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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 Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan	**Case No. 08-935-EL-SSO**
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of Rider FUEL and Related Accounting Authority	**Case No. 09-21-EL-ATA** **Case No. 09-22-EL-AEM** **Case No. 09-23-EL-AAM**

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SUPPLEMENTAL STIPULATION

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("Companies") agree with the other Signatory Parties hereto to all of the terms and conditions of the Stipulation and Recommendation (the "Stipulation") filed in Case Nos. 08-935-EL-SSO and 09-21-EL-ATA et seq. at the Public Utilities Commission of Ohio ("Commission") on February 19, 2009 subject to and including all of the following additions and modifications to and clarifications of such Stipulation:

1. Delete the existing Section J of the Stipulation appearing on pages 41-43, and insert the following:

J. Governmental Aggregation.

This Section J applies to the situation where the Commission has ordered a phase-in of the Company's(ies') generation prices arising out of the auction provided for in Section A.5 and 6 of the Stipulation and a governmental aggregation group elects to phase-in generation costs

consistent with such Commission-ordered phase-in.[1]

1. For every kWh of energy that a Governmental Aggregation Generation Supplier ("GAGS") delivers to a governmental aggregation customer of a governmental aggregation group that elects to phase-in, such customer will be entitled to receive a phase-in credit ("GAGS Phase-In Generation Credit") in an amount equal to the $/kWh phase-in credit approved by the Commission for the Company's(ies') SSO customers for the period of the Stipulated ESP.

2. For every kWh of energy that a GAGS delivers to a governmental aggregation customer, the GAGS will be granted, subject to the provisions of Section J and Paragraphs A.6. and A.12 of the Stipulation as amended by this Supplemental Stipulation , the right to receive from the Company(ies) a receivable amount equal to the GAGS Phase-In Generation Credit received by the aggregation customer as described in Paragraph 1 of this Section J, plus carrying charges. These receivable amounts including carrying charges hereafter are referred to as "GAGS Receivables".

i. The accumulated balance of such accrued and unpaid GAGS Receivables will accrue a carrying charge ("GAGS Deferral Carry Rate") at a monthly interest rate that will equal the rate approved by the Commission as the appropriate carrying charge for the Company's(ies') unrecovered deferred amounts related to the phase-in of generation prices as authorized under Section A.6 of the Stipulation.

ii. A GAGS's right to receive the GAGS Receivables and the Companies right to collect and book such amounts is authorized by the Commission by its approval of

[1] NOPEC does not support limiting the Companies' agreement to remit payment to CRES providers for uncollectibles to only when a phase-in occurs for a government aggregation as provided for in this section of the Stipulation, and NOPEC expressly reserves its rights with respect thereto. However, NOPEC agrees not to challenge this limitation in connection with this Stipulation.

the Stipulation, to take effect June 1, 2009. The mechanics for exercising these rights shall be through a process similar in financial benefit to the GAGS as a purchase of the GAGS Receivables and will be accomplished as set forth in this Section J and as contained in the supplier agreement to be executed between the GAGS and the Company(ies); these rights shall include the GAGS's right to collect and receive such accrued and unpaid GAGS Receivables from the Company(ies) and from their successors consistent with this Section J.

iii. Subject to this Section J, the GAGS's right to receive the accrued GAGS Receivables for each kWh of energy delivered to aggregation customers as described in this Section J and Paragraph A.6 will not be affected or constrained by the GAGS's future performance of any particular term or volume of energy. Further, in the circumstances where a GAGS has phased-in generation pricing for a governmental aggregation group, and thereby has created GAGS Receivables, the full amount of the GAGS's Receivables together with the GAGS's uncollectible amounts will be paid to the GAGS in the manner set forth in this Paragraph J of the Supplemental Stipulation notwithstanding whether or not the underlying Governmental Aggregator ceases to exist or ceases to offer an aggregation program during GAGS Receivable recovery period.

