

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Mercantile       )  
Application Pilot Program Regarding   )  
Special Arrangements with Electric    )  
Utilities and Exemptions from Energy   )  
Efficiency and Peak Demand Reduction   )  
Riders.                                    )

Case No. 10-834-EL-EEC

ENTRY

The Commission finds:

- (1) Pursuant to Section 4928.66, Revised Code, mercantile customers may commit their peak demand reduction, demand response, and energy efficiency projects for integration with an electric utility's programs. Rule 4901:1-39-05(G), Ohio Administrative Code (O.A.C.), permits a mercantile customer to file, either individually or jointly with an electric utility, an application to commit the customer's demand reduction, demand response, and energy efficiency projects for integration with the electric utility's programs.
- (2) The Commission notes that mercantile customer participation through utility and mercantile customer-sited programs is essential to long-term reductions in energy usage and peak demand. We further recognize that the prompt review of applications to commit mercantile customer programs for integration with electric utility programs is essential in order for electric utilities to meet their peak demand reduction and energy efficiency benchmarks set forth in Section 4928.66, Revised Code, and we continue to seek ways to streamline the options available to mercantile customers and facilitate the prompt approval of applications filed by mercantile customers for integration of mercantile customer-sited programs with electric utility programs. For example, on June 23, 2010, the Commission conditionally approved 241 applications that had been filed by mercantile customers. Further, we anticipate that, with the implementation of utility portfolio plans, mercantile consumers will increasingly be able to take advantage of

utility-administered programs, reducing the number of individual mercantile customer-sited projects requiring Commission review and approval.

- (3) In order to further expedite the review and approval process, the Commission has developed a pilot program for applications filed by mercantile customers under Rule 4901:1-39-05(G), O.A.C. The Commission finds that the pilot program should be implemented to: simplify the Energy Efficiency Credits (EEC) application process through the development of a standard application template for use by mercantile customers; expedite the approval of certain applications through the creation of an automatic approval process; and simplify various incentive programs for mercantile customers who commit their programs for integration with an electric utility. This should also prompt the development of energy efficiency programs at mercantile customer facilities and stimulate customer adoption of energy efficiency projects.
- (4) This pilot program shall be in place for 18 months, and the Commission will initiate a review of the results of the pilot program after 12 months. During this review, the Commission will determine whether the pilot program was successful in expediting the approval process for mercantile customer applications, motivating mercantile customers to undertake additional energy efficiency projects, and minimizing the overall cost of compliance for all customers. The overall goal is to promote the continuous development of energy efficiency programs in this state.
- (5) In order to simplify the EEC application process, the Commission directed Staff to develop a standard application template. This standard application template will be used for all applications irrespective of which electric utility service territory the mercantile customer's facilities are located. The standard application template should make it easier for mercantile customers with facilities in different electric utility service territories to complete the EEC application. The application template and filing instructions will be posted on the Commission's website. During the pilot program, applicants are instructed to use the template and filing instructions when submitting such applications.

Moreover, an automatic approval process should expedite the process for review and approval of certain applications for incentives. The automatic approval process is available for any mercantile customer who agrees to a cash rebate reasonable arrangement (Option 1), rather than an exemption from the electric utility's energy efficiency rider (Option 2). Under the automatic approval process, applications that are complete and filed using the automatic approval template will be approved on the sixty-first calendar day after filing, unless the Commission, or an attorney examiner, suspends or denies that automatic approval of the application. The Commission expects each electric utility that does not offer a cash rebate to review whether a cash rebate option would assist the electric utility in meeting its statutory benchmarks and minimize the costs of compliance with the benchmarks.

- (6) Further, the pilot program will include provisions to simplify the incentive programs for a cash rebate reasonable arrangement or the determination of the appropriate length of the exemption from the energy efficiency rider.
- (7) As a preliminary matter, the Commission clarifies that Section 4928.66, Revised Code, requires the electric utilities to implement energy efficiency programs that achieve energy savings and peak demand reduction programs and includes specific annual benchmarks to satisfy those requirements. Section 4928.66(A)(2)(c), Revised Code, explains how compliance with those benchmarks shall be measured, including *counting* toward the utility's compliance obligation "the effects of all demand-response programs for mercantile customers of the subject electric distribution utility and all such mercantile customer-sited energy efficiency and peak demand reduction programs, adjusted upward by the appropriate loss factors."

Notwithstanding the statutory provisions regarding what the electric utilities are permitted to *count*, Section 4928.66(A)(2)(c), Revised Code, also provides the Commission with the discretion to exempt mercantile customers from paying any costs associated with the electric utilities' compliance with the energy efficiency and peak demand benchmarks as an *incentive* for the mercantile customers to commit their capabilities to the

electric utilities' programs. A clear distinction exists between what may be counted versus what the Commission has discretion to incentivize. For example, we find that no *incentive* should be paid for behavioral changes by a customer that did not include a monetary investment by the customer; however, the electric utility is permitted to *count* any measureable and verifiable energy savings that result from such behavioral changes towards its statutory benchmarks. Likewise, unless the mercantile customer can demonstrate that it has installed more efficient equipment than was otherwise available, no incentive should be paid for replacement of failed equipment, but, for purposes of the pilot program, the electric utility is permitted to count any measurable and verifiable savings that result from such equipment replacement.

To more clearly articulate this distinction for purposes of the pilot program and based upon our experience in reviewing the applications which have been approved to this point, the Commission believes that it is necessary to make certain clarifications to simplify the available incentive programs.

The Commission previously ruled that the benchmark comparison methodology should not be used for applications filed after December 9, 2009. For purposes of the pilot program, the Commission will authorize the use of the benchmark comparison methodology or an electric utility-proposed methodology that simplifies the calculation of the incentive payment. The Commission would, as part of that methodology, authorize the payment of a standard incentive in the form of a fee per kWh of net savings or per kW of peak demand reduction.

