

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of)
The Cleveland Electric Illuminating)
Company and Catanzarite Investment) Case No. 09-1118-EL-EEC
Co., LLC, for Integration of a Mercantile)
Customer Energy Efficiency or Peak-)
Demand Reduction Programs.)

ENTRY

The Commission finds:

- (1) Section 4928.66, Revised Code, requires electric utilities to meet certain annual energy efficiency and peak demand reduction benchmarks specified in the statute. Further, the statute enables mercantile customers to commit their peak demand reduction, demand response, and energy efficiency programs for integration with an electric utility's programs in order for the electric utility to meet the statutory benchmarks.
- (2) Section 4928.01(A)(19), Revised Code, defines a mercantile customer as a commercial or industrial customer that consumes more than 700,000 kilowatt hours of electricity per year or that is part of a national account involving multiple facilities in one or more states.
- (3) The Cleveland Electric Illuminating Company (CEI) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission. CEI recovers its costs of complying with the energy efficiency and demand reduction (EEDR) requirements imposed by Section 4928.66, Revised Code, from its customers through its Rider DSE2.
- (4) Rule 4901:1-39-05(G), Ohio Administrative Code (O.A.C.), provides for the filing of an application by a mercantile customer, either individually or jointly with an electric utility, to commit the customer's demand reduction, demand response, and energy efficiency programs for integration with an electric utility's programs in order to meet the utility's statutory EEDR requirements.

- (5) On December 31, 2009, CEI and Catanzarite Investment Co., LLC, (Catanzarite or customer) jointly filed an energy efficiency credit (EEC) application pursuant to Rule 4901:1-39-05(G), O.A.C., to commit a number of different lighting upgrade projects for integration with CEI's programs to meet the utility's EEDR benchmarks. The application requests that Catanzarite be granted an exemption from paying the charges included in CEI's EEDR rider DSE2, to become effective for the customer's first billing cycle after the issuance of the Commission's order approving the application for inclusion in the CEI's EEDR compliance plan.
- (6) Motions to intervene were filed by the Ohio Environmental Council (CEIC), an environmental advocacy organization, and the Office of the Ohio Consumers' Counsel (OCC) on February 2, 2010 and March 30, 2010, respectively. In support of their motions, CEIC and OCC assert that Ohio's citizens and residential consumers have real and substantial interests in assuring that the application will result in sufficient energy savings to justify Catanzarite's opt-out of Rider DSE2. They contend that their clients' interests may be adversely affected if approval of the application results in Catanzarite not paying its share of EEDR costs through CEI's Rider DSE2, or if the projected EEDR savings are not realized. They argue that consumers could be forced to pay additional costs toward CEI's Rider DSE2 if Catanzarite's projects do not result in the projected EEDR savings since the utility would then need to collect more from other customers to make up for what the Catanzarite projects do not deliver. We find that CEIC and OCC have set forth sufficient grounds for intervention, and their motions should be granted.
- (7) On February 17, 2010, the company filed a motion to amend the application by modifying Exhibits A and 2, to reflect corrections to the project's lighting costs, the weather adjusted baseline for determining savings, the kWh saved, the peak kW demand reductions achieved, and the savings as a percentage of the customer's usage. On April 13, 2011, the company refiled amended Exhibit A reflecting the corrected lighting projects costs to be in agreement with the original filing.
- (8) On April 25, 2011, the Commission Staff issued its report and recommendations regarding this application. Staff reviewed the application and supporting documentation, and has verified that the customer meets the definition of a mercantile customer, and has

provided documentation that the methodology used to calculate energy savings conforms to the general principals of the International Performance Measurement Verification Protocol used by CEI. The customer has attested to the validity of the information, and its intention to participate in CEI's program. Staff reports that Catanzarite implemented a number of different lighting project upgrades in 2006, which involved upgrades to fluorescent fixtures and replacement or removal of metal halide fixtures, resulting in total demand reduction savings of 112.5 kW, and energy savings/year of 245,459 kWh. Staff compared the customer's average annual energy baseline consumption with the energy savings achieved to verify the length of the exemption from the DSE2 Rider and concluded that the exemption period is accurately calculated. The Customer's annual savings equals approximately 20.2 percent of its three-year weather adjusted average baseline usage. With the energy savings achieved, Catanzarite will be exempt from the DSE2 Rider through 2024. Staff also verified that CEI's avoided cost exceeds the cost that the company spent to acquire the mercantile customer's self-directed EEDR projects.