3. The GAGS will have a unilateral right to a one time assignment to a single party of its right to collect and receive the accrued GAGS Receivables from the Company(ies) without their prior consent, the Commission's consent, or the consent of any other party or state or governmental entity.

4. The Company(ies) must use commercially reasonable efforts to promptly enter into an agreement with the GAGS that wishes to utilize the terms proposed herein.

5. The Company(ies) are authorized by the Commission to charge, collect and receive from all customers of the Companies in current or former governmental aggregation communities, whether or not such government aggregation group continues to exist or offers an aggregation program, except those communities that have elected not to phase-in pursuant to Paragraph 1 of this Section J the accrued GAGS Receivables that are to be paid to the GAGS pursuant to this Section J through the rider provided for in Section A.6 of this Stipulation.

i. The Company's(ies') obligation to pay the GAGS the accrued GAGS Receivables shall be regulatory assets of the Company(ies).

ii. The Company(ies) shall recover the accrued deferred cost amounts associated with the regulatory assets including carrying charges through the Commission approved cost recovery rider provided for in Paragraph A.6. of the Stipulation. The cost recovery rider shall be non-bypassable regardless of the identity of the current or future energy supplier.

6. Payment to the GAGS of amounts actually received by the Company(ies) shall occur under the same process as with other CRES provider payments received directly from customers not more than three business days from the date the amounts are actually received by the Company(ies) from customers. Additionally, the Signatory Parties agree that any uncollectible GAGS Receivables arising out of supplying generation and transmission to a government aggregation group electing to phase-in prices as approved by the Commission and as described above shall be included in the calculation of the Generation Service Uncollectible Rider provided for in section A.12 of this Supplemental Stipulation. If there is any remaining unpaid amount existing 30 days following the due date on the customer's bill, such amount shall be paid to the GAGS at that time, and no

further payment shall be made to the GAGS on account of such customer bill.

7. In the event that the Commission orders a phase-in of a Company's generation prices and a governmental aggregation program in the Company's service territory is to be supplied by a GAGS and such governmental aggregator has elected to phase-in pursuant to Section J of this Stipulation, the Commission shall undertake further review and take such action as is necessary to: 1) provide such GAGS assurance of full future recovery of its GAGS Receivable in the event such GAGS agrees to provide a GAGS Phase-In Generation Credit, and 2) provide assurance to the Companies of full recovery of all costs related to a GAGS recovery of its GAGS Receivables.

8. For the avoidance of doubt, any payments, except those payments associated with uncollectible amounts, to be made by the Companies to the GAGS contemplated hereunder shall be made not later than 3 days after receipt by the Companies of payment from the Companies' customers.

9. The Generation Uncollectible Rider set forth in Section A.12 of the Stipulation shall remain in full force and effect to allow the Companies throughout the phase-in period and recovery period to charge and collect from customers the uncollectible amounts associated with GAGS Receivables so that payments may be made as described in this Section J.

2. Delete the existing Section A.12 of the Stipulation appearing on page 13, and insert the following:

12. A Generation Service Uncollectible Rider shall be established for the Companies to recover: 1) generation related uncollectible costs through May 31, 2009; and, 2) subsequent to May 31, 2009 the uncollectible costs associated with supply cost from the competitive bid process arising from SSO customers and the generation and transmission uncollectible costs arising from customers taking

generation service through a governmental aggregation program which has elected to phase-in generation pricing pursuant to Section J of this Stipulation. Such Rider, effective April 1, 2009 on a service rendered basis, will initially be set at the average rate of .0539 cents per kWh (composite of all Companies) to be recovered on a nonbypassable basis, except this Rider will not apply to Rate GT and Rate GSU customers that are not part of a governmental aggregation progam during the period they receive retail electric generation service from a CRES supplier. Such rider shall be reconciled quarterly to reflect such actual uncollectible costs and actual sales levels incurred after December 31, 2008. If no phase-in of the generation costs associated with the auction provided for in Section A.6 of this Stipulation is ordered by the Commission for any of the Companies or if no governmental aggregation program elects to phase-in generation pricing pursuant to Section J, then this Generation Uncollectible Rider shall only apply to generation and transmission uncollectible costs arising from SSO customers and will be bypassable for customers that switch to a CRES supplier.

