



**CENTERIOR
ENERGY**

6200 Oak Tree Boulevard
Independence OH
216-447-3100

Mail Address
P.O. Box 94661
Cleveland, OH 44101-4661

April 24, 1996

The Public Utilities Commission
of Ohio

ATTN: Docketing Division
180 East Broad Street
Columbus, Ohio 43266-0573

SUBJECT: Case No. 96-399 -EL-AEC
BPOil

RECEIVED

APR 25 1996

**DOCKETING DIVISION
Public Utilities Commission of Ohio**

Dear Sirs:

Enclosed please find an original and twenty (20) copies of an Application of Cleveland Electric Illuminating Company for approval of an Application for BPOil.

Please date stamp five (5) copies and return to the following:

Dawn R. Young
Rates & Contracts, I-442
Centerior Service Company
6200 Oak Tree Blvd.
Independence, Ohio 44131

Please forward any interrogatories to Jerry Zeleny.

Sincerely,

John P. Wack
Manager
Rates & Contracts

JPW:dry

Enclosures

cc: R. B. Fortney

RECEIVED

APR 25 1996

DOCKETING DIVISION
Public Utilities Commission of Ohio

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of)
The Toledo Edison Company For Approval)
Of a Production Incentive Agreement)
With BP Oil Company, Toledo Refinery)**

Case No. *96-399-EL-AEC*

APPLICATION

The Toledo Edison Company, hereinafter referred to as the "Company", and the Applicant herein, respectfully seeks PUCO approval of a Production Incentive Agreement, hereinafter referred to as the "Agreement", between the Company and BP Oil Company, Toledo Refinery, hereinafter referred to as the "Customer", "BP Oil" or "Facility", and collectively known as the "Parties".

The Customer and the Company desire to enter into a Production Incentive Agreement, to encourage the continued operation and future expansion of the Customer's Facility.

The Customer desires to purchase firm power for its Facility which requires special conditions that are not provided for by the electric schedules of the Company, and the Company is willing to supply such firm power under the conditions set forth in the attached Agreement.

The parties are presently operating under an Agreement for electric power approved by the PUCO under Case No. 93-1077-EL-AEC.

The Facility is located in a State designated "distress zone" and the Facility is in an extremely competitive situation which disadvantages it when compared to refineries located outside of Ohio.

The Facility is one of the largest customers in the Toledo Edison service territory.

An integral repositioning package is currently being prepared by the Customer which will be presented at the BP Oil Headquarters in England shortly. This Agreement is a critical part of the repositioning package to be presented.

BP Oil is proposing a repositioning of the Facility by which BP Oil will invest \$200 Million within the next 2-1/2 years. The repositioning will enable the Facility to change its operations to be more cost competitive. The future of the refinery's continued operation is critically tied to repositioning. The package will maintain 520 jobs in the Toledo area.

The Agreement applies to service beginning with the bill rendered for usage for July 1996 and shall terminate with the bill rendered for usage for June 2006. However, this Agreement shall terminate prior to June 2006 by mutual agreement of the Parties for reasons such as, but not limited to, closure of the refinery or significant changes associated with the refinery operation.

WHEREFORE, the Company prays that the Commission issue its Order approving said Agreement by May 31, 1996 so as to permit the Customer to implement its repositioning package, and make the Agreement effective as of its effective date.

THE TOLEDO EDISON COMPANY

By: *Frank J. Ryf*

Title: *President*

By: *Robert A. Kurlan*

Title: *Assistant Treasurer*

**PRODUCTION INCENTIVE AGREEMENT
BETWEEN
THE TOLEDO EDISON COMPANY
AND
BP OIL COMPANY**

This Agreement is made and entered into this 23 day of April, 1996, by and between The Toledo Edison Company, a corporation organized and existing under the laws of the State of Ohio, hereinafter the "Company", and BP Oil Company, a corporation organized and existing under the laws of the State of Ohio, hereinafter the "Customer", and individually or collectively known as the "Party" or "Parties".

WITNESSETH

WHEREAS, the Customer receives electric service from the Company for the following manufacturing plant, hereinafter known as the "Facility".

