

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Interruptible Electric Service )	
Guidelines, and the Applications of The )	Case No. 95-866-EL-UNC
Toledo Edison Company and The Cleveland )	Case No. 97-305-EL-ATA
Electric Illuminating Company for Approval )	Case No. 97-306-EL-ATA
of Interruptible Electric Service Riders. )	

FINDING AND ORDER

The Commission finds:

- (1) The Applicants, The Toledo Edison Company (TE) and The Cleveland Electric Illuminating Company (CEI), are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) The Applicants filed their original applications for a new buy-through service for Interruptible customers on June 14, 1996 according to the Commission's Entry on Rehearing in Case No. 95-866-EI-UNC. TE and CEI filed for approval of Rider Nos. 8 and 11, REPLACEMENT ELECTRICITY, respectively. These Riders are available to customers taking service under electric service agreements which allow for interruption of all or a portion of the customer's electrical load.
- (3) The Commission received objections/comments to the Applicants' filed riders from the Industrial Energy Users-Ohio (IEU-OH) and Enron Capital and Trade Resources (Enron) on July 12, 1996. After the Applicants reviewed the objections/comments, negotiations commenced. Applicants and the commenters were not able to reach a compromise on certain of the issue. The primary outstanding issues of disagreement pertains to the Applicants' refusal to recognize customers' authority to negotiate with third-party replacement suppliers to reach agreement on matters related to price, the amount of capacity, and any other pertinent issues between the customer and those suppliers who would be selling the power to the Applicants. The Applicants also generally oppose any form of discussion and/or agreement between its customers and third-party replacement power suppliers.
- (4) The Applicants filed revised Interruptible Electric Service Riders on March 19, 1997 reflecting compromises reached on several other issues with IEU-OH. Such compromises are re-

flected in Exhibit C-1 of the Applicants' revised riders. Some of the important changes made to the riders are as follows:

- (a) The definition of a Replacement Electricity Source was revised to indicate a third-party source represented a provider.
- (b) With respect to Replacement Electricity Sources, the Applicants have expanded the number of sources from 3 to 5 and the ability of the customer to change these sources from twice a year to quarterly.
- (c) With respect to Qualifications to be a Replacement Electricity Source, the Applicants will provide such qualification criteria, upon request, to potential sources and customers.
- (d) With respect to the Procedure For Receiving Replacement Electricity, the Applicants have made several changes:
  - (1) The Applicants would advise customers concerning the Applicants' ability to transmit power.
  - (2) The Applicants added language stating that they would endeavor to provide customers with 90 minutes notice of the availability of replacement electricity and expanded the customer's response for acceptance of replacement power from 5 minutes to 30 minutes. Also, the Company would endeavor to provide the customer "bridge power" during the scheduling period, which could be up to 45 minutes.
  - (3) The Applicants also agreed to schedule replacement electricity on a clock hour basis and provide information on their scheduling practices.

- (e) The Applicants have clarified their rights to interrupt customers who have contracted to take replacement electricity by adding a provision stating such interruption would occur if alternative qualified sources could not supply the power in the event the designated replacement source did not show up. The Applicants have also added additional indemnification language relating to damages caused by an interruption when a designated source failed to show up. The damages would only be those damages associated with the customer's premises.
  - (f) The charges applied for Replacement Electricity only apply when the replacement electricity is actually delivered.
  - (g) The Applicants have made certain changes to the Capacity and Energy Imbalances Section. Positive imbalances are now stated to be equal to 110 percent of either the Applicants' marginal cost of generation or the highest cost of purchased power, whichever is greater. In addition, the Applicants have more narrowly defined when large penalties would be assessed. A \$50 per kWh charge will only be assessed when an interruptible customer refuses to interrupt after being requested by the Company under emergency conditions.
- (5) Such modifications to the Applicants' Interruptible Service Riders are seen as a positive change by the Commission as being more customer oriented. Customer choice was a hallmark of this Commission's original Finding and Order in this case which was reaffirmed in its Entry on Rehearing. However, the Commission is still concerned that the Applicants do not fully recognize negotiations between a customer and a qualified third-party for replacement power. Such views are contrary to the spirit of the Interruptible Service Guidelines. The Applicants' stance does not adequately address the question as to how the Applicants are going to view contracts between aggregators and customers under Conjunctive Electric Service.

