

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
NORTH STAR BLUESCOPE STEEL LLC
FOR APPROVAL OF A REASONABLE
ARRANGEMENT WITH TOLEDO EDISON
COMPANY.

CASE No. 19-950-EL-AEC

FINDING AND ORDER

Entered in the Journal on June 5, 2019

I. SUMMARY

{¶ 1} The Commission finds that a reasonable arrangement associated with the future expansion of the North Star BlueScope Steel LLC facilities in Delta, Ohio should be approved expeditiously to provide some predictability and certainty regarding the rates, terms and conditions that shall be available following the Customer's commitment to move forward with the expansion of its facilities. The Commission also finds that one or more of the issues raised by the application for approval of a reasonable arrangement requires further consideration.

II. PROCEDURAL HISTORY

{¶ 2} R.C. 4905.31 authorizes the Commission to approve reasonable unique electric services arrangements between an electric utility and a mercantile customer or group of mercantile customers. R.C. 4928.01(A)(19) defines "mercantile customer" to mean a commercial or industrial customer that consumes more than 700,000 kilowatt hours of electricity per year for nonresidential use, or the customer is part of a national account involving multiple facilities in one or more states. Ohio Adm.Code 4901:1-38-03 and 4901:1-38-05 provide rules for the filing of applications, pursuant to R.C. 4905.31, for approval of economic development and unique arrangements that further the policy of the state of Ohio embodied in R.C. 4928.02.

{¶ 3} Toledo Edison Company (Toledo Edison or Utility) is an electric light company, as defined by R.C. 4905.03(A)(3), and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 4} On April 17, 2019, North Star BlueScope Steel LLC (North Star, Customer, or Applicant) filed an application for approval of a reasonable arrangement with Toledo Edison pursuant to Ohio Adm.Code Chapter 4901:1-38 (Proposed Arrangement), together with a motion for protective order to prevent public disclosure of redacted information in the application that the Customer asserts constitutes confidential, proprietary, and trade secret information. According to the application, North Star is a mercantile customer, as defined in R.C. 4928.01(A)(19), which produces hot rolled steel bands at its facility in Delta, Ohio for various industrial uses, including automotive, construction, agriculture, and manufacturing applications. Built in 1995, the current facility is located in Fulton County, Ohio, within Toledo Edison's certified service area, and now has 399 employees. In 2015, BlueScope Steel (BlueScope), a publicly held company headquartered in Australia, became sole owner of North Star (Application at 1-3, Ex. A at 1).

{¶ 5} Under the Proposed Arrangement, BlueScope would invest approximately \$600 to \$700 million to expand the North Star facility and increase production capacity from 2.4 million to 3.3 million tons by installing a third electric arc furnace, a second casting machine, and new shuttle furnace, with operations projected to begin in 2022 (Expanded Facility). North Star estimates that the Expanded Facility would increase its energy demand by approximately 130 MW and its usage by 500,000 MWh per year. BlueScope has not made a final decision on the North Star expansion but requests expedited treatment of this application as approval of the Proposed Arrangement could effect construction of the expansion in Ohio, as opposed to other BlueScope locations around the world. Under the Proposed Arrangement, North Star would, among other things, receive up to \$28 million in credits over a seven-year term that would commence upon the beginning of commercial operations at the Expanded Facility (Application at 1-3).

{¶ 6} Correspondence in support of the application was submitted by Tim Berra, president and CEO of Heidtman Steel Products, Inc. on April 25, 2019; by Ted Haselman, Superintendent of the Pike-Delta-York Local School District, Representative Jim Hoops of

the 81st Ohio House District, and Jim VanPoppel, CEO of Fulton County Processing, LTD on April 29, 2019; by Robert Trowbridge, Chairman of the York Township Board of Trustees on May 6, 2019; and by Matt Gilroy, Executive Director of the Fulton County Economic Development Corporation, and Dean Kreuzer, General Manager of Worthington Industries on May 7, 2019.

{¶ 7} On May 7, 2019, the Ohio Manufacturers' Association Energy Group (OMAEG) filed comments and a motion to intervene. OMAEG notes that the credit received by North Star under the Proposed Arrangement would be recovered from other Toledo Edison customers through the Utility's Delta Revenue Recovery Rider, and that North Star would have the right to opt out of Toledo Edison's energy efficiency and peak demand reduction programs under R.C. 4928.6611.

