

FILE

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for )  
Establishment of a Reasonable )  
Arrangement Between U. S. Steel )  
Seamless Tubular Operations, LLC, )  
Lorain Tubular Operations and )  
The Ohio Edison Company )

Case No. 16-2020-EL-AEC

2017 JAN 23 AM 9:47

RECEIVED-20000110011

FILED

---

**JOINT  
STIPULATION AND RECOMMENDATION**

**[PUBLIC VERSION]**

---

**Samuel C. Randazzo** (Reg. No. 0016386)  
Counsel of Record  
**Scott E. Elisar** (Reg. No. 0081877)  
McNees Wallace & Nurick LLC  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215  
(614) 469-8000 (T)  
(614) 469-4653 (Fax)  
sam@mwncmh.com  
selisar@mwncmh.com

**ON BEHALF OF U. S. STEEL SEAMLESS  
TUBULAR OPERATIONS, LLC, LORAIN  
TUBULAR OPERATIONS**

**January 23, 2017**

**William L. Wright** (Reg. No. 0018010)  
Chief, Public Utilities Section  
**Thomas W. McNamee** (Reg. No. 0017352)  
Assistant Attorneys General  
Office of the Ohio Attorney General  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, OH 43215  
william.wright@ohioattorneygeneral.gov  
thomas.mcnamee@ohioattorneygeneral.gov

**ON BEHALF OF THE STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO**

C0100869:1

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business  
Technician           MN           Date Processed                     

**JAN 23 2017**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for	)	
Establishment of a Reasonable	)	Case No. 16-2020-EL-AEC
Arrangement Between U. S. Steel	)	
Seamless Tubular Operations, LLC,	)	
Lorain Tubular Operations and	)	
The Ohio Edison Company	)	

---

**JOINT  
STIPULATION AND RECOMMENDATION**

**[CONFIDENTIAL VERSION]**

---

**BACKGROUND**

For purposes of resolving any contested issues that may have been raised in this proceeding, the undersigned Parties stipulate and agree that the following statements are, based on information and belief, true and correct.

On October 13, 2016, U. S. Steel Seamless Tubular Operations, LLC, Lorain Tubular Operations ("LTO"), a mercantile customer as defined by Section 4928.01, Revised Code, and a producer of Oil Country Tubular Goods ("OCTG"), casing and drill pipe, standard and line pipe and coupling stock, properly filed an application ("Application") seeking approval of a reasonable arrangement between Ohio Edison Company ("OE") and LTO. The Application was properly filed with the Public Utilities Commission of Ohio ("Commission" or "PUCO") pursuant to Section 4905.31, Revised Code.

On October 28, 2016, November 1, 2016 and November 2, 2016, motions to intervene were filed by the Office of the Ohio Consumers' Counsel ("OCC"), OE and the Ohio Manufacturers' Association Energy Group ("OMAEG"), respectively. On November 2, 2016, OCC and OMAEG submitted comments on the Application.

Since the filing of LTO's Application on October 13, 2016, OCC, OMAEG, OE and the Staff of the Commission ("Staff") have engaged in good faith discussions to address and resolve any issues and exchange information related to LTO's Application.

LTO represents that its current manufacturing facilities and its corporate offices are located in or around Lorain, Ohio. LTO's facilities and offices obtain electricity through a substation ("Gary Avenue Substation") owned by another manufacturer (Republic Steel), a condition that exists because LTO's facilities and the facilities of the adjacent manufacturer were, at one time, under common ownership. As a result of LTO investing approximately \$17.5 million in a new substation ("Palm Avenue Substation"), LTO became a direct mercantile customer of OE on or about January 11, 2017 as the Palm Avenue Substation became operational.

LTO's manufacturing facilities are located within the certified service area of OE, an electric distribution utility ("EDU") as defined by Section 4928.01, Revised Code. Upon commercial operation of its new substation, LTO will receive electric distribution service from OE at transmission voltage of 138 kV.

During the time that LTO received its electricity supply through the Gary Avenue Substation owned by Republic Steel, Republic Steel subscribed to an interruptible

service rider<sup>1</sup> offered by OE and LTO's demand response capabilities were aggregated with the demand response capabilities of Republic Steel for purposes of the subscription to and participation in OE's interruptible service offerings. Even though LTO's demand response capability historically and indirectly participated in Rider ELR, the applicability provisions of Rider ELR do not recognize this historical participation since LTO was not, during the period of such participation, directly served by OE.