3. Delete the existing Section F.1 from the Stipulation appearing on page 31 and insert the following language:

During the period April 1, 2009 through December 31, 2011, the Companies will contribute, in the aggregate, $25 million to support economic development and job retention activities within their service areas. The Companies agree not to seek recovery of such amounts from customers. Such contribution shall not be used to fund special contracts and/or reasonable arrangements filed with the Commission. Of the total $25 million amount:

i) at least $7.5 million will be made available for projects identified

by Ohio Manufacturers' Association;

ii) $1 million dollars will be made available to Ohio Partners for Affordable Energy for its Community Connections program or the fuel fund;

iii) at least $500,000 will be made available to the City of Cleveland for economic development and job development activities, at least $500,000 will be made available to the City of Akron for economic development and job development activities, at least $300,000 will be made available to the City of Toledo for economic development and job development activities, and at least $200,000 will be made available to other municipalities within the Companies' service territories, which are provided electric distribution service by the Companies, for economic development and job development activities; and,

iv) in order to assist low-income customers (defined as customers at or below 200 percent of the Federal Poverty Guideline) in paying their electric bills from the Companies, a fuel fund shall be created consisting of $2 million to be spent in each calendar year for 2009 through 2011. Any unspent funds from the $2 million annual fuel fund will be carried over through the following calendar year. The dollars will be allocated as follows: $330,000 per year in the Toledo Edison service territory; $695,000 per year in the Cleveland Electric Illuminating Company service territory; and $975,000 per year in the Ohio Edison service territory.

Fuel fund monies shall be distributed within the Toledo Edison service territory by one or more organizations jointly designated by OCC and NOAC in consultation with the Commission Staff and the approval of the Companies*. Subject to approval by the Companies*, fuel fund monies shall be distributed within the Cleveland Electric Illuminating service territory in equal parts by the Empowerment Center of Greater Cleveland, the Consumer Protection Agency and Cleveland Housing Network. Fuel fund monies shall be distributed within the Ohio Edison service territory by one or more organizations designated by the OCC in consultation with the Commission Staff and the approval of the Companies*. Such fuel fund shall only be available to distribution customers of the Companies. As a condition of receiving the funds, any organization receiving funds from the Companies shall provide the Companies, OCC and the Commission Staff with an annual accounting of how the dollars were disbursed and will agree to an audit of those dollars if requested by the Companies, OCC or the Commission Staff. The funds for 2009 shall be made available within thirty days of the Companies' acceptance of the Commission's approval of this Stipulation. For 2010 and 2011, the funds shall be made available by January 31 of 2010 and 2011.

4. **At the end of Section E.6.c add the following new paragraph:**

In consultation with the collaborative, the Companies agree to hire an energy efficiency expert, experienced in advising utilities on energy efficiency programs, to assist the Companies and each program administrator set forth in Section 6.i of the Stipulation in the design, selection, monitoring and evaluation of programs. The cost of the expert shall be recoverable through the DSE rider.

*which approval shall not be unreasonably withheld or delayed by the Companies.

5. **At the end of Section A.9 add the following language:**

The Companies shall work with any interested parties within OCEA which are Signatory Parties to include a R.C. § 4928.64 residential REC purchase program by June 30, 2009 that will be available to all customers during the ESP period. Upon inquiry by a consumer considering the installation of renewable energy generation at the consumer's site, the Companies shall make information available to the consumer on net metering, interconnection and the REC purchase program. The costs of the RECs shall be recovered through the renewable energy rider as provided in Section A.9 of the Stipulation.

6. **The following language is to be inserted at the designated point in the Stipulation:**

To be inserted at p. 34, as a footnote at the end of Section G.5:

> OCEA asserts that the purchased power acquired through the RFP procurement process does not constitute "fuel costs" as defined under R.C. § 4928.143(C)(2)(b) for purposes of cost recovery, however, for purposes of this settlement, OCEA agrees not to pursue this issue.