{¶ 8} On May 29, 2019, Staff filed a report of its review of the Proposed Arrangement. Staff recommends expedited approval of a reasonable arrangement consisting of certain terms and conditions and, with regard to the interruptible credit request, recommends that the Commission defer taking action and solicit comments on the proposed interruptible credit.

III. REVIEW OF THE PROPOSED ARRANGEMENT

{¶ 9} R.C. 4905.31 provides that, with the approval of the Commission, a public utility may enter into a reasonable arrangement with one its customers and that a mercantile customer may establish a reasonable arrangement with an electric distribution utility. Ohio Adm.Code 4901:1-38-05 authorizes either an electric utility or a mercantile customer to file an application for approval to enter into a reasonable arrangement.

{¶ 10} In reviewing applications for reasonable arrangements under Ohio Adm.Code Chapter 4901:1-38, the Commission has identified seven key criteria to examine:

- (1) Whether the applicant's business is acutely energy intensive or has a distinct energy profile.

- (2) Whether the applicant has made a commitment to investing in Ohio either in a new investment or support of a new industry.
- (3) Whether the economic impact of the applicant's project on the region will be significant and meets the minimum requirements of Ohio Adm.Code 4901:1-38-03.
- (4) Whether the applicant has explored or taken advantage of other opportunities for operational savings such as a basic budgetary management, shopping for or self-generating electricity, energy efficiency, and participation in utility or regional transmission organizations' conservation or reliability programs.
- (5) Whether the charges paid to the utility under the arrangement will cover all incremental costs of service and contribute to the payment of fixed costs.
- (6) Whether the benefits to the community of the project outweigh the costs imposed on other retail customers because of the reasonable arrangement.
- (7) Whether the application is for a set term which will allow the project to continue afterward without subsidies.

In re PRO-TEC Coating Co., Case No. 19-124-EL-AEC, Opinion and Order (Feb. 27, 2019) at ¶ 13; *In re AK Steel Corp.*, Case No. 18-450-EL-AEC, Opinion and Order (Jun. 28, 2018) at ¶ 14; *In re Application of Acero Junction, Inc. and Ohio Power Co.*, Case No. 17-2132-EL-AEC, Opinion and Order (May 2, 2018) at ¶¶ 19, 26-27, *In re U.S. Steel Seamless Tubular Operations, LLC*, Case No. 16-2020-EL-AEC (Feb. 8, 2017). In addition, the arrangement must not violate R.C. 4905.33 or R.C. 4905.35, which prohibit the utility from providing service at

discriminatory rates, or for free or less than actual cost for the purpose of destroying competition.

A. *Whether Applicant's business is acutely energy intensive and has a distinct energy profile.*

{¶ 11} North Star is a mercantile customer served by Toledo Edison with acutely energy intensive operations and a distinct energy profile that clearly meets the Commission's first criterion for a reasonable arrangement under Ohio Adm.Code Chapter 4901:1-38. The Applicant states that electricity is North Star's second or third largest cost input after raw materials, and while most of North Star's existing load is currently participating in the Economic Load Response (ELR) program approved in Toledo Edison's most recent Electric Security Plan, Case No. 14-1297-EL-SSO, the load associated with the Expanded Facility would not be eligible to participate in that program. North Star projects that the additional incremental energy demand and usage associated with the Expanded Facility would be approximately 130 MW and 500,000 MWh per year for a commercial operating date in 2022. Further, the application provides that North Star would have the right to purchase transmission service for its entire facility from a CRES provider (Application at 2, 6).

B. *Whether the Applicant has committed to substantial investment in Ohio.*

{¶ 12} The application states that under the Proposed Arrangement, North Star would install a third electric arc furnace, a second casting machine, and a new shuttle furnace to significantly increase square footage and production capacity from 2.4 million to 3.3 million tons of hot rolled steel bands at a capital cost of approximately \$600 to \$700 million (Application at 2, Ex. A at 1).

