

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
OHIO EDISON COMPANY, THE  
CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON  
COMPANY FOR AUTHORITY TO  
ESTABLISH A STANDARD SERVICE OFFER  
PURSUANT TO R.C. 4928.143 IN THE  
FORM OF AN ELECTRIC SECURITY PLAN.

CASE NO. 23-301-EL-SSO

### ENTRY

Entered in the Journal on October 11, 2023

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

{¶ 2} R.C. 4928.141 mandates that an electric distribution utility shall provide a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation service, to all consumers within its certified territory. 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.

{¶ 3} Most recently, in Case No. 14-1297-EL-SSO, the Commission modified and approved, pursuant to the stipulations filed in that case, FirstEnergy's application for its fourth ESP to commence on June 1, 2016, and continue through May 31, 2024, pursuant to R.C. 4928.143. *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO, Opinion and Order (Mar. 31, 2016); Fifth Entry on Rehearing (Oct. 12, 2016); Eighth Entry on Rehearing (Aug. 16, 2017).

{¶ 4} On April 5, 2023, FirstEnergy filed an application that, if approved, would establish the Companies' fifth ESP (ESP V) for a period to commence on June 1, 2024, and continue through May 31, 2032.

{¶ 5} A technical conference was held on May 10, 2023, to allow interested persons the opportunity to better understand the Companies' application.

{¶ 6} By Entry issued July 19, 2023, the attorney examiner established a procedural schedule. In that entry, the attorney examiner stated that motions to intervene are due by August 18, 2023; intervenor testimony is due by October 13, 2023; a prehearing conference will be held on October 19, 2023; Staff testimony is due by October 27, 2023; and the evidentiary hearing will commence on November 7, 2023.

{¶ 7} Local public hearings were conducted on September 7, 2023, in Cleveland; on September 14, 2023, in Toledo; and on September 26, 2023, in Akron.

{¶ 8} Motions to intervene were timely filed by Ohio Energy Leadership Council (OELC), Ohio Energy Group (OEG), Northeast Ohio Public Energy Council (NOPEC), Ohio Partners for Affordable Energy (OPAE), Ohio Consumers' Counsel, Calpine Retail Holdings LLC, Interstate Gas Supply, Citizens Coalition and Utilities for All (CCUFA), Northwest Ohio Aggregation Coalition, Ohio Manufacturers' Association Energy Group (OMAEG), Walmart Inc., Nucor Steel Marion, Utility Workers Union of America Local 126 (Local 126), One Energy Enterprises Inc., Constellation Energy Generation LLC, Constellation NewEnergy Inc., Ohio Hospital Association, Direct Energy Business LLC, Direct Energy Services LLC, Reliant Energy Northeast LLC, Stream Ohio Gas and Electric LLC, XOOM Energy Ohio LLC, Armada Power LLC, Nationwide Energy Partners, The Kroger Co. (Kroger), Citizens Utility Board of Ohio, Environmental Law and Policy Center, Retail Energy Supply Association, Enel North America Inc., Ohio Environmental Council, and

Utica East Ohio Midstream LLC.<sup>1</sup> No memoranda contra were filed. The attorney examiner finds that the motions are reasonable and should be granted.

{¶ 9} On May 8, 2023, motions for permission to appear pro hac vice were filed for Joseph Briscar and Michal Lavanga on behalf of Nucor Steel Marion. The attorney examiner finds that these motions should be granted in accordance with Ohio Adm.Code 4901-1-08.

{¶ 10} On October 3, 2023, a joint motion to extend the procedural schedule was filed by OELC, OMAEG, OPAE, Kroger, Local 126, and CCUFA. The parties also requested expedited treatment for the motion and did not certify that no party opposes the motion. The parties requested a 60-day extension for testimony deadlines and the evidentiary hearing to allow the parties to focus on settlement discussions.

{¶ 11} OEG filed a memorandum contra the motion to extend on October 4, 2023. OEG argued that keeping the existing testimony deadlines may increase the efficiency of settlement discussions by narrowing the disputed issues.

