

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the)
University of Cincinnati for Approval of a) Case No. 09-1818-EL-AEC
Unique Arrangement with Duke Energy)
Ohio, Inc.)

FINDING AND ORDER

The Commission finds:

- (1) The University of Cincinnati (UC) is a mercantile customer, as defined in Section 4928.01, Revised Code, and UC obtains electric service from Duke Energy Ohio, Inc. (Duke). Duke is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of the Commission.
- (2) On November 17, 2009, UC filed an application for a unique arrangement with Duke, in accordance with Section 4905.31, Revised Code, and Rule 4901:1-38-05, Ohio Administrative Code (O.A.C.). According to UC, the unique arrangement is necessary so that UC can fully convert its 48 megawatt (MW) gas generating facility from natural gas to an alternative energy source as defined in Section 4928.64, Revised Code¹. In its application, UC states that the arrangement would provide Duke with 24 MW of an alternative energy source of generation capacity that Duke may call upon for system supply and pledge to the regional transmission organization as reserve capacity. According to UC, the application would not affect the cost, quality, or reliability of power service to any other customers in Duke's service territory, except for the cost of the 24 MW of generation capacity, which UC states will be booked as an expense through Duke's Save-A-Watt rider (Rider DR-SAW).

¹ The Commission notes that UC has been certified as a renewable energy resource generating facility in *In the Matter of the Application of University of Cincinnati Utilities for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility*, Case No. 09-739-EL-REN, Finding and Order (March 24, 2010).

- (3) Specifically, the unique arrangement would have the following terms:
- (a) UC will take service under Rate Schedule DP effective as of the June 2009 billing cycle. However, the ratchet provision of the rate schedule shall be waived as UC is providing an alternative energy generation source, that Duke may call upon.
 - (b) The term of the unique arrangement would be for the remaining term of the electric security plan approved by the Commission in *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO (08-920), et al., Opinion and Order (December 17, 2008). In order to avoid the need for renewals, the arrangement shall have a month-to-month automatic renewal provision.
 - (c) UC shall maintain 24 MW of generation capacity for self-generation of renewable energy, and pledge 24 MW of generation capacity to Duke's PowerShare Program² for reserve capacity; thus, making 24 MW available to Duke at all times.
 - (d) To reduce the number of "on/off cycles" UC would face, "on peak" would be the period from 11:00 a.m. to 8:00 p.m. each business day, regardless of time of year. However, the exact times may be adjusted by Duke.
 - (e) UC and Duke will enter into an arrangement under Duke's PowerShare program.
 - (f) UC will sell 50,000 Renewable Energy Credits (RECs) to Duke.
 - (g) UC will remain in the Save-A-Watt program.
 - (h) The 24 MW of self-generation by UC will be net metered and the cost of net metering will be paid by UC.

² PowerShare is Duke's peak load management program for non-residential customers.

- (4) On December 14, 2009, Duke filed a motion to intervene. In its motion, Duke asserts that it has a real and substantial interest in this case through its direct involvement as the other party to the unique arrangement. Duke further asserts that its participation will not unduly delay or prolong the resolution of this proceeding. No memorandum contra was filed in opposition to Duke's motion to intervene. Accordingly, the Commission finds that Duke's motion to intervene is reasonable and should be granted.
- (5) As set forth in Rule 4901:1-38-05(F), O.A.C., affected parties may file a motion to intervene and file comments and objections to any application filed under the rule within 20 days of the date of the filing of the application. No comments or objections were filed in this proceeding.
- (6) This application was filed in accordance with Section 4905.31, Revised Code, and Rule 4901:1-38-05, O.A.C., which provide that a mercantile customer, such as UC, may enter into a reasonable arrangement with an electric utility, such as Duke, and file an application with the Commission for approval of the arrangement. Upon review of UC's application, the Commission finds that UC's request for a unique arrangement is reasonable, and should be approved. However, the Commission notes that it is not addressing whether this agreement, or any provision thereof, counts toward Duke's compliance obligations under the alternative energy portfolio standards. We are also not approving any costs or the recovery of such costs in this proceeding. The cost of the RECs, energy, and capacity contained in the agreement, as well as the prudence of such purchases, will be reviewed by the Commission in Duke's price-to-compare, fuel and economy purchased power (PTC-FPP) and PTC system reliability tracker (PTC-SRT) rider proceedings. If any costs incurred pursuant to this arrangement are found to not be appropriate for recovery in Rider PTC-FPP or Rider PTC-SRT, Duke can request recovery of any difference through Rider DR-ECF (Economic Competitiveness Fund) in a subsequent Commission proceeding.

It is, therefore,

ORDERED, That the motion for intervention filed by Duke be granted. It is, further,

ORDERED, That the application for a unique arrangement be approved, in accordance with finding (6). It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

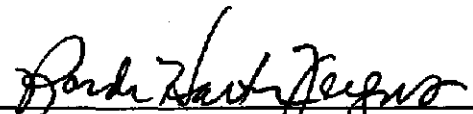
THE PUBLIC UTILITIES COMMISSION OF OHIO



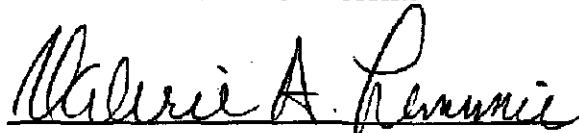
Alan R. Schriber, Chairman



Paul A. Centolella



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Secretary