BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Applications of The Kroger Company and Columbus Southern Power Company for Approval of Special Arrangements with a Mercantile Customer.	))))	Case Nos. 09-1496-EL-EEC 09-1498-EL-EEC 09-1499-EL-EEC 09-2276-EL-EEC 09-2277-EL-EEC 09-2278-EL-EEC 09-2279-EL-EEC

FINDING AND ORDER

The Commission finds:

(1) On December 31, 2009, Columbus Southern Power Company (CSP) filed joint applications for exemptions from Rider EE/PDR with The Kroger Company (Kroger).

(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 providing 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) Kroger is a mercantile customer as defined in Section 4928.01(A)(19), Revised Code.

(9) In each of the cases enumerated above, the joint application provides 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 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.

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1 On October 15, 2009, the Commission rejected the benchmark comparison method, reversing our prior position. *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 agreements between the mercantile customers and the electric utility were 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.

(10) The Commission Staff (Staff) filed recommendations in each case recommending approval of the joint applications. Staff reviewed each joint application and any 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 each of the applicants 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 each joint application meet the requirements for integration in CSP's EE/PDR compliance plan, and recommended approval of each of the joint applications, which would provide the customer with the ability to choose between Options 1 and 2.

(11) In Case No. 09-1496-EL-EEC, Kroger has implemented energy projects consisting of the installation of electronically commutated motors (ECM). These projects were installed on December 16, 2008. On June 3, 2010, Staff filed its recommendation in this case, stating that the ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $727.88 under Option 1 or an exemption from the EE/PDR rider for 9 months under Option 2.

(12) In Case No. 09-1498-EL-EEC, Kroger has implemented energy projects consisting of the installation of ECM. These projects were installed on April 9, 2008. On June 3, 2010, Staff filed its recommendation in this case, stating that the ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $2,737.25 under Option 1 or an exemption from the EE/PDR rider for 25 months under Option 2.

(13) In Case No. 09-1499-EL-EEC, Kroger has implemented energy projects consisting of the installation of ECM. These projects were installed on December 28, 2007. On June 11, 2010, Staff filed its recommendation in this case, stating that the ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $4,010.39 under Option 1 or an exemption from the EE/PDR rider for 42 months under Option 2.

(14) In Case No. 09-2276-EL-EEC, Kroger has implemented energy projects consisting of lighting system replacements and the installation of ECM. These projects were installed on September 30, 2009. On June 11, 2010, Staff filed its recommendation in this case, stating that the lamps and ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $10,557.96 under Option 1 or an exemption from the EE/PDR rider for 80 months under Option 2.

(15) In Case No. 09-2277-EL-EEC, Kroger has implemented energy projects consisting of lighting system replacements and the installation of ECM. These projects were installed on August 31, 2009. On June 11, 2010, Staff filed its recommendation in this case, stating that the lamps and ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $15,144.50 under Option 1 or an exemption from the EE/PDR rider for 96 months under Option 2.

(16) In Case No. 09-2278-EL-EEC, Kroger has implemented energy projects consisting of the installation of ECM. These projects were installed on November 20, 2007. On June 11, 2010, Staff filed its recommendation in this case, stating that the ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $3,039.13 under Option 1 or an exemption from the EE/PDR rider for 25 months under Option 2.

(17) In Case No. 09-2279-EL-EEC, Kroger has implemented energy projects consisting of the installation of ECM. These projects were installed on November 6, 2007. On June 11, 2010, Staff filed its recommendation in this case, stating that the ECMs that were installed meet all current energy savings requirements. Staff calculates that, in this case, Kroger would be entitled to a one-time incentive payment of $4,855.16 under Option 1 or an exemption from the EE/PDR rider for 41 months under Option 2.

(18) Upon review of the joint applications, as well as any supporting documentation provided by each of the applicants and Staff's recommendations, the Commission finds that the requirements related to each of 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 each joint application, appears to be unjust or unreasonable. Thus, a hearing on these matters is unnecessary. Accordingly, we find that the joint applications 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.

It is therefore,

ORDERED, That the joint applications 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

Cheryl L. Roberto

GAP/sc

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Reneé J. Jenkins
Secretary