

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio : Case No. 16-1790-EL-ATA
Edison Company, The Cleveland Electric :
Illuminating Company and The Toledo :
Edison Company for Modification of a :
Tariff. :

COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

In Case No. 12-2050-EL-ORD, the Commission adopted rules for the compliance with the Public Utility Regulatory Policies Act of 1978 (PURPA), as amended by the Energy Policy Act of 2005, at 16 U.S.C.S. Section 824a-3.¹ Ohio Adm.Code 4901:1-10-34 establishes a market-based rate for an electric distribution utility (EDU) company's qualifying facility (QF) purchase obligation under PURPA, which applies to QFs with a net capacity of 20 megawatts (MW), or smaller. Specifically, the rule sets the energy payment to QFs at the locational marginal price (LMP). It also provides an option for the QF to negotiate a contracted agreement, in lieu of taking the LMP rate. For negotiated

¹ *In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 12-2050-EL-ORD, Finding and Order (Jan. 15, 2014) at 48-51.

contracts, the rule states, “Any such contract shall be subject to approval by the commission within one hundred twenty days of its filing with the commission.”²

In Case No. 16-1790-EL-ATA, Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company (“the Companies”) proposed revisions to the Cogeneration and Small Power Production tariff (PUCO No. 11, Sheet No. 50), the Cogenerators and Small Power Production Facilities tariff (PUCO No. 13, Sheet No. 48), and the Cogeneration and Small Power Producer Rate CO-1 tariff (PUCO No. 8, Sheet No. 70). Staff offers a number of recommendations below.

As proposed, the LMP rate appears to be available to QFs with a design capacity of 100 kilowatts (kW), or less, but QFs with a design above 100 kW and up to 20,000 kW (20 MW) appear to be limited to negotiating a contract. Staff does not believe this complies with Ohio Adm.Code 4901:1-10-34; the LMP rate, as well as the option to a voluntarily negotiated contract, should be available to all QFs with a net capacity of 20 MW, or smaller, through the PURPA tariff. As such, Staff recommends that the Companies modify the availability section of the tariff to clarify that the LMP rate or a negotiated contract are available for all QFs with a net capacity of 20 MW, or less.

Staff also recommends that the Companies add language to the tariff, which states that all negotiated contracts are subject to approval by the Commission and detail the timeline of that approval process.

² Ohio Adm.Code 4901:1-10-34(J).

Respectfully submitted,

Michael DeWine
Ohio Attorney General

William L. Wright
Section Chief

/s/John H. Jones

John H. Jones
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, OH 43215-3414
614.466.4397 (telephone)
866.524.1223 (fax)
john.jones@ohioattorneygeneral.gov

**On behalf of the Staff of
The Public Utilities Commission of Ohio**

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon the following Parties of Record, this 7th day of March, 2017.

/s/ John H. Jones

John H. Jones

Assistant Attorney General

Parties of Record:

Erika Ostrowski, Esq.
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
(330) 384-5803
eostrowski@firstenergycorp.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/7/2017 3:40:32 PM

in

Case No(s). 16-1790-EL-ATA

Summary: Comments electronically filed by Ms. Tonnetta Scott on behalf of PUC