BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Applications of the Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company to Include Transmission and Distribution Projects in their Energy Efficiency and Peak-Demand Reduction Program Portfolios.	)))))))	Case No. 10-3023-EL-POR Case No. 10-3024-EL-POR Case No. 10-3025-EL-POR

FINDING AND ORDER

The Commission finds:

(1) Section 4928.66, Revised Code, imposes certain annual energy efficiency and peak-demand reduction (EEDR) requirements upon Ohio's electric distribution utilities, beginning in calendar year 2009. Section 4928.66(A)(2)(d), Revised Code, provides that programs implemented by a utility to meet the statutory reduction requirements may include transmission and distribution (T&D) infrastructure improvements that reduce line losses. Rule 4901:1-39-04, Ohio Administrative Code (O.A.C.), directs each electric utility to file, for Commission approval, a portfolio plan of energy efficiency and peak-demand reduction (EEDR) programs to achieve the statutory reductions in peak-demand and improvements in energy efficiency.

(2) Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI), and the Toledo Edison Company (TE), (collectively, FirstEnergy companies), are public utilities as defined in Section 4905.02, Revised Code, and electric distribution utilities as defined in Section 4928.01(A)(6), Revised Code. An EEDR program portfolio was approved for each company by the Commission's order issued March 23, 2011 in Case Nos. 09-1947-EL-POR, et. al.

(3) On December 15, 2010, each of the FirstEnergy companies submitted an application to include efficiency gains resulting from various T&D infrastructure improvement projects, undertaken in 2010, in each company's EEDR program portfolio to comply with EEDR benchmarks required by Section 4928.66, Revised Code. The applications include T&D

projects for system improvements to reduce line losses, such as the re-conductoring of lines, substation improvements, the addition of capacitor banks, and the replacement of regulators. The companies calculate the total energy savings from these projects in 2010 as 6,524 MWh, allocated among the companies as 3004 MWh for OE, 885 MWh for CEI, and 2,635 MWh for TE.

(4) Motions to intervene were filed by the Natural Resources Defense Council (NRDC) on December 20, 2010; by the Ohio Consumers' Counsel (OCC) on December 29, 2010, and by Citizen Power, Inc. (Citizen Power) on December 30, 2010. Citizen Power also filed a motion to permit Theodore S. Robinson to appear, *pro hac vice*, as its counsel in this proceeding. Each of these parties appears to have a direct, real, and substantial interest in the issues and matters involved in this proceeding, the disposition of which may impair or impede its ability to protect such interests that may not be adequately represented by other parties. Further, it appears that the participation of these parties will not unduly prolong or delay this proceeding, and may significantly contribute to the development and equitable resolution of the issues raised. Accordingly, the motions to intervene of OCC, NRDC, and Citizen Power (collectively, Interveners) should be granted. In addition, the motion to permit Theodore S. Robinson to appear, *pro hac vice*, as counsel for Citizen Power should also be granted.

(5) On June 2, 2011, the Interveners filed a joint motion requesting that this matter be set for hearing, asserting two grounds for such request. The Interveners argue that as some of the projects involve improvements to facilities owned by FirstEnergy's affiliated transmission provider, such improvements should be disqualified from inclusion in the companies' EEDR program portfolios in meeting the statutory requirements of Section 4928.66, Revised Code. In addition, the Interveners allege that the companies' calculations of line losses use the "as found" methodology for determining energy savings, and do not comply with the Technical Resource Manual (TRM) being developed in Case No. 09-0512-GE-UNC. Concurrent with the filing of their motion for hearing, the Interveners also filed a motion for protective order pursuant to 4901-1-24(D), to prevent the public disclosure of information alleged to be confidential by FirstEnergy.

(6) On June 8, 2011, FirstEnergy filed a memoranda contra the Interveners' motion for hearing, arguing that no hearing of this matter is necessary because there are no factual issues in dispute. FirstEnergy cites this Commission's April 15, 2009 Finding and Order in Case No. 08-888-EL-ORD (April 15, 2009 Order) at 7-8, where FirstEnergy had raised this very issue in that earlier rule-making proceeding. With respect to the calculation of line losses, FirstEnergy argues that it used the same methodologies in the instant case as those approved by the Commission's Staff for 2009 FirstEnergy T&D projects in Case No. 09-951-EL-EEC.

(7) On April 14, 2012, Staff filed its recommendation that these applications be approved. Staff reports that the projects were installed to enhance T&D system reliability due to load growth in specific service areas and that the replacement of the old facilities will result in a reduction in system losses in the area, in addition to the intended improvements to overall system reliability and adequacy. Staff notes that the persistence of energy efficiency gains is expected to vary based on the projected 45 to 50 year life of the installed facilities; and for the distribution projects, the impact of anticipated levels of load growth on energy efficiency gains achieved should cause a slight increase in efficiency gains over time. For the transmission projects, Staff notes that anticipated sustained positive load growth with no system configuration changes would result in efficiency gains being sustained over time. Based upon its review, the Staff concludes that the T&D projects under consideration in these applications meet the requirements for integration in the companies' energy efficiency compliance plans, and that the information reviewed by Staff verified that the energy savings claimed in the applications were appropriately determined.

(8) We first note that each of the captioned cases has now been designated using the "POR" purpose code, rather than the original "EEC" code, as these matters do not involve mercantile customer applications. We also note that the issues raised by the Interveners regarding use of the "as found" methodology and adoption of the TRM have been addressed in our recent decisions in Case Nos. 08-888-EL-ORD, 09-0512-GE-UNC and 10-834-EL-POR. Moreover, even if the methodologies for measuring T&D project savings should be changed in future

proceedings, such changes should not be applied on a retroactive basis after an EDU or customer has already invested in a T&D project. In addition, the April 15, 2009 Order has already addressed the issue of T&D improvements made on facilities owned by an EDU affiliate. We again note that T&D improvements are expressly recognized in Section 4928.66(A)(2)(d), Revised Code, and the statute makes no exception for circumstances where the owner of the improved facilities is an EDU affiliate. Finally, we observe that the Interveners do not identify any factual issue in dispute for any of the projects in the instant cases. Accordingly, we will deny the Interveners' motion for a hearing of these matters.

(9) With respect to the Interveners' motion for protective order, pursuant to 4901-1-24(D), we find such motion should be granted for a period of two years from the date of this order, and may be renewed by motions filed directly by the FirstEnergy companies.

(10) No objections to Staff's recommendation have been filed by any of the intervening parties. Upon review of the applications and Staff's recommendations, the Commission finds that each of these applications should be granted, and the companies should amend their EEDR program portfolio plans to include such programs.

It is, therefore,

ORDERED, That the applications be approved. It is, further,

ORDERED, That the motions to intervene of OCC, NRDC, and Citizen Power be granted. It is, further,

ORDERED, That the Interveners' motion for protective order, pursuant to 4901-1-24(D), be granted for a period of two years. 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

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

Asim Z. Haque

RMB/vrm

Entered in the Journal

AUG 07 2013

Barcy F. McNeal

Barcy F. McNeal
Secretary