<u>Name</u>	<u>Address</u>	<u>Company Acct. No.</u>
BP Oil Company	4001 Cedar Point Rd.	222-0024374-120

WHEREAS, the Customer and the Company desire to enter into this Production Incentive Agreement, hereinafter known as the "Agreement", to encourage the continued operation and future expansion of the Customer's Facility; and,

WHEREAS, the Customer desires to purchase firm power for its Facility which requires special conditions that are not provided for by the electric schedules of the Company, and the Company is willing to supply such firm power under the conditions set forth herein; and,

WHEREAS, the Facility located in a State designated "distressed zone" and the Facility is in an extremely competitive situation which disadvantages it when compared to refineries located outside of Ohio.

NOW, THEREFORE, in consideration of the mutual promises herein contained, it is agreed as follows:

1. **ELECTRIC SERVICE**

The Company shall render Firm Electric Service to the Facility for all the Facility's electric service requirements, as Customer may request from time to time. The provisions of the General Service Rules and Regulations of PUCO No. 7, Electric Service, and Rider No. 1 and Rider No. 3, as they may be amended or superseded from time to time with the approval of the Public Utilities Commission of Ohio (PUCO), and in effect at the time of service being rendered shall apply to rendering of Firm Electric Service to the Facility under this Agreement to the extent not inconsistent with any of the provisions of this Agreement. Electric service rendered under this Production Incentive Agreement shall be

charged and billed separately from all other accounts the Customer has with the Company. The Customer agrees to accept and pay for such service as provided for herein.

2. DEFINITIONS

This Agreement shall be subject to the following definitions:

- 2.1 Electric Power. Electric Power means electric energy and capacity.
- 2.2 Load. Load means electric demand in kilowatts (kWd). The Customer's demand for billing purposes shall be the highest thirty (30) minute integrated kW attained during that monthly billing period. The 30-minute period is determined by Company approved metering and is not restricted to any specific 30-minute start and stop period.
- 2.3 Full Service Rate. A rate schedule within the Company's approved tariff PUCO No. 7 that provides firm and/or interruptible services to the customer including generation, transmission and distribution.
- 2.4 Firm Electric Service. Electric Power delivered to Customer not subject to interruption except as defined within PUCO No. 7.

3. MONTHLY RATES

The following monthly rates apply to the Electric Power consumed at the Facility for the indicated years and no change, surcharge, supplement or addition of any type shall be made to any of the rates or charges in section 3.1 through 3.5 except as indicated in section 3.6 and 3.7. The rates herein specified include all taxes (e.g. Excise, Sales and/or Gross Receipts).

	<u>1996</u>	<u>1997- 1998</u>	<u>1999- 2000</u>	<u>2001- 2006</u>
3.1 <u>Kilowatt Demand Billing Charge:</u>				
For the first 10,000 kWd	\$8.25	\$8.25	\$8.25	\$8.25
For the next 40,000 kWd	\$7.50	\$7.50	\$7.50	\$7.50
For the next 50,000 kWd	\$3.50	\$3.50	\$3.50	\$3.50
For all additional kWd	\$3.00	\$3.00	\$3.00	\$3.00
3.2 <u>Kilowatt-hour Charge</u>				
For the first 420 kWh per kWd	\$0.02000	\$0.0183	\$0.0172	\$0.0160
For the next 130 kWh per kWd	\$0.00975	\$0.0060	\$0.0060	\$0.0060
For all additional kWh	\$0.00500	\$0.0050	\$0.0050	\$0.0050

3.3 Reactive Demand Charge:

- a. The Company shall each month determine the net leading or lagging reactive kilovoltampere demand registered during the same 30-minute period as the maximum Kilowatt Demand.
- b. If the rkVa demand so determined is lagging, the reactive billing demand shall be the rkVa which are in excess of 10 percent of the Kilowatt Demand billed.
- c. If the rkVa demand so determined is leading, the reactive billing demand shall be the rkVa which are in excess of 40% of the kilowatt demand billed.

For each rkVad **\$0.50**

3.4 Supply Voltage Discount:

A discount of \$1.00 per kWd shall be applied to the monthly bill of the Facility since the Facility is served entirely at 69 kV.

3.5 Customer Substation Discount:

A discount of \$0.30 per kWd of load shall be applied to the monthly bill for the Facility since the Customer has elected to furnish and maintain or lease or otherwise contract for all transforming, switching and other equipment at the Facility required on the Customer's premises.

