

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Limited)
Logistics Services and Columbus Southern)
Power Company for Approval of a Special) Case No. 09-1408-EL-EEC
Arrangement with a Mercantile Customer.)

In the Matter of the Application of National)
Church Residences – Belpre and Columbus)
Southern Power Company for Approval of) Case No. 09-1416-EL-EEC
a Special Arrangement with a Mercantile)
Customer.)

FINDING AND ORDER

The Commission finds:

- (1) On December 18, 2009, Columbus Southern Power Company (CSP) filed the following joint applications for exemptions from Rider EE/PDR:
 - (a) Limited Logistics Services (Limited) in Case No. 09-1408-EL-EEC (09-1408).
 - (b) National Church Residences – Belpre (NCR) in Case No. 09-1416-EL-EEC (09-1416).
- (2) Rider EE/PDR is the mechanism by which CSP recovers from customers the costs associated with compliance with the energy efficiency and demand reduction requirements set forth in Section 4928.66, Revised Code.
- (3) Rule 4901:1-39-05(G), Ohio Administrative Code (O.A.C.), authorizes a mercantile customer to file, either individually or jointly with an electric utility, an application to commit the customer's demand reduction, demand response, or energy efficiency programs for integration with the electric utility's demand reduction, demand response, and energy efficiency programs, pursuant to Section 4928.66(A)(2)(d), Revised Code.
- (4) An application filed pursuant to Rule 4901:1-39-05(G), O.A.C., shall:

- (a) Address coordination requirements between the electric utility and the mercantile customer with regard to voluntary reductions in load by the mercantile customer, which are not part of an electric utility program, including specific communication procedures.
 - (b) Grant permission to the electric utility and staff to measure and verify energy savings and/or peak-demand reductions resulting from customer-sited projects and resources.
 - (c) Identify all consequences of noncompliance by the customer with the terms of the commitment.
 - (d) Include a copy of the formal declaration or agreement that commits the mercantile customer's programs for integration, including any requirement that the electric utility will treat the customer's information as confidential and will not disclose such information except under an appropriate protective agreement or a protective order issued by the Commission pursuant to Rule 4901-1-24, O.A.C.
 - (e) Include a description of all methodologies, protocols, and practices used or proposed to be used in measuring and verifying program results, and identify and explain all deviations from any program measurement and verification guidelines that may be published by the Commission.
- (5) An application to commit a mercantile customer program for integration pursuant to Rule 4901:1-39-05, O.A.C., may also include a request for an exemption from the cost recovery mechanism set forth in Rule 4901:1-39-07, O.A.C. See Rule 4901:1-39-08, O.A.C. To be eligible for this exemption, the mercantile customer must consent to provide an annual report on the energy savings and electric utility peak-demand reductions achieved in the customer's facilities in the most recent year.

- (6) Further, under Section 4928.66, Revised Code, if a mercantile customer makes an existing or new demand response, energy efficiency, or peak demand reduction capability available to an electric utility pursuant to Section 4928.66(A)(2)(c), Revised Code, the electric utility's baseline must be adjusted to exclude the effects of all such demand-response, energy efficiency, or peak demand reduction programs that may have existed during the period used to establish the baseline.
- (7) CSP is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (8) Limited and NCR are mercantile customers as defined in Section 4928.01(A)(19), Revised Code.
- (9) The joint applications provide for either a one-time reduced incentive payment on the condition of continuing payment of the EE/PDR rider (Option 1), or an EE/PDR rider exemption for a defined period of time (Option 2), as set forth in Rule 4901:1-39-08, O.A.C.¹ The customer will have a choice between Options 1 and 2; however, the customer cannot receive both incentives for committing the project for energy efficiency compliance.

Under Option 1, the mercantile customer will receive a one-time payment equal to 75 percent of the calculated incentive amount offered under CSP's incentive program. If

¹ The Commission notes that our Finding and Order in Case No. 09-512-GE-UNC clarified Rule 4901:1-39-08, O.A.C., by indicating that "in order to minimize the potential for free-riders and some of the need to calculate net savings, utilities should not provide incentives for programs that have a payback of one year or less." *In the Matter of Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-GE-UNC, Finding and Order at 6 (October 15, 2009). On the same day, the Commission rejected the benchmark comparison method, reversing its prior position, stating, "[w]e have deleted from the rule requirements for mercantile customer baseline energy use and peak demand because we do not anticipate basing exemptions on whether a particular mercantile customer has or has not achieved a percentage of energy savings equivalent to the electric utility's annual benchmark." *In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technology, Resources, and Climate Regulations, and Review of Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, Pursuant to Amended Substitute Senate Bill No. 221*, Case No. 08-888-EL-UNC, Entry on Rehearing (October 15, 2009). Given that the agreement between the mercantile customer and the electric utility was entered into prior to the effective date of this rule on December 10, 2009, the Commission believes that it is both equitable and reasonable to recognize the existing mercantile customer-sited capabilities and investments that relied upon the previously adopted rule's methodology.

the customer elects to receive the incentive payment under Option 1, it will continue to pay the EE/PDR rider.