Further, for purposes of counting savings toward utility compliance and providing available incentives under the pilot program, all equipment replacements will be considered using the "as found" method of establishing the baseline for all energy efficiency calculations. Under the "as found" method, the baseline for energy savings is the efficiency rating of the existing equipment at the time of replacement. This will allow the Commission to review the impact of considering equipment on an "as found" basis upon the ability of the electric utilities to

meet their benchmarks and upon the costs of compliance with the benchmarks.

In addition, the Commission previously determined that projects with a payback to the mercantile customer of less than one year would not be eligible for a cash rebate or exemption from the energy efficiency rider. While we continue to believe that payback periods are an appropriate factor to consider when determining how to set incentives in electric utility administered programs, based upon our review of the EEC applications submitted to date, the Commission is concerned that in a standardized approach for mercantile customers this limitation requires further refinement in order to ensure that mercantile customer projects are carried out at the least cost. Therefore, for purposes of the pilot program, the Commission will not preclude cash rebates or exemptions from the energy efficiency riders for projects with a payback of less than one year. However, in no way should the calculated rebate incentive be greater than 50 percent of the total project costs.

In summary, for purposes of the pilot program, the Commission adopts the following conceptual framework:

**Incentivizing vs. Counting**

<b><u>Issue</u></b>	<b><u>Rebate Incentive</u></b>	<b><u>Count</u></b>
<b>Equipment Replacement</b>		
Early Retirement	Yes (as found)	Yes (as found)
Equipment Failure	No	Yes (as found)
<b>Equipment Subject to State or Federal Standards</b>		
Early Retirement	Yes (as found)	Yes (as found)
Equipment Failure	No	Yes (as found)
<b>Behavioral Modifications</b>		
Measurable/Verifiable	No for \$0 investment; Yes for > \$0 investment	Yes Yes
Not Measurable/Verifiable	No	No

- (8) With this framework, the Commission believes that it is necessary and appropriate to waive the provisions of Rule 4901:1-39-05(H), O.A.C., for purposes of the pilot program. The Commission considers this pilot program to be consistent with our other rules governing efficiency and peak demand reduction programs. However, to avoid any uncertainty with respect to implementation of the pilot, to the extent any rule might be considered to be inconsistent with the framework utilized in this pilot program, such rule is hereby waived for purposes of the pilot program. Additionally, to the extent that previous Commission orders have provided guidance that might be considered to be inconsistent with the framework outlined above, we will stay those orders for purposes of instituting this simplified approach to the pilot program.
- (9) Additionally, as indicated in the framework set forth above, the electric utility may count certain mercantile programs even though the mercantile programs are not eligible for a cash rebate or other incentive (i.e., exemption from the rider). To this end, the Commission realizes that commitment payment programs may be necessary in order to encourage mercantile customers to commit those capabilities for integration into the electric utility's programs in the absence of a cash rebate or other incentive. The Commission believes that a commitment payment program could include third party administrator-type programs, which are already receiving compensation for finding mercantile customer-sited projects, or a flat commitment payment to offset the costs associated with filing an application by a mercantile customer. The Commission expects all electric utilities to review potential commitment payment programs and file an application based upon its review within 60 days after the issuance of this Entry.
- (10) The Commission further notes that, with respect to cases filed prior to the implementation of the pilot program, applicants must withdraw their pending application and refile the application, using the standard application template, if they wish to be considered under the automatic approval process. Nonetheless, all pending cases that are not withdrawn and refiled will be considered under the provisions of the pilot program to simplify the calculation of either the cash rebate or

the length of the exemption from the energy efficiency rider without further action by the applicant.

- (11) Accordingly, the Commission finds that the pilot project, discussed above, should be adopted. The Commission intends for this pilot project to reduce obstacles to compliance with the statutory energy efficiency benchmarks, simplify the existing application process, and minimize the overall cost of compliance to all ratepayers.
- (12) Although the Commission has determined that the pilot project should be adopted, the Commission believes that greater efforts by the electric utilities are necessary in order to educate mercantile customers about energy efficiency generally, available electric utility portfolio programs, as well as the specific provisions of the pilot project. We encourage each electric utility, in consultation with interested stakeholders, to implement a customer education initiative to make mercantile customers aware of the specific provisions of the pilot program and to provide further information regarding the role energy efficiency must play in reducing the State's energy needs.
- (13) Finally, on June 17, 2010, the Ohio Environmental Council (OEC) filed a motion to intervene and memorandum in support, alleging that the failure of any mercantile project to produce the energy efficiency savings stated in its application could result in the failure of the electric utility to comply with statutory energy efficiency benchmarks. We find that OEC has set forth sufficient grounds for intervention; thus, its motion should be granted.

It is, therefore,

ORDERED, That the 18-month pilot program enumerated in this Entry be adopted. It is, further,

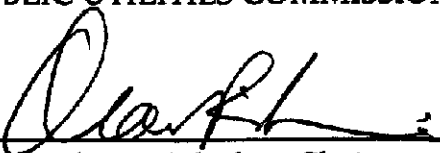
ORDERED, That the provisions of Rule 4901:1-39-05(H), O.A.C., be waived for the purposes of the pilot program. It is, further,

ORDERED, That OEC's motion to intervene be granted. It is, further,



ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman

  
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Paul A. Centolella

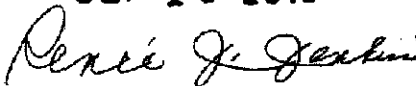
  
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GAP/sc

Entered in the Journal

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Renee J. Jenkins  
Secretary