3.6 Applicable Riders:

For the entire term of the Agreement, the following riders which are contained in the indicated sheets of PUCO No. 7, Electric Service, shall apply to the Customer's monthly bill for the Facility as they may be amended or superseded from time to time with the approval of the PUCO:

- | | | | |
|-----|-------------|--|---------------|
| (a) | Rider No. 1 | Electric Fuel Component Rate | Sheet No. 86 |
| (b) | Rider No. 3 | Interim Emergency, Temporary Recovery Method for PIPP Arrearages | Sheet No. 134 |

3.7 Base Charges Adjustment:

"Base Charges" shall comprise the charges described in Sections 3.1 through 3.5 of this Agreement.

If the current Electric Fuel Component Rate "EFC" lies within the range of \$0.02 per kWh and \$0.009 per kWh ("Range"), then the Base Charges Adjustment ("BCA") will be equal to \$0.0145 minus the EFC, multiplied by the monthly kWh. If the resulting BCA is positive, the BCA shall be added to Base Charges for that

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month. If the resulting BCA is negative, the absolute value of the BCA shall be subtracted from the Base Charges for that month.

If the EFC is outside the Range, the following adjustment shall be administered:

- (a) If the EFC is above \$0.02 per kWh, then the BCA will equal \$0.0055, multiplied by the monthly kWh. The BCA shall be subtracted from the Base Charges for that month.
- (b) If the EFC is below \$0.009 per kWh, then the BCA will equal \$0.0055, multiplied by the monthly kWh. The BCA shall be added to the Base Charges for that month.

4. MINIMUM CHARGE:

- 4.1 The monthly minimum charge for the Facility shall be established at 25,000 kW.
- 4.2 This Minimum Charge shall apply for the entire term of the Agreement except in the event of a discontinuance or a suspension of the commercial refining of petroleum that is expected to exceed two (2) months, or in the event of Turnarounds or in the event of Force Majeure conditions, when such Minimum Charge shall not apply for the Facility.

5. TURNAROUND:

In November of each year during the term of this Agreement, Toledo Edison will request, in writing, that the Customer supply a Turnaround schedule for the following year. The Customer will respond to the Company with a forecast containing the expected duration of scheduled shutdowns of the Facility for that year. During any maintenance shutdown or Force Majeure condition of the Facility, the per kilowatt-hour rate shall be equal to the average kilowatt-hour rate charged to the Customer during the three most recent months when neither a Turnaround nor Force Majeure condition occurred. If a shutdown schedule is not provided and the Company is materially harmed, the rate adjustment will not be calculated for the billing application. In addition, the Customer will to the extent possible, on a reasonable efforts basis, advise the Company of changes in the Turnaround schedule to assist the Company in generation scheduling.

6. SOLE ELECTRIC POWER REQUIREMENT:

The Customer agrees to have the Company as the sole supplier of all Electric Power to the Facility except: (a) during a Force Majeure condition, as defined herein, the Customer may utilize emergency generation equipment to satisfy their own electrical requirements until the Company can resume service to the Facility, (b) for and during periodic maintenance and testing of emergency generation equipment, if any, or (c) operation of generation on an incidental, occasional, or de minimus use. The Customer may furnish electricity provided under this Agreement to (a) third parties without charge for activities directly related to the Facility and furnished exclusively for the Facility's needs and (b) to

Customer Affiliates (any entity in which Customer maintains at least 50% equity ownership), without charge at or adjacent to the location of the Facility.

7. TERM AND EFFECTIVE DATE:

This Agreement shall become effective with the bill issued for usage for the month of July 1996 and shall continue thereafter through the bill issued for the usage for June 2006 except as contained herein. A meter read date on or after the 15th of the month is considered usage for that month. This Agreement shall terminate prior to June 2006 by mutual agreement of the Parties for reasons such as, but not limited to, closure of the refinery or significant changes associated with the refinery operation.

This Agreement terminates as of July 1, 1996, the Load Factor Sustainment Agreement between BP (as successor to Sohio Oil Company) and Toledo Edison Company dated November 3, 1986 as amended March 23, 1990 and June 18, 1993. In addition, Section 6 thereof, as amended, is hereby irrevocably voided.

8. COMPARABLE FACILITY PRICE PROTECTION:

8.1 A Comparable Facility shall be defined as an operating oil refinery and located within the certified service territory of The Toledo Edison Company, as such service territory is defined on January 1, 1996.

