

9

Before  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV  
97 APR 30 PM 5:24  
PUCO

In the Matter of the Application of The )  
Cleveland Electrical Illuminating Company ) Case No. 97 - 359 - EL - ATA  
For Authority to Amend Its Tariff To )  
Include Conjunctive Electric Service )

In the Matter of Conjunctive Electric Service )  
Guidelines, Proposed by Participants of the )  
Commission Roundtable on Competition ) Case No. 96 - 406 - EL - COI  
In the Electric Industry )

---

COMMENTS BY  
ENRON CAPITAL & TRADE RESOURCES CORP.

---

**I. INTRODUCTION**

After a year of work, the Roundtable Subcommittee presented to the Commission detailed Guidelines for the implementation of a conjunctive electric service program. After public debate and several rounds of comments, this Commission on February 27, 1997 issued conjunctive electric service Guidelines and ordered jurisdictional electric companies to file tariffs within 60 days.<sup>1</sup> In this era of open access interstate transmission<sup>2</sup>, and the need to conduct comprehensive resource planning, conjunctive electric service may be a necessary program that all electric companies must provide. Thus the Commission in its December 24, 1996 order in the above styled docket, noted that the failure by a utility to offer conjunctive electric service in today's energy market may well be tantamount to providing inadequate service. To assist electric

---

<sup>1</sup> December 24, 1996 Order in Case No. 96-406-EL-CLI.

<sup>2</sup> Federal Energy Regulatory Commission Order 888.

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business.  
Technician Anna M. Rye Date Processed May 1, 1997

companies in designing suitable conjunctive electric service programs, the Commission in its last Order<sup>3</sup> stated that any utility that followed the Guidelines would enjoy a "safe haven" in which their reciprocal arrangements for conjunctive electric service across their certified territory would be accepted by the Commission.

On March 31, 1997 the Cleveland Electrical Illuminating Company ("CEI") filed a conjunctive electric service tariff in the above styled docket. Unfortunately, many of the most significant terms of that tariff were not in keeping with the Guidelines. Many of CEI's departures from the Guidelines result in the program being ineffectual as a conservation tool, financially unrewarding to the end use customers and discriminatory in its availability.

For the reasons detailed below, Enron Capital & Trade Resources Corp. ("Enron"), a power marketer who has participated at length in the proceedings in this docket and has applied for approval from the Commission to be an Aggregator, requests that the CEI conjunctive electric service tariff be modified as detailed below before it is approved. Specifically, the Commission should find that the application is unjust and unreasonable because it forecloses the benefits of conjunctive electrical services from being enjoyed by most of the utility's customers. No customers should be automatically eliminated from access to conjunctive electric service just because they are on an interruptible schedule, have an approved contract under Revised Code Section 4905.31 or merely are eliminated because the utility has set artificial numerical limits on the amount of service to be offered. Similarly, the application at bar should be rejected because it restrains the right of an aggregated group to meaningfully negotiate for rates. As a policy matter the Commission must resist any attempt by the utilities to tie conjunctive

---

<sup>3</sup> February 27, 1997 Order in Case No. 96-406-EL-COI p7.

electric service to a set pricing scheme. Conjunctive electric service is a program that allows the customers to form groups and select a rate design which will best encourage conservation. Tying conjunctive electric service to a particular rate design particularly one in which the utility can arbitrarily control the price, defeats this purpose. Finally, the application at bar should be rejected because it fails to address the real mechanical needs of the program. Customers cannot form groups and negotiate for acceptable rates without access to information timely provided by the utility in a usable format at a reasonable cost. Such access to information is not assured under this filing.

**II. THE PROPOSED CEI TARIFF VIOLATES GUIDELINE NO. (3)  
ON AVAILABILITY**

Under the heading "APPLICABILITY" paragraphs 3, CEI excludes all interruptible customers from the program. No reason has been given for excluding these customers and many interruptible customers may desire the service. Nor are interruptible customers the only customers excluded, for in paragraph 6 of the Applicability section CEI reserves the right to stop taking applications altogether as soon as the equivalent of one percent (1%) of its retail kilowatt-hour sales are engaged in the Conjunctive Electric Service program. While arguably the Guidelines do permit reasonable limitations on access to conjunctive electric service, excluding 99% of the retail load is simply not reasonable. This is especially true as the Commission will continue to have supervision over the program and if real problems do develop, the Commission could authorize a temporary or even permanent limitation on new conjunctive electric customers.

In addition to the 1% limit, CEI has also reserved an unspecified right to limit or even shut the program down completely. Paragraph 6 states in part “ The Company reserves the right to invoke limitations or to suspend requests for service under this Schedule.” Please note that there are no criteria for either scaling the program back or ending it.

The abandonment of any service ought to be a decision made by the Commission in a public proceeding with adequate notice and chance for those most affected to be heard. Further, any reduction in the offer ought to be based on a suitable reason and if the service must be rationed, such rationing must be done in a non-discriminatory manner.