The Commission finds that the Applicants should modify their tariffs to either eliminate Section 3 of the Qualifications for a Source or provide more specification as to the Technical Review the Applicants will require and the length of time it will take. The Commission is also troubled by the language under the Section Replacement Electricity Source, Customer Designation, Subsection (2b), where the tariff provides that the customer specifications include the price the customer is willing to pay for Replacement Electricity along with any other pricing considerations. Customers are permitted to negotiate a fixed price for third-party power directly and then designate the Applicants to take title to the power when interruptions are called. The Commission finds that the Applicants should modify their tariff language as well to reflect that such requested cost information would be for billing purposes only.

In addition to the above, the Commission is concerned with the overall procedure for receiving replacement electricity. The Commission believes that this procedure does not properly recognize the relationship of the customer and third-party suppliers in these type of transactions. The procedure as defined only recognizes the applicants as the sole agent of the customer even though the customer may have designated someone else to perform this function. The Commission therefore finds that the applicants should revise the language in this section to recognize such a third-party relationship.

- (6) The Applicants have also stated that interruptible capacity and the buy-through service are limited to those customers who are currently under interruptible service arrangements. Such capacity offering is tied to the Applicants' planning needs for which no new additions are planned until 2008. This is reasonable as it comports to Section 6 of the Guidelines. A review of needed capacity shall be done annually in accordance with the Applicants' Long-Term Forecast Reports filed at the Commission. We interpret that the buy-through provision will apply whenever in the future any new interruptible capacity is offered, as well as to any existing interruptible capacity under agreement.
- (7) The revised applications are not for an increase in any rate, joint rate, toll, classification, charge or rental.

- (8) Staff has examined the revised applications and is of the opinion that the proposed tariffs are reasonable with the modifications discussed above.
- (9) The Applicants shall have 10 days within which to refile their tariffs to include the changes discussed by the Commission above. The Commission would also like to emphasize that we stated in our Opinion and Order approving the FirstEnergy Corp. rate plan for CEI and TE and on rehearing, that the implementation of interruptible buy-through service was critical to providing rate relief and encouraging innovative services, economic development, and jobs for small commercial and industrial customers within the region (Case No. 96-1211-EL-UNC, et al., Opinion and Order January 30, 1997, Entry on Rehearing March 27, 1997). We believe it is imperative for the applicants to work with our staff in revising their tariffs to comply with the Commission's approved Interruptible Service Guidelines. The Applicants' failure to make the proposed changes will lead to appropriate and swift action by the Commission.

It is, therefore,

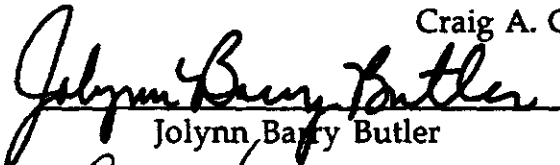
ORDERED, That the Applicants shall have 10 days to revise their tariffs. It is, further,

ORDERED, That a copy of this Finding and Order be served upon the Applicants and all interested parties of record.

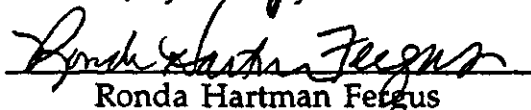
THE PUBLIC UTILITIES COMMISSION OF OHIO



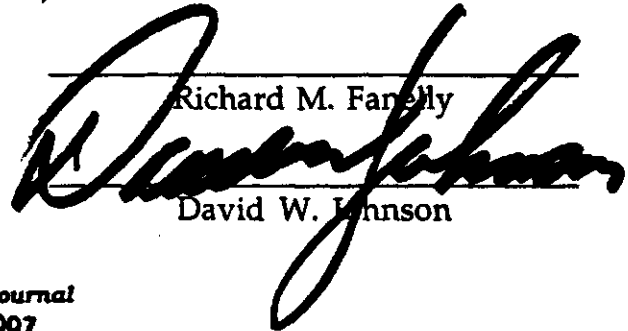
Craig A. Glazer, Chairman



Jolynn Barry Butler



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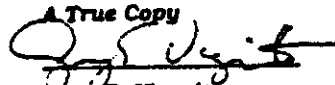
Richard M. Fanelly

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RRG/pdc

Entered in the Journal  
APR 10 1997

A True Copy



Gary E. Vigorito  
Secretary

SERVICE NOTICE

PAGE 1

CASE NUMBER 95-866-EL-UNC  
CASE DESCRIPTION INTERRUPTIBLE ELECTRIC GUIDELINES  
DOCUMENT SIGNED ON April 10, 1997  
DATE OF SERVICE APR 14 1997

PERSONS SERVED

PARTIES OF RECORD

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