

**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. 10-0834-EL-POR

Review and Recommendations of the PUCO Staff

I. Background

During the last week of 2009, in order to meet filing deadlines for historic mercantile projects, Ohio EDUs filed approximately 260 EEC applications. This was in addition to approximately 120 applications already filed during the latter half of 2009. This sudden rush of applications, with no standard format of review criteria or information to be provided, led to a significant backlog in the evaluation of EEC applications. Given this situation, the Commission determined that there was a need for development of an interim program that would provide both a means to deal with the existing case backlog and to assure timely processing of future applications. The initial step taken by the Commission, by entry issued on June 23, 2010, in case 10-833-EL-EEC, was a blanket conditional approval, subject to staff review and verification, of 241 EEC applications that were in various stages of the review process.

On September 15, 2010, the Commission issued an entry initiating this case and adopting an 18 month pilot program establishing an automatic approval process for mercantile customer applications filed pursuant to Rule 4901:1-39-05(G), O.A.C. In that entry, the Commission found 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..." (page 1, paragraph 2) The Commission further stated that it intended that the pilot project would "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." (page 8, paragraph 11) As directed in the entry, the Staff developed a standard template to be used for filing historic mercantile applications. The template allowed for requesting either a payment incentive or rider exemption, but provided automatic approvals only for the payment

incentive applications. Pursuant to that entry, a review of the success of the pilot program was to begin 6 months prior to the ending of the program.

In a second entry on rehearing, issued on May 25, 2011, the Commission confirmed its decision to use the as found method for calculating energy savings and the benchmark comparison method for calculating rider exemptions in the pilot program. The Commission also extended the 60 day automatic approval process to include exemption requests of 24 months or less, and extended the filing deadline for EEC applications to March 31 of the year following the previously existing deadline, which was the end of one calendar year after projects implemented within the past three years. Further, the Commission provided a revised EEC application template, and provided for a teleconference to discuss further template improvements. In its fourth entry on rehearing, issued September 20, 2011, the Commission extended the pilot program to a 24 month period. Further, the Commission extended the applicability of the 60-day automatic approval process to applications for rider exemptions longer than 24 months, and directed Staff to develop a renewal form to be used by applicants wishing to extend their energy efficiency, demand reduction and demand response (EEDR) rider exemptions beyond the initial 24 month pilot program period. In a finding and order issued on September 5, 2012, the Commission once again extended the pilot program, allowing it to remain through March 15, 2013. In this order, the Commission also scheduled a November 15, 2012, workshop to explore alternatives to the Benchmark Comparison Methodology. Additionally, the Commission directed Staff to file, by January 15, 2013, its review and recommendations on the pilot program, including a recommended process for establishing an appropriate level and length of exemption for mercantile customers opting out of utility energy efficiency programs.

In this filing, Staff is providing its evaluation of the performance of the pilot program, its recommendations regarding continuation of the program, and its recommended exemption form to be used for EEDR exemption extension requests.

II. Pilot Program Performance

Since the Pilot Program began, the timely processing of historical mercantile applications filed has improved significantly. The following table shows the number of applications filed and reviewed by Staff using the Pilot Program process.

<u>Year</u>	<u>Number of Applications</u>	
	<u>Filed</u>	<u>Suspended</u>
2010	181	4
2011	446	21
2012	518	0

As of December 31, 2012, a total of 1145 applications have been filed under the Pilot Program process. Of these, 999 applications have been approved, 11 have been denied, and 113 are currently under review. Of those cases currently under review, only 10 are under suspension of the automatic approval process. Twelve applications have been withdrawn by the Applicants. Staff processed, and issued 405 Staff reports for those applications that were outside of the pilot program.

Automatic Approval Process

Staff found that the Pilot Program's evaluation criteria, standardized format, and automatic approval process facilitated a timelier review and more accurate application tracking with an increased volume of applications. The vast majority of applications have been reviewed within the 60 day timeframe and the backlog of applications has been eliminated. As noted above, a small percentage of the applications have been suspended in order to enable further review by Staff.

