNC

Summary: Attorney Examiner Entry ordering memoranda contra the motion for a protective order be filed by 11/2/20; vacating deadlines for filing comments re: response to the 9/15/20 Entry; and, scheduling of a prehearing conference to a date set by future entry. electronically filed by Ms. Mary E Fischer on behalf of Gregory A. Price, Attorney Examiner, Public Utilities Commission of Ohio