

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
THE OHIO EDISON COMPANY, THE  
CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON  
COMPANY FOR APPROVAL OF THEIR  
ENERGY EFFICIENCY AND PEAK DEMAND  
REDUCTION PROGRAM PORTFOLIO PLANS  
FOR 2017 THROUGH 2019.

CASE NO. 16-743-EL-POR

## FIFTH ENTRY ON REHEARING

Entered in the Journal on February 24, 2021

### I. SUMMARY

{¶ 1} The Commission grants the application for rehearing filed by the Ohio Consumers' Counsel on January 29, 2021, in order to provide the parties the opportunity to submit additional comments regarding the issues raised in the application for rehearing.

### II. DISCUSSION

{¶ 2} Ohio Power Company, d/b/a AEP Ohio (AEP Ohio), Duke Energy Ohio, Inc. (Duke), The Dayton Power and Light Company (DP&L), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) are electric distribution utilities (EDUs) 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 energy efficiency and peak demand reduction (EE/PDR) requirements under R.C. 4928.64 and 4928.66.

{¶ 3} Ohio Adm.Code Chapter 4901:1-39 provides rules for the Commission's review of each electric utility's EE/PDR program portfolio plan that consist of cost-effective programs to encourage innovation and market access for all customer classes, achieve the statutory benchmarks for peak-demand reduction, and meet or exceed the statutory benchmarks for energy efficiency.

{¶ 4} R.C. 4928.66(G), which became effective on October 22, 2019, terminates Ohio's annual energy efficiency savings requirements on December 31, 2020, and reduces

the total cumulative savings requirement to a statewide collective benchmark of 17.5 percent.

{¶ 5} Pursuant to R.C. 4928.66(G), on February 26, 2020, in Case Nos. 16-574-EL-POR, 16-576-EL-POR, 16-743-EL-POR, and 17-1398-EL-POR, the Commission determined that the termination of all EE/PDR portfolio plans must occur no later than December 31, 2020, and ordered a wind-down of the statutorily required EE/PDR programs to commence on September 30, 2020. Finding and Order, (Feb. 26, 2020) at ¶ 44. In addition, the Commission, in Case No. 16-576-EL-POR, granted Duke's request to extend its existing portfolio plan, as previously approved in that case through December 31, 2020. Id. at ¶ 40.

{¶ 6} On March 27, 2020, Duke filed an application for rehearing of the Commission's February 26, 2020 Finding and Order. The Commission granted rehearing for further consideration of the matters raised on rehearing on April 22, 2020. The Commission issued a Third Entry on Rehearing, denying the application for rehearing on November 18, 2020.

{¶ 7} Also, on November 18, 2020, the Commission, in Case Nos. 16-574-EL-POR, 16-576-EL-POR, 16-743-EL-POR, and 17-1398-EL-POR, directed each EDU in this state to file, by December 1, 2020, proposed compliance tariffs for their respective EE/PDR cost recovery riders, setting the riders to zero, effective January 1, 2021. The Commission further directed each EDU to file an application for a final reconciliation of their EE/PDR cost recovery riders when the full information for such final reconciliation is available.

{¶ 8} On November 30, 2020, AEP Ohio filed its proposed compliance tariff in Case No. 16-574-EL-POR.

{¶ 9} On December 1, 2020, proposed compliance tariffs were filed by Duke and DP&L, in Case No. 16-576-EL-POR and Case No. 17-1398-EL-POR, respectively. Also, on December 1, 2020, as amended on December 23, 2020, FirstEnergy filed tariff updates in Case No. 20-1673-EL-RDR and 20-1748-EL-ATA to modify its Demand Side Management

and Energy Efficiency (DSE) Riders, specifically modifying Rider DSE1, setting Rider DSE2 to zero, and establishing a Rider DSE3 charge.

{¶ 10} On December 30, 2020, the Commission issued an Entry in the Cases for Duke (Case No. 16-576-EL-POR), DP&L (Case No. 17-1398-EL-POR), FirstEnergy (Case No. 16-743-EL-POR), and AEP Ohio (Case No. 16-574-EL-POR) approving Duke's, DP&L's, and AEP Ohio's proposed compliance tariffs filed regarding their respective EE/PDR cost recovery riders, and setting those riders to zero subject to final reconciliation, effective January 1, 2021. As for FirstEnergy, the Commission, in the December 30, 2020 Entry, approved only the proposed compliance tariffs filed on December 23, 2020, in Case Nos. 20-1673-EL-RDR and 20-1748-EL-ATA, to the extent they established revised charges for Rider DSE1 and set Rider DSE2 to zero. The Commission stated that the proposed Rider DSE3 provisions would be evaluated at a later time.

{¶ 11} R.C. 4903.10 states that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days of the entry of the order upon the Commission's journal.

{¶ 12} On January 29, 2021, OCC filed an application in Case No. 16-743-EL-POR for rehearing alleging two assignments of error with respect to the Commission's December 30, 2020 Entry. Specifically, OCC argues that the Commission should eliminate FirstEnergy's charges under its Economic Load Response program, which is associated with FirstEnergy's Rider DSE1.

{¶ 13} On February 8, 2021, FirstEnergy and Industrial Energy Users-Ohio filed memoranda contra OCC's application for rehearing.

{¶ 14} Upon consideration, the Commission finds that the parties should have the opportunity to file additional comments regarding the issues raised in the application for rehearing. Specifically, the key question before the Commission is whether, in consideration of the history, purpose and nature of Rider ELR, Rider ELR is an energy efficiency program

established pursuant to the mandates contained in R.C. 4928.66 which should be terminated pursuant to R.C. 4928.66(G). Comments may be filed by March 26, 2021, and reply comments may be filed by April 12, 2021. Accordingly, the application for rehearing filed by OCC should be granted.

### III. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the application for rehearing filed by OCC on January 29, 2021, be granted in order to provide the parties the opportunity to submit additional comments regarding the issues raised in the application for rehearing. It is, further,

{¶ 17} ORDERED, That a copy of this Fifth Entry on Rehearing be served upon each party of record.

#### COMMISSIONERS:

##### *Approving:*

M. Beth Trombold

Dennis P. Deters

Daniel R. Conway

##### *Recusal:*

Lawrence K. Friedeman

LLA/hac

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Summary: Entry granting the application for rehearing filed by the Ohio Consumers' Counsel on January 29, 2021, in order to provide the parties the opportunity to submit additional comments regarding the issues raised in the application for rehearing. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio