

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The     )  
Toledo Edison Company and North Star     )  
BlueScope Steel LLC, for Integration of     ) Case No. 09-1309-EL-EEC  
Mercantile Customer Energy Efficiency     )  
or Peak-Demand Reduction Programs.     )

FINDING AND ORDER

The Commission finds:

- (1) 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 (kWh) of electricity per year or that is part of a national account involving multiple facilities in one or more states. Section 4928.66, Revised Code, imposes certain energy efficiency and peak demand reduction (EEDR) requirements upon Ohio's electric distribution utilities, but also 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 to meet the statutory requirements.
- (2) The Toledo Edison Company (TE or utility) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission. TE recovers its costs of complying with the EEDR requirements imposed by Section 4928.66, Revised Code, from its customers through its Rider DSE2 (EEDR rider).
- (3) 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 energy efficiency commitment (EEC) application to commit the customer's EEDR programs for integration with the electric utility's programs, pursuant to Section 4928.66, Revised Code, in order to meet the utility's statutory requirements.
- (4) This application was filed pursuant to Rule 4901:1-39-05(G), O.A.C., on December 31, 2009, by TE and North Star BlueScope Steel LLC, (North Star), prior to the Commission's implementation of the EEC Pilot Program in Case No. 10-834-

EL-POR on September 15, 2010. The application seeks an exemption from TE's EEDR rider through December 2010 for two projects involving (1) the reduction of a motor control current on induction draft fans, and (2) turning off one of six plant compressors, which were projected to saved 3,289,020 and 8,829,701 kWh per year, respectively, at no cost to North Star.

- (5) Motions to intervene were filed by the Ohio Environmental Council (OEC) and the Ohio Consumers' Counsel (OCC) on February 4 and April 14, 2010, respectively.
- (6) On May 19, 2010, OEC and OCC jointly filed comments objecting to the approval of this application on the grounds that the application fails to include a description of measurement and verification methodologies, lacks information on remaining useful life of equipment or avoided incremental cost, and includes inadequate descriptions of energy efficiency programs and initiatives. They argue that the application fails to adequately describe the methodologies, protocols, and practices used or proposed to be used in measuring and verifying program results under Rule 4901:1-39-05(G)(5), O.A.C., thereby failing to meet the evidentiary requirements necessary to allow the Commission to make an appropriate decision. The OEC/OCC comments also cite paragraph (F) of Rule 4901:1-39-05, O.A.C., in asserting that the application lacks sufficient information for the Commission to make a proper decision as to whether the projected energy savings can be attributed to the customer's EEDR project alone, as neither of the projects involve either early retirement of fully functioning equipment or the installation of new energy efficient equipment that exceeds the market standard. The joint comments assert that without information describing the remaining useful life of replaced equipment, it is impossible to know whether the savings were incidental as the result of a necessary "business as usual" investment, or additional, as the result of an EEDR project. Finally, OEC/OCC argue that Rule 4901:1-39-08(A), O.A.C., requires a demonstration that energy savings and peak-demand reductions associated with the mercantile customer's program are the result of investments that meet the total resource cost (TRC) test, or that the electric utility's avoided cost exceeds the cost to the electric utility for the mercantile customer's program. OEC/OCC allege that

nowhere in the application is such a demonstration included, discussed or alluded to.

- (7) On June 3, 2010, TE and North Star filed a joint reply to the objections of OEC and OCC. TE/North Star first note that neither OEC or OCC have been granted intervention in this case, and that while Rule 4901:1-39-06(A), O.A.C., provides a 30-day comment period for the filing of annual portfolio status reports, no comment period is expressly provided for under the current rules. TE/North Star also assert that sufficient information has been provided to the Commission's Staff in response to data requests, and would have been provided to OEC and OCC under a protective agreement had they requested it. TE/North Star further allege that there is no statutory or regulatory requirement to include information on the early retirement of fully functioning equipment or the installation of new energy efficient equipment that exceeds the market standard. TE/North Star note that the required demonstration under Rule 4901:1-39-08(A), O.A.C., that a project's energy savings and peak-demand reductions result from investments that meet the TRC test, or that the electric utility's avoided cost exceeds the cost to the utility for commitment of the customer's program, apply to the annual reports to be provided by the customer, rather than the EEC application itself. Finally, TE/North Star allege that there is no statutory basis for excluding "business as usual" projects. They argue that both North Star projects are valid energy efficiency projects that involve making existing equipment more efficient and modifying plant practices to eliminate the need for (and thereby retire) a fully-functioning compressor.
- (8) On June 10, 2010, OEC and OCC filed a response to the TE/North Star reply. The OEC/OCC response notes that they have been granted intervention in other EEC cases, and that no comment period is set by rule in these cases. OEC/OCC also reassert their arguments that the application does not include all required information, contending that such information should be in the application itself, rather than replies to staff data requests, and that any confidential information should be filed under seal. Further, OEC/OCC assert that the TE/North Star argument regarding cost-effectiveness is incorrect since cost-effectiveness is an essential element of reasonableness for

Commission approval of the application under Section 4928.66(A)(2)(c), Revised Code.

- (9) On August 5, 2011, OCC withdrew its request for intervention in this case as a result of reduced resources, rather than a change in OCC's position on the issues raised herein. Accordingly, we will grant only OEC's motion to intervene as an interested party in this proceeding.
- (10) On May 15, 2012, Staff filed a report of its review in this case, recommending that this application be denied. Staff reports that neither of North Star's projects involve the replacement of existing equipment or investment of capital. Further, Staff notes that North Star declined to commit these projects under the commitment payment option established in the EEC Pilot Program, Case No. 10-834-EL-POR. No objection or response was filed to Staff's recommendations by TE or North Star.
- (11) Upon review of the application, all supporting documentation, and Staff's recommendations, the Commission agrees with Staff's recommendation not to provide incentives for these two projects. Therefore, we find that the application fails to meet the requirements for mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C. Accordingly, this application should be denied.

It is, therefore,

ORDERED, That the application be denied. It is, further,

ORDERED, That the motion of the Ohio Environmental Council to intervene 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

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Todd A. Snitchler, Chairman

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Steven D. Lesser

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M. Beth Trombold

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RMB/vrm

Entered in the Journal

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NOV 06 2013  
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Barcy F. McNeal

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Secretary