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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application for Approval of a Contract for Electric Service Between Columbus Southern Power Company and Solsil, Inc.	)	Case No. 08-883-EL-AEC
In the Matter of the Application for Approval of a Contract for Electric Service Between Ohio Power Power Company and Globe Metallurgical, Inc.	)	Case No. 08-884-EL-AEC

FINDING AND ORDER

The Commission finds:

(1) The Applicants, Columbus Southern Power Company (CSP) and Ohio Power Company (OP), are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.

(2) On July 16, 2008, CSP petitioned this Commission for approval of a contract and contract addendum with Solsil, Inc. (Solsil). Solsil manufactures high-purity silicon metal for the solar industry in Beverly, Ohio, at a facility on Wells Road. According to Arden Sims, President of Solsil, Solsil plans on investing $46,000,000 to build a state-of-the-art plant for producing solar grade silicon in Beverly, Ohio. The Solsil plant will depend on Globe Metallurgical, Inc. (Globe), also in Beverly, Ohio, to produce and supply metallurgical grade silicon to upgrade to solar grade silicon. Solsil's solar grade silicon will be used by the photovoltaic industry to generate solar power. Mr. Sims represents that a shortage of solar grade silicon has caused many solar cell producers to not open up United States production, thereby preventing the solar industry from reaching its full potential.

Mr. Sims states that an economic power rate is key to making Solsil's investment justifiable and operation viable, since power accounts for 30 percent of total production costs. The rates proposed in this application will facilitate a significant expansion at the Solsil facility. Solsil has represented that at its peak capacity after expansion it will employ 350 workers with a payroll exceeding $18 million annually.

(3) The contract is for a ten-year term beginning January 1, 2009. The contract capacity is 19,500 kVA. Since Solsil is not projecting to meet that level of demand until 2010, CSP agrees to use the greater of 60 percent of Solsil's previously established billing demand or 1,000 KVA as the minimum billing demand until January 1, 2010. After that date, the standard minimum demand provisions of Schedule General Service Large, which include a minimum billing demand of 11,700 KVA, shall apply. The price shall be based on Solsil's rate for generation service being equal to 40 percent of the winning supply bids received in response to requests for proposals (RFPs) to serve the load and on any deviations from Solsil's load forecast. Solsil shall also pay CSP's prevailing tariffs for transmission and distribution, including all applicable Commission-approved riders.

(4) The request for approval of the contract is conditioned on the Commission approving, as part of its order, the full recovery of CSP, over the ten-year period of the contract, of the cost of the generation service resulting from the requests for proposals, offset by the amount paid by Solsil for generation service.

(5) On July 16, 2008, OP petitioned this Commission for approval of a contract and contract addendum with Globe. Globe manufactures silicon metal, specialty alloys, and ferroalloys in Beverly, Ohio, at a facility on Sparling Road. The rates proposed in this application will facilitate the continuation of the operations at this facility. Globe has represented that it employs 180 workers to which it has paid $15 million in payroll and benefits through the 11 months of the current fiscal year. Globe asserts that the rates proposed are critical to maintaining the competitiveness of its facilities so that it can continue to provide employment and other economic benefits in Ohio.

(6) The contract is for a ten-year term beginning January 1, 2009. The price shall be based on ninety percent of Globe's rate for generation service on the otherwise applicable schedule for firm and interruptible. Globe shall also pay OP's prevailing tariffs

for transmission and distribution, including all applicable Commission-approved riders.

(7) The request for approval of the contract is conditioned on the Commission approving, as part of its order, the full recovery of OP, over the ten-year period of the contract, of the difference between what Globe's bill would have been under the applicable standard service offer schedules and the amount paid by Globe for generation service.

(8) Motions to intervene in these cases were filed by the Ohio Energy Group (OEG) and the Office of the Ohio Consumers' Counsel (OCC). OEG's objection is limited to the Solsil contract being a discount off of the market price of generation instead of a tariff rate. OCC objects to various terms of the contracts and proposed cost recovery mechanisms.

(9) The motions to intervene should be granted and the parties' comments considered in our consideration of the applications.

(10) The applications were filed pursuant to Section 4905.31, Revised Code. The contracts for electric service and corresponding addendums entered into between CSP and Solsil and OP and Globe appear to enhance the retention and growth of local industry. However, the Commission does not need to reach in this case the question of whether such contracts should be approved based on their economic development benefits. Consideration of special contracts for economic development will be governed by rules addressing the approval of reasonable arrangements. Such rules are pending before the Commission in Case No. 08-777-EL-ORD. Consideration of the contracts in this case will be based upon their potential impact on advancing policies set forth in Section 4928.02, Revised Code, by reducing the cost of solar energy resources needed to meet portfolio standards; expanding the State's solar energy industry and its effectiveness in the global economy; and encouraging development of technologies that can adapt successfully to potential environmental mandates, distributed generation, and innovative supply-side services for a modern grid. After considering the applications, the Commission finds that the agreement between OP and Globe should be approved. However, the Commission is concerned with the discount

mechanism in the Solsil contract and the delta revenue/cost created by the contract. Accordingly, the Commission approves the agreement provided that the contract is modified to provide that the market rate at the outset of the contract shall be estimated in accordance with generally accepted statistical criteria as arrived at by consultation with Commission staff (Staff) and for the purpose of establishing the discount benchmark. The Solsil discount shall then be calculated as a discount from the then applicable standard service offer in a proportion to that which would be equivalent to the 60 percent discount from the benchmark. The difference between the standard service offer and the Solsil rate shall then become recoverable as the delta revenue/cost. The Commission recognizes that the approval of each special arrangement must be considered on its own merits. The approval of these contracts is based on the unique circumstances of Solsil and Globe and an effort to maintain the viability of these operations. The Commission recognizes that these agreements were entered into prior to the effective date of Amended Substitute Senate Bill No. 221 (SB 221) and prior to the filing of any application pursuant to SB 221. Therefore, the Commission's decision in this case should not be viewed as precedent applicable to consideration of any similar issue that might arise in any electric utility's filing under SB 221.

With respect to the recovery of the difference between what the customers are charged and tariff rates, the Commission will permit the recovery of those delta revenues/costs pursuant to recently revised Section 4905.31(E) of the Revised Code. The mechanism for the recovery of those delta revenues/costs shall be determined as part of the utilities' standard service offer applications made pursuant to Section 4928.141, Revised Code.

It is, therefore,

ORDERED, that the motions to intervene filed by OEG and OCC are granted. It is, further,

ORDERED, that the proposed contracts and addendums are approved subject to the finding (10) set forth above. It is further, ORDERED, That OP and CSP file revised contracts consistent with this Finding and Order within 20 days of the issuance of the Finding and Order. It is, further

ORDERED, That the revenue recovery requested by CSP and OP is approved, subject to finding (10). However, the mechanism for recovery shall be determined as part of the utilities' standard service offer applications made pursuant to Section 4928.141, Revised Code. It is, further,

ORDERED, That the Commission's approval of these agreements does not constitute state action for the purpose of antitrust laws. It is, further,

ORDERED, That a copy this Finding and Order be served upon the Applicants and all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

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RRG/BF:ct

Entered in the Journal

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Reneé J. Jenkins
Secretary