Incentive Levels

Given the feedback received by Staff, the cash rebate incentive and the behavioral program commitment payments found within the Pilot Program have been established at reasonable levels. Many of the customers participating in the historical mercantile programs have indicated that the rebates awarded have funded future energy efficiency projects that may not have otherwise occurred.

Benchmark Comparison Methodology

The Benchmark comparison methodology requires the customer to match the annual energy savings requirements established in S.B. 221 with the savings achieved by the customer's project. Using this approach, the applicant's energy savings are compared to their specific energy usage baseline to obtain their percentage of energy savings for their facility. The percentage of savings determines the length of an exemption as it relates to the EDU's required annual savings. For example, if the applicant committed savings in 2010 that achieved 2.9%, they would be exempt from the EE/PDR rider through December, 2013 (2010 – 0.5%, 2011 – 0.7%, 2012 – 0.8%, 2013 – 0.9%, for a total of 2.9%).

The Commission, for purposes of the Pilot Program, permitted the use of the benchmark comparison methodology for determining the length of an exemption from the EE/PDR rider. On November 15, 2012, the Commission held a workshop to explore alternatives to the Benchmark Comparison Methodology. At that workshop, staff from Lawrence Berkeley National Laboratory (LBNL) presented an overview of energy efficiency programs from 11 other states. The programs described by LBNL varied significantly in program design from the program in Ohio. Incentive levels varied, different types of projects were eligible, different types of customers were eligible, the percentage and length of rider exemption varied, and

methodologies for measuring the efficiency savings were different. Many of the program restrictions addressed by other states do not fit within the requirements of S.B. 221 in Ohio. For example, some states require customers to use substantially more than 700,000 kWh per year to be eligible for an exemption, which would conflict with the mercantile customer definition in the Ohio statute. Other examples include required project payback periods, and the requirement for shared evaluation and measurement costs between the customer and the utility. Commission Staff also presented a brief summary of the historical mercantile program and a history of rules and policies that applied to the program since its inception. After the workshop, several parties filed comments pertaining to the historical mercantile program and the use of the benchmark comparison methodology. The overwhelming majority of those comments supported continuing the use of the benchmark comparison methodology in lieu of the other methods presented by LBNL. The comments detail the program certainty that the benchmark comparison methodology has brought to the program and the administrative burden that it has relieved. The parties did however voice concern with the uncertainty created by keeping the program in “pilot” status instead of making it a permanent program which they could use to plan their compliance efforts around.

III. Program Continuation Recommendations

In its second entry on rehearing on the Pilot Program, the Commission clarified the timing requirements for filing historic mercantile EEC applications. Pursuant to this entry, the Commission required a mercantile customer to commit its project to the EDU by the end of the calendar year for projects from the past three calendar years, and permitted the EDU to file applications for such projects through March 31 of the following year. The purpose of this extension from December 31 of the third year was to allow time for the EDU to review applications submitted by the customer prior to December 31 and make final preparations before filing it with the Commission by the March 31 deadline. Staff’s experience with this additional three month extension to the filing deadline has shown that it is not beneficial to the program. The additional time did not appear to result in higher quality applications being submitted. Further, it did not eliminate the rush of filings at the end of the year. Rather, it only changed the date when the rush occurred. Therefore, Staff recommends changing the application filing deadline back to December 31 of the third calendar year. Staff notes that these projects are historical in nature, and that allowing the customer three years to commit the energy savings to the EDU should be sufficient.

