BEFORE
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 Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan.	))))))))	**Case No. 14-1297-EL-SSO**

THE RETAIL ENERGY SUPPLY ASSOCIATION'S MEMORANDUM CONTRA FIRSTENERGY'S MOTION TO AMEND PROCEDURAL SCHEDULE

Pursuant to Rules 4901-1-12 of the Ohio Administrative Code, the Retail Energy Supply Association ("RESA")[1] submits this Memorandum Contra to the November 5, 2014 Motion of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company (hereinafter collectively "FirstEnergy") to amend the procedural schedule. RESA agrees with FirstEnergy's observation that, during the last two weeks of December, witnesses, counsel and corporate officials are not available. The comings and goings of key personnel, who are often on vacations planned well in advance of the holiday season, makes trial preparation during this period very difficult. Thus, RESA does not object to FirstEnergy's request to accommodate holiday vacations by moving the prehearing conference schedule back a week

[1] RESA is a broad and diverse group of 21 retail energy suppliers who share the common vision that competitive energy retail markets deliver a more efficient, customer-oriented outcome than the regulated utility structure. Several RESA members are certificated as Competitive Retail Electric Service ("CRES") providers and are active in the Ohio retail market, including the AEP Ohio service territory. RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

from January 9, 2015, to January 16, 2015, and to move the date of the hearing date back eight days from January 20, 2015, to January 28, 2015.

The problem of assembling the key personnel during the holiday season is not just a concern for FirstEnergy. All the intervenors face that same issue, especially since the intervenor testimony is due just before Christmas. Those traveling out of town for the holidays often leave during the week before Christmas. Thus, when FirstEnergy proposed a one-week continuance due to the holiday season, RESA agreed and simply asked that the extension be made symmetrical so that, in addition to moving back the hearing and pretrial conference dates, the discovery cutoff and intervenor testimony deadlines are moved back a similar amount of time. In other words, RESA asked to move the discovery deadline from December 1st to December 8th and the filing of the intervenor testimony from December 22nd to December 30th. That would maintain the symmetry and balance in the current schedule established by the Attorney Examiner. It should be noted that, in three of the four cases[2] cited by FirstEnergy in favor of its motion, the Commission actually maintained the symmetry and balance that RESA desires when it extended both the due date for intervenor testimony and the hearing date. The fourth case[3] cited by FirstEnergy only extended the hearing date because no deadline for the filing of testimony had been previously established in that case. Thus, RESA's request to move the discovery deadline from December 1st to December 8th and the filing of the intervenor testimony from December 22nd to December 30th is consistent with the approach taken by the Commission in multiple prior proceedings.

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[2] See In Re Columbus Southern Power and Ohio Power Company, Case No. 09-872-EL-UNC, et al., 2010 Ohio Puc. LEXIS 1296, Entry, December 3, 2010; In Re Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, Case No. 10-176-EL-ATA, 2010 Ohio Puc. LEXIS 1211, Entry, November 12, 2010; and In Re Duke Energy Ohio, Inc., Case No. 10-1268-EL-RDR, 2010 Ohio Puc. LEXIS 991, Entry, September 29, 2010.

[3] In Re Commerce Energy, Inc. d/b/a Just Energy, Case No. 02-1828-GA-CRS, 2010 Ohio Puc. LEXIS 1025, Entry, October 7, 2010.

In the current schedule, the intervenor testimony is due December 22nd and the hearing is scheduled to begin a month later on January 20th. That is the same amount of time between intervenor testimony in the current Duke Energy Ohio ESP III case in which intervenor testimony was filed on September 26th and the hearing commenced on October 22nd.[4] Similarly, earlier this year in AEP Ohio's ESP III case, the intervenor testimony was due May 6th and the hearing commenced a month later on June 3rd.[5] In its Memorandum in Support, FirstEnergy claims that it needs more than a month between intervenor testimony deadline and the hearing because there are fifty intervenors.[6] A larger number of intervenors does not necessarily require more discovery time for the applicant if a significant number of the intervenors are in support. Assuming such is not the case in the matter at bar, RESA would be willing to accommodate FirstEnergy with an asymmetrical schedule which gives FirstEnergy an extra week between the due date for intervenor testimony and the hearing date.[7] The hearing date then would be February 4th, more than five weeks from RESA's proposed December 30th intervenor testimony filing date. The only argument that FirstEnergy raised in the Memorandum in Support against RESA's asymmetrical procedural schedule was a concern over when the Commission would issue its Opinion and Order.[8] Legally, the Commission is given 275 days to issue its Opinion and Order in an electric security plan case.[9] The Opinion and Order deadline is based on the filing date of the application. Thus, since FirstEnergy filed its application on August 8th, a decision is not due from the Commission until May 7, 2015. That is true whether FirstEnergy's request or RESA's suggested modification to FirstEnergy's request is granted. Further, a day's reduction in preparation time does not necessarily translate into a day's gain in completing the

[4] Entry dated August 5, 2014, Case Nos. 14-841-EL-SSO et al.
[5] Entry dated January 24, 2014, Case Nos. 14-2385-EL-SSO, et al.
[6] FirstEnergy Memorandum in Support at 3-4.
[7] FirstEnergy Memorandum in Support at 2 and 3, which identified RESA's offer of the extra week for the applicant.
[8] FirstEnergy Memorandum in Support at 4.
[9] Section 4928.143, Revised Code.

proceeding. As the old adage goes, measure twice and cut once. Reducing the period to obtain information and prepare succinct intervenor testimony may actually expand the amount of time needed for hearing. Similarly, not providing enough deposition time to FirstEnergy may simply increase the number of rebuttal witness and hence push back the date the hearing will be completed.

WHEREFORE, the Attorney Examiner should grant FirstEnergy's requested procedural scheduled as modified by RESA, and wish everyone happy holidays.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons below via electronic mail this 12th day of November 2014.

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