LTO's capital investment in the Palm Avenue Substation is part of LTO's efforts to more fully utilize the productive capacity of its manufacturing facilities. LTO believes that this capital investment, accompanied by a reasonable delivered price of electricity, will position its Ohio manufacturing facility to be viable for many years.

## **INTRODUCTION**

Among other things, Section 4905.31, Revised Code, authorizes, with Commission approval and upon application by a mercantile customer, the filing of a schedule and establishing or entering of a reasonable arrangement that addresses a classification of service or involves any other financial device that may be practicable or advantageous.

Rule 4901-1-30, Ohio Administrative Code ("O.A.C."), provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below and to recommend that the Commission approve and adopt this Joint Stipulation and Recommendation

---

<sup>1</sup> Currently, the OE interruptible service rider that is relevant here is Rider ELR, Economic Load Response Program Rider, Sheet 101. In addition, Rider EDR, Economic Development Rider, Interruptible Credit Provision, Sheet 116, is applicable to customers participating under Rider ELR.

("Stipulation") as part of its Opinion and Order in this proceeding, resolving all of the contested issues that have been or could have been raised in this proceeding.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process and undertaken by parties representing a wide range of interests to resolve the aforementioned issues. This Stipulation represents an accommodation of the diverse interests represented by the Parties, and it is entitled to careful consideration by the Commission. For purposes of resolving the issues raised by this proceeding, the undersigned parties further stipulate, agree and recommend as set forth below.

### **PARTIES**

This Stipulation is entered into by the Commission's Staff and LTO ("the Parties"). Further, OCC,<sup>2</sup> OMAEG and OE (the "Non-Opposing Intervenors") do not oppose this Stipulation.

### **RECITALS**

Section 4905.31, Revised Code, permits the Commission to approve and authorize a reasonable schedule or arrangement between a mercantile customer and an EDU or a public utility electric light company upon application by a mercantile customer. LTO filed such an application with the Commission in this docket.

---

<sup>2</sup> OCC's non-opposition to this Stipulation is explained in correspondence filed in this proceeding.

Following the submission of LTO's Application and at the request of the Staff, LTO identified alternatives to the "all-in rate" approach to a reasonable arrangement that LTO advanced as part of its Application. More specifically and in light of the unique circumstances presented by LTO's historical but indirect demand response participation in the above-described interruptible service rider, LTO suggested that its electricity pricing objectives could be served by a Commission finding that LTO is eligible to participate in Rider ELR and Rider EDR so as to obtain the interruptible credits available pursuant to such riders.

In view of the foregoing, the Parties agree and recommend that the Commission approve this Stipulation, the components of which are all set forth below:

1. Provided that OE recovers the costs described in and as specified by paragraph number 4 below, LTO shall be deemed to be eligible to subscribe to Riders ELR and EDR (Interruptible Credit Provision) for all bills rendered by OE on or after January 1, 2017 and for so long as such Riders or their successors may continue.<sup>3</sup> Providing LTO with such eligibility status will facilitate LTO's efforts to compete in the global economy and is otherwise in accord with Ohio's state policy in Section 4928.02, Revised Code.
2. For all bills rendered by OE to LTO as a direct customer of OE on or after January 1, 2017 and in in light of the unique circumstances presented by LTO's historical but indirect demand response participation in the above-described interruptible service riders, the Commission shall issue an Opinion and Order finding that LTO shall be eligible to participate in Rider ELR and Rider EDR and successors so as to obtain the interruptible credits available pursuant to such Riders and their successors. Such Opinion and Order should state that LTO's firm demand and total firm and interruptible demand should be initially set at the levels identified in

---

<sup>3</sup> As a customer eligible to subscribe to Riders ELR and EDR (Interruptible Credit Provision), LTO will be subject to the other duties and have the rights that attach or are available to all other customers that subscribe to the Riders. This Stipulation does not seek or recommend any alteration or modification of the administration of Riders ELR and EDR (Interruptible Credit Provision) other than with regard to LTO's eligibility to subscribe to such Riders and it does so with regard to such eligibility based on the historical participation of LTO's demand response capability which is described herein.

the Stipulation.<sup>4</sup> The Parties agree that such Opinion and Order shall result in a classification of service, pursuant to Section 4905.31, Revised Code, which is warranted in view of the unique circumstance presented by the fact that LTO's demand response historically and indirectly was deployed for purposes of participation in the above-described interruptible service riders.

3. Commencing on January 1, 2017, LTO shall undertake reasonable and good faith efforts (with regard to factors within its control and subject to the limitations of market conditions) to retain an annual average direct employment level of [REDACTED] people including bargaining unit and management employees. On or before April 30 of each year subsequent to 2017 and provided that confidentiality protection acceptable to LTO is in place, LTO shall submit to the Staff of the Commission, OCC<sup>5</sup> and OE information on the average level of direct employment retained during the prior year as well as the average direct employment retained for the entire period of time LTO has, as of the date of the report, received the benefit of Riders ELR and EDR (Interruptible Credit Provision) and successors.
4. OE shall recover all costs incurred by it in conjunction with LTO's subscription to Riders ELR and EDR (Interruptible Credit Provision) and any successors, including full and timely recovery of all credits received by LTO under Riders ELR and EDR. Such cost shall be recovered by OE through the existing recovery mechanisms [OE Sheet 115, Rider DSE1, Page 1 of 3 and successors and OE Sheet 116, Rider EDR(e), Standard Charge Provision 1, page 3 of 5] and successors.
5. Upon the Commission's issuance of an Opinion and Order finding that LTO shall be eligible to participate in Rider ELR and Rider EDR (Interruptible Credit Provision) and successors, any issues raised by LTO's Application, any comments submitted by OCC and OMAEG or raised in any other fashion shall be deemed fully resolved without need for further action.
6. For the limited purposes of the Commission's evaluation of the Stipulation contained herein, the Parties agree that the Application, this Stipulation, and the comments filed by OMAEG and OCC may,

---

<sup>4</sup> LTO's firm demand and total firm and interruptible demand shall be initially set at [REDACTED] and [REDACTED] megawatts, respectively.

<sup>5</sup> Subject to there being in place mutually acceptable protections for confidential information, OCC shall receive the information at the same time that the information is provided to the Staff of the Commission. The parties shall work in good faith to establish mutually acceptable protections for such confidential information. Nothing herein shall be construed or applied to cause OCC to waive any rights it may have under applicable Ohio public records requirements.

to the extent necessary, be admitted into the record and that, if so admitted for such purposes, each Party waives any right to conduct discovery, conduct cross-examination, submit briefs or otherwise exercise rights that are typically extended to parties in contested proceedings.


7. All of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues.
8. This Stipulation is the product of the discussions and negotiations of the Parties, and is not intended to reflect the procedural or substantive views or proposals which any individual party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Parties, and is entitled to careful consideration by the Commission. This Stipulation is submitted for purposes of this proceeding only, is not deemed binding in any other proceeding and shall not be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. More specifically, nothing in this Stipulation shall be construed or applied so as to disregard the unique circumstance presented by the fact that LTO's demand response historically and indirectly was deployed for purposes of participation in the above-described interruptible service rider. The agreement of the Parties reflected in this document is expressly conditioned upon its acceptance in its entirety and without alteration by the Commission. Any party to this Stipulation has the right to withdraw and terminate the Stipulation if the Commission, or any court of competent jurisdiction, rejects all or any part of the Stipulation or otherwise modifies its terms or provisions. The Parties agree that if the Commission or any court of competent jurisdiction rejects all or any material part of this Stipulation, or otherwise materially modifies its terms, any adversely affected party shall have the right to file an application for rehearing or a motion for reconsideration.

This Stipulation has been signed as of this 23<sup>rd</sup> day of January 2017. The Parties respectfully request that the Commission promptly issue its Opinion and Order in accordance with the terms of this Stipulation.



Respectfully submitted,

**The Parties:**

  
\_\_\_\_\_  
**Samuel C. Randazzo** (Reg. No. 0016386)

**Counsel of Record**

**Scott E. Elisar** (Reg. No. 0081877)

McNees Wallace & Nurick LLC

21 East State Street, 17<sup>th</sup> Floor

Columbus, Ohio 43215

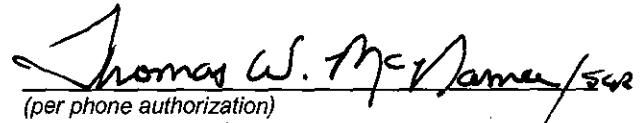
(614) 469-8000 (T)

(614) 469-4653 (Fax)

sam@mwncmh.com

selisar@mwncmh.com

**ON BEHALF OF U.S. STEEL SEAMLESS TUBULAR  
OPERATIONS, LLC AND LORAIN TUBULAR  
OPERATIONS**

  
\_\_\_\_\_  
(per phone authorization)

**William Wright** (Reg. No. 0018010)

**Chief, Public Utilities Section**

**Thomas W. McNamee** (Reg. No. 0017352)

**Assistant Attorneys General**

**Office of the Ohio Attorney General**

30 East Broad Street, 16th Floor


Columbus, OH 43215-3793

thomas.mcnamee@ohioattorneygeneral.gov

william.wright@ohioattorneygeneral.gov

**ON BEHALF OF THE STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO**

**The Non-Opposing Intervenors:**

  
\_\_\_\_\_  
(per email authorization)

**Erika Ostrowski** (Reg. No. 0084579)

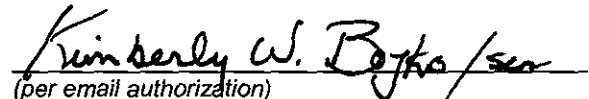
**Counsel of Record**

76 South Main Street

Akron, OH 44308

eostrowski@firstenergycorp.com

**ON BEHALF OF OHIO EDISON COMPANY**

  
\_\_\_\_\_  
(per email authorization)

**Kimberly W. Bojko** (Reg. No. 0069402)

**Danielle G. Walter** (Reg. No. 0085245)

**Carpenter Lipps & Leland LLP**

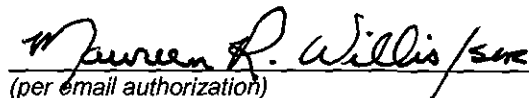
280 North High Street

Columbus, OH 43215

bojko@carpenterlipps.com

ghiloni@carpenterlipps.com

**ON BEHALF OF THE OHIO MANUFACTURERS'  
ASSOCIATION ENERGY GROUP**

  
\_\_\_\_\_  
(per email authorization)

**BRUCE WESTON** (Reg. No. 0016973)

**OHIO CONSUMERS' COUNSEL**

**Maureen R. Willis** (Reg. No. 0020847)

**Counsel of Record**

**Senior Regulatory Attorney**

**Ajay Kumar** (Reg. No. 0092208)

**Assistant Consumers' Counsel**

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, OH 43215-3485

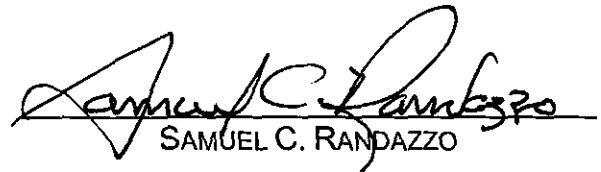
Maureen.willis@occ.ohio.gov

Ajay.kumar@occ.ohio.gov

**ON BEHALF OF THE OFFICE OF THE OHIO  
CONSUMERS' COUNSEL**

## CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Joint Stipulation and Recommendation [PUBLIC VERSION]* was sent by, or on behalf of, the undersigned counsel for LTO to the following parties of record this 23<sup>rd</sup> day of January 2017, via electronic transmission.



SAMUEL C. RANDAZZO

BRUCE WESTON (Reg. No. 0016973)  
OHIO CONSUMERS' COUNSEL

**Maureen R. Willis** (Reg. No. 0020847)  
Counsel of Record  
Senior Regulatory Attorney  
**Ajay Kumar** (Reg. No. 0092208)  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
Maureen.willis@occ.ohio.gov  
Ajay.kumar@occ.ohio.gov

**ON BEHALF OF THE OFFICE OF THE OHIO  
CONSUMERS' COUNSEL**

**Erika Ostrowski** (Reg. No. 0084579)  
Counsel of Record  
76 South Main Street  
Akron, OH 44308  
eostrowski@firstenergycorp.com

**ON BEHALF OF OHIO EDISON COMPANY**

**Kimberly W. Bojko** (Reg. No. 0069402)  
**Danielle G. Walter** (Reg. No. 0085245)  
Carpenter Lipps & Leland LLP  
280 North High Street  
Columbus, OH 43215  
bojko@carpenterlipps.com  
ghiloni@carpenterlipps.com

**ON BEHALF OF THE OHIO MANUFACTURERS'  
ASSOCIATION ENERGY GROUP**

**William L. Wright** (Reg. No. 0018010)  
Chief, Public Utilities Section  
**Thomas W. McNamee** (Reg. No. 0017352)  
Assistant Attorneys General  
Office of the Ohio Attorney General  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, OH 43215  
william.wright@ohioattorneygeneral.gov  
Thomas.mcnamee@ohioattorneygeneral.gov

**ON BEHALF OF THE STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO**

Nicholas Walstra (Reg. No. 0086405)  
Attorney Examiner  
Public Utilities Commission of Ohio  
180 East Broad Street, 12<sup>th</sup> Floor  
Columbus, OH 43215  
Nicholas.walstra@puco.ohio.gov

**ATTORNEY EXAMINER**