- (9) No objection to Staff's report and recommendations was filed by any party.
- (10) Upon review of the application and supporting documentation, and Staff's recommendations, the Commission finds that the request for mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C., does not appear to be unjust or unreasonable. Thus, a hearing on this matter is unnecessary. Accordingly, we find that the request for an exemption from the DSE2 Rider relative to Project 1 of this application should become effective during the customer's first billing cycle after the issuance of the Commission's order and the customer's project should be included in the company's EEDR compliance plan. As a result of such approval, we find that CEI should adjust its baselines, pursuant to Section 4928.66(A)(2)(c), Revised Code, and Rule 4901:1-39-05, O.A.C. However, we note that although this application is approved, such approval is subject to evaluation, measurement, and verification in the company's annual portfolio status report proceeding, as set forth in Rule 4901:1-39-05(C), O.A.C. 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 this application be approved. It is, further,

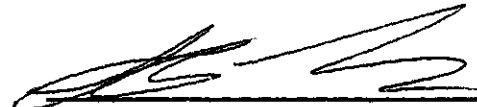
ORDERED, That the motions to intervene filed by CEIC and OCC be granted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Steven D. Lesser

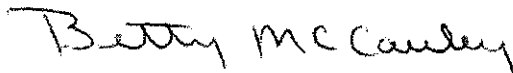

Andre T. Porter


Cheryl L. Roberto

RMB/ dah

Entered in the Journal

MAY 25 2011


Betty McCauley
Secretary

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DISSENTING OPINION OF COMMISSIONER CHERYL L. ROBERTO

I am passionately supportive of mercantile customers' cost-effective energy efficiency investments. I believe these investments to be foundational to Ohio's manufacturing and economic renaissance. I am equally supportive of seeing the fruits of those investments committed to Ohio utilities' energy efficiency programs.

Unfortunately, the use of the Benchmark Comparison Method in this case and others to calculate the length of an exemption from Rider DSE2 bears no relationship to these economic goals, the statutory requirements of S.B. 221, or to the practical reality of energy efficiency programs. In fact, it undermines those goals.

The Benchmark Comparison Method only works if each customer has an equal opportunity to contribute to the utility's statutory benchmark. They simply do not. It makes no sense to allocate this benchmark to individual customers. Successful energy efficiency programs rely upon a few participating customers to produce energy savings at rates in excess of the electric utility's benchmark to, in the aggregate or total, achieve the benchmark across its entire load. Thus, while it may be reasonable to excuse a customer from participating in an electric utility's rider when that customer is already contributing its "fair share" of energy savings, an individual customer's "fair share" of energy reductions is unrelated to the electric utility's benchmark.

We learn from a review of programs in other states that a customer's fair share is met when the mercantile customer has implemented all cost-effective energy efficiency available to that customer. Further, those demonstrations must be refreshed on a regular basis in order for the customer to preserve their exemption from the rider. For example, New Mexico allows a mercantile exemption of seventy percent of the rider if the customer demonstrates that it has exhausted all cost-effective energy efficiency measures. N.M. STAT. § 62-17-9(B). Pursuant to N.M. ADMIN. CODE tit. 17, § 17.7.2.11(C), an exemption is valid for 24 months, and the customer may request approval to extend the exemption by demonstrating that it has exhausted all cost effective energy efficiency in

its facility. Oregon law contains similar provisions with the exemption being fifty four percent of the public purpose charges. Or. REV. STAT. § 757.612(5)(d)(A).

When a mercantile customer reduces its energy usage to a degree equal to the electric utility's benchmark and then seeks exemption from the rider, the remaining compliance burden shifts to the remaining customers despite the fact that additional cost-effective energy efficiency measures may still be available within the exempted customer's facility. The result is that, in order for the energy savings benchmarks to be met, more of the remaining customers must choose to participate and, of those who do, they must contribute even higher savings levels. Thus, the Benchmark Comparison Method fails to integrate energy efficiency as a resource on a least cost basis.

By granting an exemption for such a lengthy period of time, customers will have no incentive to commit any additional savings to the utility benchmark and the utility will have no means to incentivize additional energy savings projects. As a result, the utility will find it more and more difficult, and more expensive, to deploy cost-effective energy efficiency --- and we will miss an opportunity to advance Ohio's economy.


This Commission has rejected the method over a dozen times, reversing previous orders only as a matter of expediency to launch the mercantile pilot outlined in 10-834-EL-EEC last fall:

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.

But if the method provides simplicity for program administration, it also works against the aims of S.B. 221 and Ohio's economic goals.

Alternatively today, the Commission could work collaboratively with stakeholders in a transparent and public docket to establish a protocol by which mercantile customers can demonstrate that they have an energy management system with meaningful commitments to deploy all cost-effective energy efficiency as defined by those measures that yield savings with an agreed payback period.

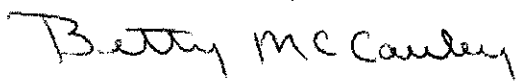
For these reasons, I dissent.


Cheryl L. Roberto
Commissioner

/dah

Entered in the Journal

MAY 25 2011


Betty McCauley

Betty McCauley
Secretary

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CONCURRING OPINION OF COMMISSIONER PAUL A. CENTOLELLA

This case presents comparable circumstances to those in Case No. 09-595-EL-EEC, *In the Matter of the Application of Progressive Insurance Company and The Cleveland Electric Illuminating Company for Approval a Special Arrangement with a Mercantile Customer*. For the reasons stated in my Concurring Opinion in Case No. 09-595-EL-EEC, I would approve the proposed agreement subject to future reexamination based on the total exemptions granted for this utility using a benchmark comparison approach.


Paul A. Centolella, Commissioner