Exemption Period Recommendations

The Commission authorized exemption requests of unlimited duration to be automatically approved under the pilot program, with an initial exemption period to be limited to 24 months (fourth entry on rehearing, issued on September 20, 2011). In this entry, the Commission required the applicant to file a request to extend the rider exemption, via a form to be

developed by Staff, if its approved exemption exceeded 24 months. In a subsequent entry, issued September 5, 2012, the Commission updated this requirement so that applicants were to file the mercantile customer's annual report with the Staff via the EE/PDR mailbox, and file any necessary adjustments to the customer exemption period in the original case in which the exemption was approved. Staff recommends approving exemptions, using the benchmark comparison methodology, for the term supported in the original application. With this approval, Staff recommends the applicant be required to file an annual report with the Commission to verify that the energy savings have continued, and to verify the customer's current level of energy usage, so that the Commission can determine if the exemption should remain effective. If the reported energy savings percentage deviates from the original application, the exemption length shall be modified accordingly using the benchmark comparison methodology. Absent a suspension or other action indicating that the annual filing is undergoing further review, the annual filing shall be deemed approved as filed. Staff's recommended form to be used for the annual filing of exemption verification information is included as Attachment 1 to this report.

Commitment Payment and Behavioral Savings Recommendations

In the pilot program, the Commission authorized a commitment payment process that was "designed to offset the administrative burden of the commitment process and provide such customers with an incentive to commit" (second entry on rehearing, issued on May 25, 2011). At that time, the Commission also established an incentive of \$0.005 per kWh for the payment level under the commitment payment program. Staff recommends continuing the commitment payment program. However, Staff recognizes that savings achieved through behavioral types of programs can be ephemeral. Therefore, with this recommendation, Staff also recommends that the applicant be required to file annual applications, subject to the standard 60-day auto approval process, in order for the savings to remain eligible to continue to be counted by the EDU for continued compliance purposes. Requiring annual applications helps verify that the energy savings achieved by the customer's program have been sustained and that the utility is continuing to comply with the annual mandates of S.B.221. This additional annual filing would place additional administrative burden on the customer, so Staff recommends that the customer receive an additional \$0.005 per kWh commitment payment with each approved filing, to offset the administrative burden of evaluating and measuring the continued savings associated with their behavioral modification. If the applicant fails to submit the annual application to continue the committed savings, the Commission will assume the savings no longer exist and the Company will be required to add the savings back into their baseline.

Application Template Revisions

Staff's review of the pilot program included a review of changes that should be made to the *Application to Commit Energy Efficiency / Peak Demand Reduction Program* template. The revisions being recommended by Staff include relatively minor revisions for clarification and revisions to

comply with Staff's pilot program recommendations. Staff's recommended revisions to the application template are shown in Attachment 2 to this report.

Conclusion

Staff recommends that the Commission extend the pilot program, with Staff's recommended revisions, until such time as it adopts revised energy efficiency rules. Staff's recommendations include:

- Adopt December 31 as the annual deadline to submit historical mercantile applications for energy efficiency projects that commenced within the previous three calendar years
- Continue using the benchmark comparison methodology to determine the appropriate length of exemption from the EE/PDR rider
- Require annual reports, using Attachment 1, to continue an exemption of the EE/PDR rider
- Require additional filings for all applications using the Commitment Payment Program so the EDU can continue to count energy savings associated with behavioral modification projects towards their annual compliance goals.
- Adopt the proposed modifications to the Historical Mercantile Application Template (Attachment 2).

Staff further recommends that the program features be included for permanent adoption in the Commission's energy efficiency rules, as part of the next appropriate rule review process.

Section A

Case Number:

Utility Name:

Customer Name:

Exemption Start Date:

Energy Savings Established:

Original Customer Baseline:

Savings as Percentage of Baseline:

Original Exemption End Date:

Section B

Current Customer Baseline:

Savings as Percentage of Current Baseline:

Updated Exemption End Date:

Instructions

This form is initially to be filed after the first 12 months of rider exemption, and annually thereafter, until the exemption has expired as explained below, in the case docket in which the exemption was originally granted by the Commission.

Section A: Provide the historical information from the original application, as it was approved by the Commission.

Section B: Provide the updated current customer baseline, which is the customer's kWh usage plus the established energy savings over the prior three calendar years, divided by three.

Divide the established savings by the current customer baseline, and show the savings as a percentage of the current baseline.