C. *Whether the Applicant's Project will have a substantial economic impact on the region.*

{¶ 13} According to the application, the Expanded Facility would provide significant economic benefits to Fulton County, Ohio and throughout the Northwest Ohio

region. North Star asserts that the project would add 91 permanent direct jobs earning \$11.7 million in compensation; and the total net annual economic impact in Ohio would be approximately 700 jobs and \$49 million in labor income, of which about 325 jobs and \$24 million in labor income would be concentrated in a six-county region including Fulton County. North Star projects that Fulton County would see an increase of 121 jobs and \$13 million in labor income and that impacted businesses would have annual output (sales) totaling \$678 million and add \$169 million to Ohio's gross domestic product. North Star projects that household income associated with the additional jobs, state and local governments in Ohio would receive about \$6.6 million more in tax revenues annually than under current conditions, and of that total, about \$236,000 would be in the form of local income and sales tax receipts in Fulton County. North Star also expects that construction and equipping of the Expanded Facility will have a short-term impact on the regional economy, boosting jobs and revenues for a two-year period, with the six-county region seeing a two-year boost of 340 jobs with nearly \$20 million in annual labor income just from the construction of the new plant facilities. North Star projects that equipping the Expanded Facility with machinery, computers, vehicles, furniture, and fixtures would result in a short-term increase of about 135 jobs with \$7 million in labor income in the region, with over 80 percent within Fulton County (Application at 2).

D. Whether the Applicant is committed to operational savings and energy efficiency, including participation in conservation or reliability programs.

{¶ 14} The application provides that North Star would be permitted to shop for generation service under the Proposed Arrangement, with the right to purchase transmission service for its entire facility from a CRES provider; however, Toledo Edison would be permitted to recover the costs of the interruptible rate credit through its Delta Revenue Recovery Rider, or an equivalent recovery mechanism. Further, the Proposed Arrangement would not preclude North Star from also participating in other PJM demand response programs through a curtailment service provider, and North Star would be permitted to retain any compensation associated with non-ELR load received from PJM

for its participation in those programs. In addition, North Star would work with Toledo Edison to ensure that any compensation associated with North Star's ELR load received from PJM is addressed consistent with the terms of Toledo Edison's ELR program (Application at 3-5).

E. *Whether the Project's benefits to the community exceed the costs imposed on other retail customers.*

{¶ 15} North Star proposes to add 75 employees and undertake \$600 million in capital investment within one year of commencing commercial operations at the Expanded Facility, in return for up to \$28 million in rate credits, funded by customers. The application also lists North Star's participation in programs supporting of the local schools and community, and asserts that the contemplated expansion would add 91 permanent direct jobs earning \$11.7 million in compensation, with the total net annual economic impact of the expansion in Ohio estimated to be approximately 700 jobs and \$49 million in labor income, of which 325 jobs and \$24 million in labor income would be concentrated in a six-county region including and surrounding Fulton County. The application also projects that the proposed North Star expansion would add \$169 million to Ohio's gross domestic product, and that Ohio state and local governments would receive about \$6.6 million more in tax revenues annually than under current conditions with approximately \$236,000 in income and sales tax receipts in Fulton County. The application also projects that construction of the Expanded Facility will add 340 jobs with nearly \$20 million in annual labor income for the regional economy over a two-year period, while equipping the Expanded Facility with machinery, computers, vehicles, furniture, and fixtures would, at a bare minimum, result in a short-term increase of about 135 jobs with \$7 million in labor income in the region, with over 80 percent of that within Fulton County (Application at 2).

F. *Whether the Arrangement has a set term after which operations will continue without subsidy.*

{¶ 16} Under the Proposed Arrangement, North Star would invest \$600 million to expand the North Star facility, with operations projected to begin in 2022, and would receive

up to \$28 million in interruptible credits over a seven-year term that would commence upon the beginning of commercial operations at the Expanded Facility (Application at 1-3). In its comments, OMAEG recommends that a reasonable arrangement not extend beyond five years. OMAEG asserts that other customers should not have to provide ongoing assistance for seven years, and reasons that a shorter term would be more just and reasonable while still providing immediate assistance to further economic development efforts.

IV. STAFF RECOMMENDATIONS FOR EXPEDITED APPROVAL

{¶ 17} The Commission notes that, according to the application, BlueScope has not yet made a final decision on its investment in the proposed North Star expansion (Application at 2). Staff recommends that the Commission expeditiously approve a reasonable arrangement, but Staff makes five recommendations for conditioning such approval of the Proposed Arrangement. Staff also requests that the parties be granted an opportunity to file comments addressing the interruptible credit sought for the Expanded Facility load, as well as any other terms and conditions associated with the application.

