4

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Establishment of Electronic Data Exchange Standards and Uniform Business Practices for the Electric Utility Industry.	))))	Case No. 00-813-EL-EDI
In the Matter of the following Applications to Establish Alternatives to Minimum Stay Restrictions for Residential and Small Commercial Customers:	))))	
Monongahela Power Company	)	Case No. 01-1817-EL-ATA
Dayton Power and Light Company	)	Case No. 01-1938-EL-ATA
Cincinnati Gas & Electric Company	)	Case No. 01-2053-EL-ATA
Columbus Southern Power Company	)	Case No. 01-2097-EL-ATA
Ohio Power Company	)	Case No. 01-2098-EL-ATA
Ohio Edison Company	)	Case No. 01-2677-EL-ATA
Toledo Edison Company	)	Case No. 01-2678-EL-ATA
Cleveland Electric Illuminating Company.	)	Case No. 01-2679-EL-ATA

ENTRY

The Commission finds:

(1) On August 31, 2000, this Commission issued an entry on rehearing in Case No. 00-813-EL-EDI which, *inter alia*, adopted a "first year exemption" minimum stay provision as the uniform rule in the Ohio Electric Choice market for residential and small commercial customers who, after switching to a competitive retail electric service (CRES) provider, subsequently elect to return to the standard service offer provided by the customers' electric distribution utility (EDU).[1] In Ohio's transition to a competitive market for electric generation service under Amended Substitute Senate Bill Number 3, effective July 6, 1999, (S.B. 3) each utility continues to serve as the default generation supplier and, pursuant to Section 4928.34(A)(6), Revised Code, the EDU's default or standard service offer rates are frozen at the level of the utility's then existing rate levels. The minimum stay issue arises because the utilities' existing rates generally were set using average annualized rates based on the assumption that a utility would serve a customer and collect revenue over a 12-month period. In the event that a substantial number of customers elect to switch from CRES generation to the EDU's default service and stay only through peak periods, the utility

1 *In re: Electronic Exchange Standards and Uniform Business Practices for the Electric Utility Industry*, Case No. 00-813-EL-EDI, Entry on Rehearing, August 31, 2000, at 7.

may not recover the revenues it would otherwise be entitled to receive.

(2) In our previous orders in this proceeding, we adopted a uniform one-year minimum stay rule for residential and small commercial customers.[2] This rule provides that a utility may prohibit a customer who returns to the EDU's standard service, either voluntarily or after termination of a CRES contract, during the period of May 16th through September 15th from leaving the utility's default service for a period specified in each EDU tariff not to exceed 12 months. After staying on the EDU's standard service for that period, the customer will then be permitted to switch to a CRES provider prior to May 16th.

This minimum stay requirement does not apply to customers returning to standard service due to a CRES provider's default. Further, no minimum stay may take effect for customers returning to default service prior to May 16, 2002; and after that date, the utility must give the returning customer both 14 days notice that the customer will be subject to a minimum stay restriction, and an option to choose an alternative to avoid this restriction. With respect to the last requirement, the entry on rehearing directed the Operational Support Planning for Ohio (OSPO) Taskforce to submit its recommendation for a uniform alternative to the minimum stay by March 15, 2001.[3]

(3) Despite extensive discussions and consideration over an eight-month period, the OSPO Taskforce was unable to reach a consensus on the adoption of a uniform alternative that would be available to returning customers subject to a minimum stay. Instead, each utility has filed tariff amendments under the above-captioned ATA cases. On November 9, 2001, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in each of the tariff applications on behalf of the residential consumers of the Ohio jurisdictional electric distribution utilities; and to consolidate the tariff applications, conduct a hearing and clarify the scope of the proceeding.

(4) For administrative convenience, the captioned cases will be consolidated for the limited purpose of establishing a procedure for interested parties to comment on the proposed

2 The minimum stay issue in this proceeding only applies to residential and small commercial customers. A minimum one-year stay provision for large commercial and industrial customers, as defined in Section 4928.01(A)(19), Revised Code, was adopted in the May 15, 2000 stipulation and *pro forma* certified supplier tariff.

3 Case No. 00-813-EL-EDI, Finding and Order, July 19, 2000, at 13-14; and Entry on Rehearing, August 31, 2000, at 7.

tariffs and appropriate alternatives to minimum stay requirements. However, this consolidation does not grant intervention to any party in any of the ATA cases.

As previously ordered in Case No. 00-813-EL-EDI, we will continue the use of the OSPO electronic mail ListServe, and adopt the following procedures:

Any parties desiring to comment upon the issues and proposed tariffs should file comments by December 11, 2001. Parties wishing to file reply comments should do so by January 2, 2002.

All OSPO participants should serve all other OSPO participants by sending their documents to the OSPO ListServe (ospo@lists.puc.state.oh.us). Any party who has not subscribed to the OSPO ListServe, but desires to file or receive comments, is advised to subscribe to the ListServe; instructions for doing so can be found on the Commission's website at: http://www.puc.state.oh.us/ohioutil/Energy/ERIndustry.

(5) To facilitate evaluation of all comments, each EDU is directed to report the number of residential and small commercial customers currently served by each CRES provider, the number of such customers who have returned to standard offer service and the cause of their return if known, and the resulting financial and operational impacts upon the EDU. All other parties are requested to describe their experience and participation in both the Ohio Electric Choice market and nationwide. In addition to addressing any or all of the specific tariff proposals, the parties are invited to respond the following questions:

(a) Should the alternative minimum stay be uniform for all utilities?

(b) What guiding principles should the proposals meet in order to be found reasonable and consistent with the policy goals of S.B. 3?

(c) The justification for imposing a minimum stay is that the utility must serve a customer during peak periods, but can only recoup its frozen standard service rate, which is based on annualized usage and payment. Therefore, if an exit fee is adopted, should the fee be based upon the utility's loss of receiving the amount it would have under its annualized frozen rate, rather than the utility's actual or projected costs of serving the customer?

(d) Rather than implementing a minimum stay, should the Commission use its emergency rate-making authority (and/or impose CRES fees) to rectify any substantial losses the EDU might suffer in the event the utility must take back large blocks of customers during peak periods?

(e) Is there a justification for a market-based "come and go" rate to be imposed in lieu of a minimum stay requirement?

(f) Instead of implementing a minimum stay and alternative, should the Commission simply require that all CRES contracts be for a 12 (or 24) month term?

(6) With respect to OCC's motion, we note that intervention is not required to file comments in this proceeding and, accordingly, we will defer any ruling on the motion at this time.

It is, therefore,

ORDERED, That all comments be filed by December 11, 2001, and all reply comments be filed by January 2, 2002, in accordance with Finding 4 of this entry. It is further,

ORDERED, That a copy of this entry be served upon all parties of record in the above-captioned cases.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Judith A. Jones

Donald L. Mason

Clarence D. Rogers, Jr.

RMB;geb

Entered in the Journal
NOV 20 2001
A True Copy

Gary E. Vigorito
Secretary