

FILE

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December 7, 2009

Via Federal Express
and Facsimile (614-466-0313)Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission, Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

PUCO

2009 DEC -7 PM 3:14

RECEIVED-DOCKETING DIV

Re: In the Matter of the Energy Efficiency and Peak Demand Reduction
Program Portfolio of Ohio Edison Company, The Cleveland Electric
Illuminating Company, and The Toledo Edison Company
Case No. 09-535-EL-EEC, et al.

Dear Ms. Jenkins:

Enclosed for filing, please find the original and fourteen (14) copies of a letter sent this day to Mr. Steven Lesser, relating to this case No. Please file the enclosed in the above-referenced docket, time-stamping the two extras and returning them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,



Arthur E. Korkosz

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Mr. Steven Lesser
Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, OH 43215

Re: Case No. 09-535-EL-EEC, et al.

Dear Mr. Lesser:

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "Companies") filed on June 26, 2009 their Application for a Commission waiver of the applicability of the requirements of its then newly adopted rules with respect to the achievement of peak demand reduction benchmarks under R.C. 4928.66(A)(1)(b) for 2009, and also requested the Commission's approval of the availability of interruptible load under the Companies' approved OLR (Optional Load Response) and ELR (Economic Load Response) Riders as programs under R.C. 4928.66(A)(1)(b) which satisfy the requirement for compliance with each of the Companies' peak demand reduction benchmark for 2009. The Companies subsequently amended the Application on July 7, 2009, to request in the alternative (pursuant to R.C. 4928.66(A)(2)(b)), an amendment to their respective 2009 peak load reduction benchmarks under R.C. 4928.66(A)(1)(b). Since those filings, the Commission has adopted new rules (expected to become effective December 10) which supplant the earlier rules from which a waiver was requested. The purpose of this letter is to address the effect of these new rules on the relief requested in the Companies' Amended Application.

Of particular relevance here is new O.A.C. § 4901:1-39-05(E) which states in pertinent part:

An electric utility may satisfy its peak-demand reduction benchmarks through a combination of energy efficiency and peak-demand response programs implemented by electric utilities and/or programs implemented on mercantile customer sites where the mercantile program is committed to the electric utility.

* * *

(2) For demand response programs, an electric utility may count demand reductions towards satisfying some or all of the peak-demand reduction benchmarks by demonstrating that either the electric utility has reduced its actual peak demand, or has the capability to reduce its peak demand and such capability is created under either of the following circumstances:

(a) A peak-demand reduction program meets the requirements to be counted as a capacity resource under the tariff of a regional transmission organization approved by the Federal Energy regulatory Commission. . . .

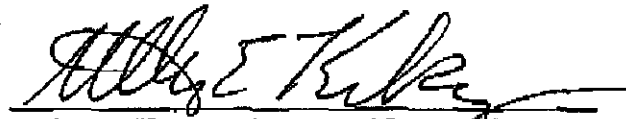
This more recent formulation of the Commission's rules resolved the primary issue which had given rise to the Amended Application, namely, that a demonstration of the *capability* to curtail load without actual interruption would be recognized as compliance with the statutory requirements, i.e. comprising a program "designed to achieve" load reduction.¹ Although the Commission's modification of the rules resolved this primary issue which underlay the Companies' Amended Application, one additional clarification now remains to be addressed by the Commission, specifically, that the Companies' tariffs ELR and OLR, the programs which provide the curtailment mechanism intended to effect compliance with the statutory mandates, be deemed to be programs falling within the purview of the Commission's new formulation of the rule. Under both the OLR and ELR Riders customers must reduce or interrupt their load under specified system conditions which may not necessarily coincide with the peak as defined by the Commission's rules. Nevertheless, the need for capacity is driven by the Companies' peak demand and to the extent that these Riders allow for avoiding the costs of added facilities that may only be used for a few hours in a year at times of emergency curtailment events, the objectives sought to be attained by the statutory requirements to reduce peak demand are achieved. As such, the Riders are conceptually consistent with and should be considered to fall within the scope of programs required to be implemented under R.C. 4928.66(A)(1)(b). The availability of this real, triggerable demand resource should be counted for purposes of compliance with the statute's requirements. The Companies request that the Commission by clarifying entry or order confirm that it considers these Riders to be such programs within the scope of the rule.

In providing this clarification, the alternative form of relief requested in the Amended Application (the amendment of the Companies' 2009 peak demand reduction benchmark to zero) will become unnecessary. Moreover, such clarification will make it unnecessary to revisit this issue again with respect to consideration of the Companies' 2010 compliance with the requirements of R.C. 4928.66(A)(1)(b).

Accordingly, the Companies request that the Commission issue a clarification as described and for the reasons set out herein.

¹ As had been argued in several earlier contexts and proceedings before the Commission, the goal to be achieved by the peak demand reduction requirements of R.C. 4928.66 was to forestall the need for the addition of costly new generation capacity. That goal would be achieved through the existence or availability of a demand resource - curtailment - even if it was not actually used in a given yearly period.

Respectfully submitted,



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