Updated Exemption End Date: Calculate a revised exemption end date, based on the use of the benchmark comparison methodology. If the revised exemption end date is later than the original exemption end date, show the original exemption end date. If the revised exemption end date is earlier than the original exemption end date, show the revised exemption end date. If the revised exemption end date is also earlier than the filing date of this annual form, then add the phrase "Exemption Expired." The customer is no longer approved to be exempt from the rider. If the revised exemption end date occurs between the current filing date and the next annual filing date, then add the phrase "Exemption Expiration Pending." The customer will no longer be exempt from the rider on the stated date. No further annual reports are required for "Exemption Expired" or "Exemption Expiration Pending" filings.



Application to Commit
Energy Efficiency/Peak Demand
Reduction Programs
(Mercantile Customers Only)

Case No.: ____ - ____ -EL-EEC

Mercantile Customer:

Electric Utility:

Program Title or
Description:

Rule 4901:1-39-05(F), 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 existing demand reduction, demand response, and energy efficiency programs for integration with the electric utility's programs. The following application form is to be used by mercantile customers, either individually or jointly with their electric utility, to apply for commitment of such programs in accordance with the Commission's pilot program established in Case No. [10-834-EL-POR](#)

Completed applications requesting the cash rebate reasonable arrangement option ~~(Option 1)~~ in lieu of an exemption from the electric utility's energy efficiency and demand reduction (EEDR) rider will be automatically approved on the sixty-first calendar day after filing, unless the Commission, or an attorney examiner, suspends or denies the application prior to that time. Completed applications requesting the exemption from the EEDR rider ~~(Option 2)~~ for a period of up to 12 months will also qualify for the 60-day automatic approval. However, all applications requesting an exemption from the EEDR rider for longer than 12 months must provide additional information, as described within the Historical Mercantile Annual Report Template, that demonstrates additional energy savings and the continuance of the Customer's energy efficiency program. This information must be provided to the Commission at least 61 days prior to the termination of the initial 12 month exemption period to prevent interruptions in the exemption period. ~~for an exemption period does not exceed 24 months. Rider exemptions for periods of more than 24 months will be reviewed by the Commission Staff and are only approved up the issuance of a Commission order.~~

Complete a separate application for each customer program. Projects undertaken by a customer as a single program at a single location or at various locations within the same service territory should be submitted together as a single program filing, when possible.

Check all boxes that are applicable to your program. For each box checked, be sure to complete all subparts of the question, and provide all requested additional information.

| Submittal of [altered or](#) incomplete applications may result in a suspension of the automatic approval process or denial of the application.

Any confidential or trade secret information may be submitted to Staff on disc or via email at ee-pdr@puc.state.oh.us.

Section 1: Mercantile Customer Information

Name:

Principal address:

Address of facility for which this energy efficiency program applies:

Name and telephone number for responses to questions:

Electricity use by the customer (check the box(es) that apply):

- ☐ The customer uses more than seven hundred thousand kilowatt hours per year at the above facility. (Please attach documentation.)
- ☐ The customer is part of a national account involving multiple facilities in one or more states. (Please attach documentation.)

Section 2: Application Information

A) The customer is filing this application (choose which applies):

- ☐ Individually, without electric utility participation.
- ☐ Jointly with the electric utility.

B) The electric utility is: _____

C) The customer is offering to commit (check any that apply):

- ☐ Energy savings from the customer's energy efficiency program. (Complete Sections 3, 5, 6, and 7.)
- ☐ Capacity savings from the customer's demand response/demand reduction program. (Complete Sections 4, 5, 6, and 7.)
- ☐ Both the energy savings and the capacity savings from the customer's energy efficiency program. (Complete all sections of the Application.)