{¶ 12} FirstEnergy filed a memorandum contra on October 6, 2023. In its memorandum, FirstEnergy stated its opposition to the extension, asserting that R.C. 4928.143(C)(1) contemplates a Commission decision within 275 days of the filed application, which is January 5, 2024 in this proceeding. FirstEnergy adds that it needs a Commission decision sufficiently in advance of the June 1, 2024 start date for ESP V to administer competitive auctions, which takes weeks of coordination. Because of these impending deadlines, FirstEnergy opposes the extension request.

{¶ 13} Also on October 6, 2023, NOPEC filed a memorandum contra, asserting that the existing testimony deadlines should not affect settlement negotiations. NOPEC also

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<sup>1</sup> ChargePoint, Inc. filed a motion to intervene on May 10, 2023, and subsequently filed a notice withdrawing its motion on September 15, 2023.

advances an argument that the public has an interest in the resolution of the ESP before June 1, 2024.

{¶ 14} At this time, the attorney examiner finds it appropriate to briefly extend the testimony filing deadlines to allow the parties latitude to prioritize settlement discussions. For that reason, intervenor testimony is due by October 23, 2023, and Staff testimony is due by October 30, 2023. However, for the reasons identified in the memoranda contra, the evidentiary hearing will proceed as scheduled on November 7, 2023. Other dates in the procedural schedule will remain unchanged, including the prehearing conference set for October 19, 2023.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the motions to intervene in this proceeding filed by OELC, OEG, NOPEC, OPAC, Ohio Consumers' Counsel, Calpine Retail Holdings LLC, Interstate Gas Supply, CCUFA, Northwest Ohio Aggregation Coalition, OMAEG, Walmart Inc., Nucor Steel Marion, Local 126, One Energy Enterprises Inc., Constellation Energy Generation LLC, Constellation NewEnergy Inc., Ohio Hospital Association, Direct Energy Business LLC, Direct Energy Services LLC, Reliant Energy Northeast LLC, Stream Ohio Gas and Electric LLC, XOOM Energy Ohio LLC, Armada Power LLC, Nationwide Energy Partners, Kroger, Citizens Utility Board of Ohio, Environmental Law and Policy Center, Retail Energy Supply Association, Enel North America Inc., Ohio Environmental Council, and Utica East Ohio Midstream LLC be granted. It is, further,

{¶ 17} ORDERED, That the May 8, 2023 motions to appear pro hac vice should be granted. It is, further,

{¶ 18} ORDERED, That the motion to extend the procedural schedule be granted in part and denied in part, as set forth in Paragraph 14. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Jacky Werman St. John

By: Jacky Werman St. John  
Attorney Examiner

JRJ/dr

**This foregoing document was electronically filed with the Public Utilities  
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**Case No(s). 23-0301-EL-SSO**

Summary: Attorney Examiner Entry granting the motions to intervene of OELC, OEG, NOPEC, OPAC, Ohio Consumers' Counsel, Calpine Retail Holdings LLC, Interstate Gas Supply, CCUFA, Northwest Ohio Aggregation Coalition, OMAEG, Walmart Inc., Nucor Steel Marion, Local 126, One Energy Enterprises Inc., Constellation Energy Generation LLC, Constellation NewEnergy Inc., Ohio Hospital Association, Direct Energy Business LLC, Direct Energy Services LLC, Reliant Energy Northeast LLC, Stream Ohio Gas and Electric LLC, XOOM Energy Ohio LLC, Armada Power LLC, Nationwide Energy Partners, Kroger, Citizens Utility Board of Ohio, Environmental Law and Policy Center, Retail Energy Supply Association, Enel North America Inc., Ohio Environmental Council, and Utica East Ohio Midstream LLC; granting the May 8, 2023 motions to appear pro hac vice; and granting in part and denying in part, as set forth in Paragraph 14, the motion to extend the procedural schedule electronically filed by Debbie S. Ryan on behalf of Jacky Werman St. John, Attorney Examiner, Public Utilities Commission of Ohio.