Under Option 2, the mercantile customer will be exempted from paying the EE/PDR rider for the time period that its committed energy savings are equal to CSP's annual mandated benchmark requirement percentages for energy savings, based upon the customer's 2006-2008 average annual energy usage baseline.

- (10) The joint application in 09-1408 explains that, on December 31, 2008, Limited replaced its T12 lamps with T8 lamps, employing the use of new T5/T8 fixtures and installing occupancy sensors.
- (11) The joint application in 09-1416 explains that, on June 16, 2008, NCR replaced 17 incandescent lights with CFL lights, completed a retrofit of 176 T12 lamps to T8 lamps, and removed T12 fixtures, replacing them with ballast and a T8 retrofit.
- (12) The joint application contains a request for a mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C., as well as a request for approval of the selection, by the customer, of either Option 1 or 2, as set forth above.
- (13) On May 26, 2010, Commission Staff (Staff) filed recommendations in 09-1408 and 09-1416, recommending approval of the joint applications. Staff reviewed the joint applications and all further supporting information provided by CSP, including engineering studies, engineering estimates, and new lighting receipts. Staff also considered each project, customer size, project installation date, kWh reduction, peak kW demand reduction, total project cost, incentive total, the eligible self-direct incentive, and the exemption period from the EE/PDR rider. Staff confirmed that the methodology the customers used to calculate energy savings conforms to the general principles of the International Performance Measurement Verification Protocol used by CSP.

Based upon its review, Staff found that the programs set forth in the joint applications meet the requirements for integration in CSP's EE/PDR compliance plan, and recommended approval of the joint applications in 09-1408 and 09-1416,

which would provide Limited and NCR with the ability to choose between Options 1 and 2.

- (14) Staff calculated that under Option 1, Limited would be entitled to a one-time incentive payment of \$59,066.18. Further, Staff verified that Option 2 would allow Limited an exemption from the EE/PDR rider for 74 months.
- (15) Staff calculated that under Option 1, NCR would be entitled to a one-time incentive payment of \$1,006.05. Further, Staff verified that Option 2 would allow NCR an exemption from the EE/PDR rider for 136 months.
- (16) Upon review of the joint applications, as well as the supporting documentation provided by the applicants and Staff's recommendations, the Commission finds that the requirements related to the joint applications, as delineated above, have been met. The Commission finds that the requests for mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C., do not appear to be unjust or unreasonable. Additionally, the Commission finds that neither Option 1 nor Option 2, as presented in the joint applications, appears to be unjust or unreasonable. Thus, a hearing on this matter is unnecessary. Accordingly, we find that the joint applications in 09-1408 and 09-1416 should be approved. As a result of such approval, we find that CSP should adjust its baseline according to each project's installation date, pursuant to Section 4928.66(A)(2)(c), Revised Code, and Rule 4901:1-39-05, O.A.C. However, we note that although these projects are approved, they are subject to evaluation, measurement, and verification in the portfolio status report proceeding initiated by the filing of CSP's portfolio status report on March 15 of each year, as set forth in Rule 4901:1-39-05(C), O.A.C.
- (17) The Commission also notes that every arrangement approved by this Commission remains under our supervision and regulation, and is subject to change, alteration, or modification by the Commission.

It is, therefore,

ORDERED, That the joint applications filed in 09-1408 and 09-1416 be approved.
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

Valerie A. Lemmie



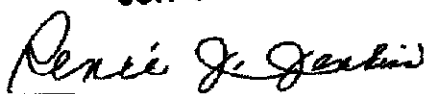
Steven D. Lesser

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Entered in the Journal

JUN 09 2010



Renee J. Jenkins
Secretary

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CONCURRING OPINION OF COMMISSIONER PAUL A. CENTOLELLA

This case presents comparable circumstances to those in Case No. 09-1409-EL-EEC, *In the Matter of the Application of Liebert Corporation and Columbus Southern Power Company for Approval a Special Arrangement with a Mercantile Customer*. For the reasons stated in my Concurring Opinion in Case No. 09-1409-EL-EEC, I would approve these proposed agreements subject to reexamination based on the total exemptions implemented using Columbus Southern Power's benchmark comparison approach, Option 2, and, should an Applicant select Option 2, potential modification of its exemption.



Paul A. Centolella, Commissioner