Section 3: Energy Efficiency Programs

A) The customer's energy efficiency program involves (check those that apply):

- ☐ Early replacement of fully functioning equipment with new equipment. (Provide the date on which the customer replaced fully functioning equipment, and the date on which the customer would have replaced such equipment if it had not been replaced early. Please include a brief explanation for how the customer determined this future replacement date (or, if not known, please explain why this is not known)).
- ☐ Installation of new equipment to replace failed equipment ~~that needed to be replaced~~ which has no useful life remaining. The customer installed new equipment on the following date(s): _____.
- ☐ Installation of new equipment for new construction or facility expansion. The customer installed new equipment on the following date(s): _____.
- ☐ Behavioral or operational improvement.

B) Energy savings achieved/to be achieved by the energy efficiency program:

- 1) If you checked the box indicating that the project involves the early replacement of fully functioning equipment replaced with new equipment, then calculate the annual savings [(kWh used by the original equipment) - (kWh used by new equipment) = (kWh per year saved)]. Please attach your calculations and record the results below:

Annual savings: _____ kWh

- 2) If you checked the box indicating that the customer installed new equipment to replace failed equipment ~~that needed to be replaced~~ which had no useful life remaining, then calculate the annual savings [(kWh used by new standard equipment) - (kWh used by the optional higher efficiency new equipment) = (kWh per year saved)]. Please attach your calculations and record the results below:

Annual savings: _____ kWh

Please describe any less efficient new equipment that was rejected in favor of the more efficient new equipment.

- 3) If you checked the box indicating that the project involves equipment for new construction or facility expansion, then calculate the annual savings [(kWh used by ~~less-efficient~~standard new equipment) - (kWh used by optional higher efficiency new equipment) = (kWh per year saved)]. Please attach your calculations and record the results below:

Annual savings: _____kWh

Please describe the less efficient new equipment that was rejected in favor of the more efficient new equipment.

- 4) If you checked the box indicating that the project involves behavioral or operational improvements, provide a description of how the annual savings were determined.

Annual savings: _____kWh

Section 4: Demand Reduction/Demand Response Programs

A) The customer's program involves (check the one that applies):

- ☐ This project does not include peak demand reduction savings.
- ☐ Coincident peak-demand savings from the customer's energy efficiency program.
- ☐ Actual peak-demand reduction. (Attach a description and documentation of the peak-demand reduction.)
- ☐ Potential peak-demand reduction (check the one that applies):
 - ☐ The customer's peak-demand reduction program meets the requirements to be counted as a capacity resource under a tariff of a regional transmission organization (RTO) approved by the Federal Energy Regulatory Commission.
 - ☐ The customer's peak-demand reduction program meets the requirements to be counted as a capacity resource under a program that is equivalent to an RTO program, which has been approved by the Public Utilities Commission of Ohio.

B) On what date did the customer initiate its demand reduction program?

C) What is the peak demand reduction achieved or capable of being achieved (show calculations through which this was determined):

_____ kW

**Section 5: Request for Cash Rebate Reasonable
Arrangement, ~~(Option 1) or~~ Exemption from Rider, or
Commitment Payment ~~(Option 2)~~**

Under this section, check ~~the all boxes~~ that apply and fill in all corresponding blanks. ~~relating to that choice.~~

~~Note: If Option 2 is selected, the application will not qualify for the 60-day automatic approval. All applications, however, will be considered on a timely basis by the Commission.~~

A) The customer is applying for:

☐ ~~Option 1:~~ A cash rebate reasonable arrangement.

~~OR~~

☐ ~~Option 2:~~ An exemption from the energy efficiency cost recovery mechanism implemented by the electric utility.

~~OR~~

☐ Commitment payment

B) The value of the option that the customer is seeking is:

~~Option 1:~~ A cash rebate reasonable arrangement, ~~which is the lesser of (show both amounts):~~

☐ A cash rebate of \$ _____. (Rebate shall not exceed 50% project cost. Attach documentation showing the methodology used to determine the cash rebate value and calculations showing how this payment amount was determined.)

~~Option 2:~~ An exemption from payment of the electric utility's energy efficiency/peak demand reduction rider.