{¶ 18} We will adopt Staff's recommendations for expedited approval of the following terms and conditions for a reasonable arrangement pending the Customer's commitment to move forward with the expansion of its facilities, by filing a letter of commitment in this docket acknowledging that construction will begin on a date certain:

- (a) Effective as soon as reasonably possible following the Customer's commitment to move forward with the Expanded Facility and for seven years thereafter, the Customer may purchase transmission service for its existing load from a CRES provider. The expanded load shall be includable upon the start of commercial operation of the Expanded Facility.

- (b) The Customer's existing facility can retain existing interruptible credits subject to compliance with existing requirements until the end of Toledo Edison's current ESP.
- (c) The Customer's existing and Expanded Facility shall remain eligible to participate in PJM's demand response programs, subject to the terms and conditions of Rider ELR.
- (d) Effective as soon as reasonably possible following the Customer's commitment to move forward with the Expanded Facility and for seven years thereafter, Customers' current and expanded load and usage shall be removed from the R.C 4928.64 compliance baseline pursuant to R.C. 4928.644, and the Customer may arrange any related generation supply price reduction with its supplier.
- (e) Effective as soon as reasonably possible following the Customer's commitment to move forward with the Expanded Facility and for seven years thereafter, Customer's current and expanded load and usage shall be removed from the R.C. 4928.66 compliance baseline in accordance with R.C. 4928.66(A)(2)(i).
- (f) Other than a commitment to maintain Customer's "corporate partner" status with the University of Toledo, Owens Community College, and Northwest State Community College (Craft Training Program), and to consider expanding support for these training programs, there shall be no Commission-required capital spending or employment commitment associated with this expedited approval.

{¶ 19} We also note that while the application fails to expressly state that the charges paid under the Proposed Arrangement would cover the utility's incremental costs of service and contribute to the payment of fixed costs, the nature and scope of the expedited

relief recommended by the Staff does not relieve Customer of the obligation to pay fixed costs in accordance with either a schedule approved by the Commission or a schedule approved by the Federal Energy Regulatory Commission. Furthermore, the application fails to address whether North Star's expanded operations will continue without the benefits of a reasonable arrangement after expiration of the seven-year term of the Proposed Arrangement.

{¶ 20} The Commission finds that a reasonable arrangement covering the existing operations and the Expanded Facility should be approved on an expedited basis while we consider how and to what extent the reasonable arrangement authorized herein on an expedited basis should be modified to address other issues raised in the application. Accordingly, the Commission approves a reasonable arrangement as discussed above. Further, in light of the issues raised in the application and Staff's recommendations, the Commission believes that the parties should be granted until June 20, 2019 to file comments regarding the interruptible credit sought for the Expanded Facility load, and the potential for explicit delta revenues, as well as any other terms and conditions associated with the application.

V. ORDER

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That the terms and conditions set forth above for a reasonable arrangement between North Star and Toledo Edison be approved on an expedited basis. It is, further,

{¶ 23} ORDERED, That North Star file a letter of commitment in this docket acknowledging that construction will begin on a date certain upon its determination that the expansion of its facility will go forward. It is, further,

{¶ 24} ORDERED, That the parties file comments regarding the matters set forth above by June 20, 2019. It is, further,

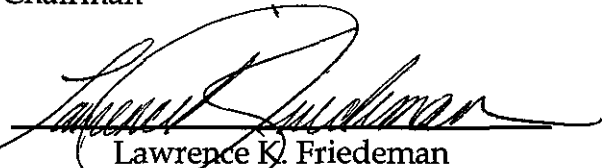
{¶ 25} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

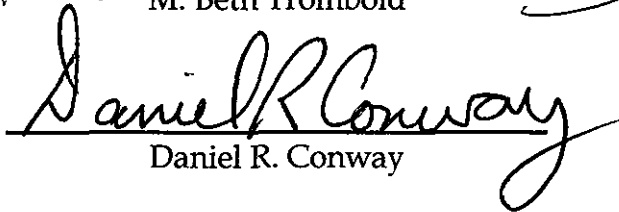
{¶ 26} ORDERED, That a copy of this Finding and Order be served upon each party of record.

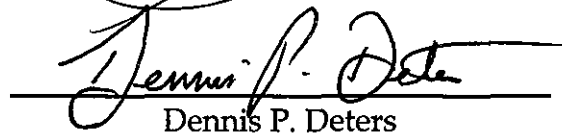
THE PUBLIC UTILITIES COMMISSION OF OHIO


Sam Randazzo, Chairman


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Secretary