8.2 If the Company provides an arrangement, rates or charges which is or may be in effect at any time during the term of this Agreement, to a Comparable Facility within its certified territory, then the Customer will have the right to utilize that arrangement, rates or charges for its Facility. The Customer must comply with all other terms and conditions of the arrangement including firm and interruptible load characteristics / conditions.

9. OTHER TERMS AND CONDITIONS:

9.1 Assignment. This Agreement may be assigned or otherwise transferred by the Customer to any affiliate of the Customer, successor in interest of the Customer, or, successor owner of the Facility. In addition, Customer may assign or otherwise transfer this Agreement to any occupant of the Facility with the written consent of the Company, such consent shall not be unreasonably withheld. This Agreement may be assigned or otherwise transferred by the Company to the successor in interest of The Toledo Edison Company of Toledo, Ohio upon final regulatory approval of the Company's pending merger with The Cleveland Electric Illuminating Company. In addition, Company may assign or otherwise transfer this Agreement to any affiliate, successor or owner with the written consent of the Customer, such consent shall not be unreasonably withheld.

9.2 Notices. Any notice required to be given hereunder or desired by either Party to be given shall be deemed effective when mailed by first class mail, postage prepaid, if to the Customer at:



Plant Manager
BP Oil Company
P.O. Box 696
Toledo, Ohio 43694

and, if to the Company, at:

Director - Large Industrial Sales
The Toledo Edison Company
300 Madison Avenue
Toledo, Ohio 43652

- 9.3 Force Majeure. If because of Force Majeure, either Party shall be unable to carry out any of its obligations under this Agreement or fail to deliver or utilize the electric service of the Company contemplated herein, then the obligations of that Party shall be suspended to the extent made necessary by Force Majeure. The Party affected by Force Majeure shall give notice to the other Party as promptly as practical of the nature and probable duration of such Force Majeure. "Force Majeure" shall mean acts of God, riots, strikes, labor disputes, labor or material shortages, fires, explosions, floods, breakdown of or damage to plants, equipment or facilities, or other causes of similar nature which are beyond the reasonable control of the Party and which wholly or partially prevent the supplying of electricity by the Company or the receiving or utilization of such electricity by the Customer, provided that the effect of such Force Majeure shall be eliminated insofar as possible with all reasonable dispatch; provided further, that performance by the Parties hereunder shall be excused only to the extent made necessary by the Force Majeure condition; provide further, that neither Party shall be required to settle a labor dispute on terms unacceptable to the Party affected; and provided further, that neither Party shall be required to rebuild all or a major portion of its facilities which are destroyed or substantially impaired by a Force Majeure condition.
- 9.4 Confidentiality of Information. All information provided in, or in connection with, this Agreement, whether printed, written or oral, shall be held in confidence and used only for the business purpose for which it was provided, except to the extent made public by the PUCO.
- 9.5 Governing Law. The validity, construction and performance of this Agreement shall be determined in accordance with the laws of the State of Ohio.
- 9.6 Clause Heading. The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.
- 9.7 Governmental Approvals. This Agreement is subject to all applicable rules and regulations for all necessary approvals or authorizations of any governmental



authority. The Company shall submit this Agreement to the PUCO within 10 days from the date of execution of this Agreement and will use its best efforts to secure any necessary approval of this Agreement by the PUCO with the assistance and cooperation of the Customer.

- 9.8 No Waiver. Except as expressly provided herein, neither Party shall, by any act, omission or otherwise, be deemed to have waived any of its rights or remedies under this Agreement unless such waiver shall be in writing and signed by a duly authorized officer of the Party against which such act, omission or waiver is asserted. Such written waiver on one occasion shall not be construed as a waiver of any rights or remedies which a Party shall otherwise have on any subsequent occasion.
- 9.9 Tariffs. The Customer shall have the option of converting to a more favorable Full Service Rate, if the Company establishes such rate schedule. The Customer must provide a 6 month written notice of its intention to convert to a Full Service Rate and will be obligated to the requirements and qualifications of such Full Service Rate. However, the Customer shall serve the longer term between the Full Service Rate it may elect and the term of this Agreement, without the ability to prematurely terminate such Agreement by reason of having elected a Full Service Rate of shorter duration.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

BP OIL COMPANY

By: [Signature] 4/24/96

Title: [Signature]

TOLEDO EDISON COMPANY

By: [Signature]

Title: President