☐ An exemption from payment of the electric utility's energy efficiency/peak demand reduction rider for ____ months (not to exceed 24 months). (Attach calculations showing how this time period was determined.)

☐ Ongoing exemption from payment of the electric utility's energy efficiency/peak demand reduction

rider for an initial period of 24 months because this program is part of the customer's ongoing efficiency program. (Attach documentation that establishes the ongoing nature of the program.) In order to continue the exemption beyond the initial 12 month period, the customer will need to complete, and file within this application, the Historical Mercantile Annual Report Template to verify the project's energy savings are persistent.

~~OR~~

- ☐ A commitment payment valued at no more than \$_____. (Attach documentation and calculations showing how this payment amount was determined.)

~~OR~~

- ☐ ~~Ongoing exemption from payment of the electric utility's energy efficiency/peak demand reduction rider for an initial period of 24 months because this program is part of the customer's ongoing efficiency program. (Attach documentation that establishes the ongoing nature of the program.) In order to continue the exemption beyond the initial 24 month period, the customer will need to provide a future application establishing additional energy savings and the continuance of the organization's energy efficiency program.)~~

Section 6: Cost Effectiveness

The program is cost effective because it has a benefit/cost ratio greater than 1 using the (choose which applies):

- ☐ Total Resource Cost (TRC) Test. The calculated TRC value is: _____ (Continue to Subsection 1, then skip Subsection 2)
- ☐ Utility Cost Test (UCT)-. The calculated UCT value is: _____ (Skip to Subsection 2.)

Subsection 1: TRC Test Used (please fill in all blanks).

The TRC value of the program is calculated by dividing the value of our avoided supply costs (generation capacity, energy, and any transmission or distribution) by the sum of our program overhead and installation costs and any incremental measure costs paid by either the customer or the electric utility.

The electric utility's avoided supply costs were _____.

Our program costs were _____.

The incremental measure costs were _____.

Subsection 2: UCT Used (please fill in all blanks).

We calculated the UCT value of our program by dividing the value of our avoided supply costs (capacity and energy) by the costs to our electric utility (including administrative costs and incentives paid or rider exemption costs) to obtain our commitment.

Our avoided supply costs were _____.

The utility's program costs were _____.

The utility's incentive costs/rebate costs were _____.

Section 7: Additional Information

Please attach the following supporting documentation to this application:

- Narrative description of the program including, but not limited to, make, model, and year of any installed and replaced equipment.
- A copy of the formal declaration or agreement that commits the program or measure to the electric utility, including:
 - 1) any confidentiality requirements associated with the agreement;
 - 2) a description of any consequences of noncompliance with the terms of the commitment;
 - 3) a description of coordination requirements between the customer and the electric utility with regard to peak demand reduction;
 - 4) permission by the customer to the electric utility and Commission staff and consultants to measure and verify energy savings and/or peak-demand reductions resulting from your program; and,
 - 5) a commitment by the customer to provide an annual report on your energy savings and electric utility peak-demand reductions achieved.
- A description of all methodologies, protocols, and practices used or proposed to be used in measuring and verifying program results. Additionally, identify and explain all deviations from any program measurement and verification guidelines that may be published by the Commission.



**Public Utilities
Commission**

**Application to Commit
Energy Efficiency/Peak Demand
Reduction Programs
(Mercantile Customers Only)**

Case No.: ____-____-EL-EEC

State of _____ :

_____, Affiant, being duly sworn according to law, deposes and says that:

1. I am the duly authorized representative of:

[insert customer or EDU company name and any applicable name(s) doing business as]

2. I have personally examined all the information contained in the foregoing application, including any exhibits and attachments. Based upon my examination and inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete.

Signature of Affiant & Title

Sworn and subscribed before me this _____ day of _____, _____Month/Year

Signature of official administering oath

Print Name and Title

My commission expires on _____

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Summary: Staff Review and Recommendation electronically filed by Mr. Robert Wolfe on behalf of PUCO Staff