To be inserted as a footnote at the end of Section A.2, subpart (i) on page 7:

> OCEA does not concur that the procurement process used to acquire power for January 1, 2009 through March 31, 2009 was prudent, however, for purposes of this settlement, OCEA agrees not to pursue this issue or challenge the mechanism for or level of recovery of such costs.

To be inserted as a footnote at the end Section E.6.n on page 28:

> NRDC does not support the collection of lost revenues for six vintage years; however, for purposes of this settlement, NRDC will not challenge this lost revenue provision.

To be inserted as text at the end of the first full paragraph on page 45 of the Stipulation:

> Add a comma after the period and then insert the following language "subject to the provisions of Paragraph 8 of the Supplemental Stipulation."

7. The Signatory Parties, other than the Companies, OEG and the Staff, agree to not file

testimony in this proceeding pursuant to the February 19, 2009 Commission Entry, and if such testimony is already filed, to withdraw such testimony. The Signatory Parties agree not to oppose the Stipulated ESP as modified by this Supplemental Stipulation in any forum. The Signatory Parties do not waive and expressly reserve all of their rights with respect to taking any action to enforce the Stipulation and with respect to interpreting the Stipulation, as modified by the Supplemental Stipulation, consistent with the Signatory Parties' obligations expressly set forth herein. The Signatory Parties agree that all of the testimony that has been prefiled in this proceeding pursuant to the February 19, 2009 Commission Entry, with the exception of the testimony of Stacia Harper on behalf of the OCC which testimony shall be withdrawn, is deemed admitted into the record and is not subject to cross examination.

8. The terms, conditions, and understandings contained herein are all contingent upon the Commission accepting the Stipulation as modified by this Supplemental Stipulation, without modification, consistent with Section K of the Stipulation. The Signatory Parties agree that signing this Supplemental Stipulation binds them to the Stipulation (filed in this proceeding on February 19, 2009) as modified by this Supplemental Stipulation.

IN WITNESS WHEREOF, this Supplemental Stipulation has been signed by the authorized agents of the undersigned Parties as of this 26th day of February, 2009. The undersigned Parties respectfully request the Commission to issue its Opinion and Order approving and adopting the Stipulated ESP as set forth in this Stipulation and this Supplemental Stipulation. The Supplemental Stipulation will be held open for additional interveners and parties to sign on as Signatory Parties until the issuance of an Order by the Commission.

Staff of the Public Utilities Commission of Ohio

Industrial Energy Users - Ohio

Ohio Edison Company

Ohio Energy Group

The Toledo Edison Company

Ohio Hospital Association

The Cleveland Electric Illuminating Company

Ohio Partners for Affordable Energy

City of Akron

Ohio Schools Council

Office of the Ohio Consumers' Counsel

Ohio Environmental Council

Nucor Steel Marion, Inc.

City of Cleveland

Council of Smaller Enterprises

Material Sciences Corporation

Ohio Manufacturers' Association

Kroger Company

Northeast Ohio Public Energy Council

Northwest Ohio Aggregation Coalition

[redacted]
Citizens for Fair Utility Rates
Neighborhood Environmental Coalition
Cleveland Housing Network
Empowerment Center for Greater Cleveland

Lucas County

FirstEnergy Solutions Corp.

The Association of Independent Colleges and Universities of Ohio

Natural Resources Defense Council

Sierra Club Ohio Chapter

The City of Toledo

NextEra Energy Resources

Citizen Power

Signing as non-supporting/non-opposing parties:

Constellation New Energy, Inc.

Constellation Energy Commodities Group, Inc

Integrys Energy Services, Inc.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Supplemental Stipulation has been served upon all of the parties of record in Case No. 08-935-EL-SSO and 09-21-EL-ATA, et. al. by electronic mail and by U.S. Mail, postage prepaid this 26th day of February, 2009.

James W. Burk

Case 08-935-EL-SSO and Case 09-21-EL-ATA.et.al
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