

# 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 APPROVAL TO UPDATE  
RIDER LGR.

CASE NO. 23-1076-EL-RDR

## ENTRY ON REHEARING

Entered in the Journal on February 21, 2024

### I. SUMMARY

{¶ 1} The Commission denies as moot the application for rehearing filed by the Ohio Manufacturers' Association Energy Group.

### 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 (EDUs), 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.

{¶ 3} R.C. 4928.148, which became effective on October 22, 2019, required the Commission to (1) establish a replacement nonbypassable rate mechanism for the retail recovery of prudently incurred costs related to a legacy generation resource (LGR) for the period commencing January 1, 2020, and extending up to December 31, 2030; and, (2) determine the prudence and reasonableness of the actions of EDUs with ownership interests in the LGR. Additionally, R.C. 4928.148(A)(2) requires the Commission establish monthly rate caps of \$1,500 for non-residential customers and \$1.50 for residential customers.

{¶ 4} The Commission subsequently established the LGR Rider pursuant to R.C. 4928.148 for the period beginning January 1, 2020, and extending up to December 31, 2030.

Notably, the Commission directed that the “combination of Part A and Part B rates would be capped at \$1.50 per month for residential customers and \$1,500 per month for non-residential customers on a per account basis.”<sup>1</sup> Both Part A and Part B rates were to be updated on a semi-annual basis beginning January 1, 2020. *In re Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Entry (Nov. 21, 2019) at ¶33.

{¶ 5} The Commission later approved the applications of the Companies to implement the LGR Rider. *In re the Application of Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case Nos. 19-2121-EL-ATA, et al., Finding and Order (Dec. 18, 2019).

{¶ 6} On December 1, 2023, FirstEnergy filed its semi-annual update to the LGR Rider. Those rates were automatically approved and effective on a service rendered basis on January 1, 2024.

{¶ 7} R.C. 4903.10 provides that, in any uncontested proceeding, any affected person, firm, or corporation may make an application for rehearing within 30 days after the entry of any final order upon the Commission’s journal.

{¶ 8} On January 30, 2024, the Ohio Manufacturers’ Association Energy Group (OMAEG) filed an application for rehearing asserting FirstEnergy’s semi-annual update incorrectly applied the statutory monthly caps to only Part A of the LGR Rider when calculating the new rates, in violation of both R.C. 4928.148(A)(2) and the Commission’s Entry in Case No. 19-1808-EL-UNC. According to OMAEG, the statutory language provides that the total monthly charge, including any deferrals or credits, cannot exceed \$1.50 per

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<sup>1</sup> The Part A rate is a statewide rate designed to collect the forecasted net costs in total for the Ohio Valley Electric Corporation EDUs and the over/under recovered amount from the prior period. The Part B rate is designed to reconcile the over/under amounts associated with the forecasted billing determinants versus the actual billing determinants.

customer for residential customers or \$1,500 per customer for non-residential customers. Further, OMAEG asserts there is nothing in the text indicating that these caps only apply to part of the LGR Rider (e.g., Part A) or that the legislature intended for the cap to only apply in part when it passed R.C. 4928.148(A)(2). Additionally, if there was ambiguity in the statute's application, OMAEG notes that the Commission's Entry clarified any existing ambiguity when it stated that "[t]he combination of Part A and Part B rates will be capped at \$1.50 per month for residential customers and \$1,500 per month for non-residential customers on a per account basis." As such, OMAEG requests that the Commission grant rehearing and issue an order directing FirstEnergy to revise its rate calculations consistent with the statutory language and the Commission's prior orders.

{¶ 9} In their response filed on February 9, 2024, the Companies agreed with OMAEG's argument that the statutory monthly caps should apply to the combination of Part A and Part B rates. The Companies filed revised rider rates, specifically noting that, because Part B is presented as a credit for this period, the revised calculation resulted in an increase in the LGR Rider rate for non-residential customers.

{¶ 10} The Commission agrees with both OMAEG and the Companies that the monthly caps apply to the combination of Part A and Part B, in accordance with R.C. 4928.148. Upon consideration of the filings in this proceeding, including the revised tariffs submitted by the Companies, we find that the issues raised in OMAEG's application for rehearing have been resolved and, thus, it should be denied as moot.

### III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That OMAEG's application for rehearing be denied. It is, further,

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

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Daniel R. Conway  
Lawrence K. Friedeman  
Dennis P. Deters

MJA/mef

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**Case No(s). 23-1076-EL-RDR**

Summary: Entry on Rehearing denying as moot the application for rehearing filed by the Ohio Manufacturers' Association Energy Group electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.