Although not listed in the AVAILABILITY section, the definition of the term “Aggregation Group” appears to impose an additional limitation on the availability of conjunctive electric service. The term “Aggregation Group” is defined as ten or more customers. The rest of the tariff addresses the pool of power only as an Aggregation Group. Thus it appears that no group (or pool) under these tariffs could be formed with less than ten customers. In fact, if a group of ten members loses a member, the Tariff calls for nine remaining customers to be kicked off the service (see RATES, CHARGES, AND TERMS paragraph 6). This limitation on the minimum number of group members seems unrelated to any practical or real world constraint. The limitation would prevent, for example the Toledo Public Schools, or a drugstore chains or franchised restaurants from forming a group or pool, though such a pool could have numerous buildings -- many more than a group of ten different members. No reason or rationale has been provided for this limitation and it does seem to be in the public’s interest. Furthermore, such a limitation is in violation of the Guidelines.

### **III. CEI's BILLING PROCEDURE IS DISCRIMINATORY**

Consumers purchasing service from CEI's standard tariffs are given a grace period of five days to make payment without interest penalties. The same cannot be said of the Conjunctive Electric Service, where the terms of payment have no grace period and a "master card" level interest rate of 1.5% per month (over 18% per annum). All collection and late billing should be uniform between conjunctive electric service and other tariffed services.

### **IV. THE RATES PROPOSED VIOLATE GUIDELINE NO. (6)**

CEI in its filing permits only one rate option for conjunctive electric service in clear violation of the Guidelines which contemplated negotiated rates. All conjunctive electric service customers must use a single set of rates found in the "RATES, CHARGES AND TERMS" section. The requirement that only this one rate schedule be used limits the flexibility of the program. Customers must now have to choose between aggregation and selecting a tariff schedule that most closely fits the customers' use. This lack of flexibility in designing rates is exasperated by the fact that the rates listed in the Conjunctive Electric Service Tariff are clearly not cost based.

Further, it is unlikely that the rates proposed by CEI are cost-based. For example, CEI makes no adjustment for delivery voltage, form of distribution (i.e. transmission substation secondary) or even quantity of power used. It is hard to imagine that a group of large industrial customers aggregating hundreds of thousands of Kwh served off a 69 KV line to a substation would impose the same cost per Kwh delivered as a group of homeowners buying 100 Kwh delivered at 220 volts. Yet under the tariff, if both the homeowners and the large industry group

purchased their power during the same hours of the day, both would pay the same 14.70¢ per Kwh rate. By contrast, under all other rate schedules, CEI differentiates its rates based on demand level, quantity and distribution. For example, a large commercial customer on the GS 14 Rate Schedule would for peak rate power pay 14.43 cents per Kwh for the first 500 Kwh of the month, but by the tailblock rate that price would have dropped by more than half to 7.15¢ per Kwh. Finally, in case there were any doubts that the one and only rate schedule found in the RATES, CHARGES, AND TERMS paragraph 5 is cost based, that fact that the rates are identical for both Toledo Edison and Cleveland Electric Illuminating should dispel any notion that the rates were established using accepted cost of service methodology.

Requiring that conjunctive electric service be contingent upon accepting rates that are not cost based is unjust and unreasonable and thus must be rejected by this Commission.

In addition, to having to pay rates that have no basis in cost of service, the proposed CEI tariff also has unspecified rates. Specifically, the Company reserves the right to direct bill any "incremental costs" incurred in implementing the CEI program. The Commission would be abandoning its responsibilities if it let the holder of franchise monopoly to determine and bill unspecified costs. At a minimum all such extra charges must be approved by the Commission in advance so that the customer can be assured that the costs it is being asked to pay are truly "incremental" and the service is fairly provided.

Finally, paragraph 7 of the RATES, CHARGES, AND TERMS creates a charge for CEI to provide billing histories. There is no support work filed with the application to verify this charge, nor is there any indication that billing histories could not be provided by existing personnel and equipment. If existing personnel and equipment could provide the histories than

the cost is not incremental and under the Guidelines cannot be separately billed. To move away from the incremental increase test for new charges is to permit the customer to be charged for equipment and personnel already paid for under existing rates.

## **VII. CONCLUSION**

WHEREFORE, for the reasons stated above Enron respectfully request this Commission to reject the CEI conjunctive electric service tariff as filed, and order that the tariff be amended to address the issues discussed above. It should be clear to the Commission that the filings made by the seven largest electric utilities in this state violated both the spirit and the letter of the Conjunctive Electric Service Guidelines (Monogahela filing being in the spirit of the Guidelines). The purpose was to give to the customers of Ohio a powerful tool to conserve electricity, and save on its costs. The tariffs which were begrudgingly filed seemed designed to delay and deny availability of conjunctive service. With that in mind the Commission should not only order amended tariffs to correct the items detailed in these comments; but to prevent the public from further injury by delay tactics, place these proceedings on an expedited schedule.

Further, if the second round of conjunctive electric service tariffs are still not suitable, the Commission should begin the adequacy of service investigations described in the February 27, 1997 Order in this docket.

Respectfully submitted,



---

Janine Midgen, Director  
Regulatory Affairs  
Enron Capital & Trade Resources Corp.

M. Howard Petricoff  
VORYS, SATER, SEYMOUR AND PEASE  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
(614) 464-5414

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing comments have been filed upon all parties of record in Case No. 96-406-EL-COI by first class mail this 30th day of April, 1997.

  
\_\_\_\_\_  
M. Howard Petricoff