

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Kelsey- )  
Hayes Company and The Toledo Edison )  
Company For Approval of a Special ) Case No. 09-1306-EL-EEC  
Arrangement with a Mercantile Customer )  
and Exemption from Payment of Costs )  
Included in Rider DSE2. )

FINDING AND ORDER

The Commission finds:

- (1) On November 4, 2009, The Toledo Edison Company (TE) filed a joint application with Kelsey-Hayes Company (KH) (collectively, joint applicants) for an exemption from Rider DSE2 for KH (joint application). Rider DSE2 is the mechanism by which TE recovers from customers the costs associated with compliance with the energy efficiency and demand reduction requirements set forth in Section 4928.66, Revised Code.
- (2) Section 4928.66, Revised Code, requires electric utilities to implement energy efficiency programs that achieve certain energy efficiency and demand reduction savings from established benchmarks. Section 4928.66(A)(2)(c), Revised Code, allows an electric utility to include, for purposes of compliance with said benchmarks, "mercantile customer-sited energy efficiency and peak demand reduction programs."
- (3) Rule 4901:1-39-05(G), Ohio Administrative Code (O.A.C.), authorizes a mercantile customer to file, either individually or jointly with an electric utility, an application to commit the customer's demand reduction, demand response, or energy efficiency programs for integration with the electric utility's demand reduction, demand response, and energy efficiency programs, pursuant to Section 4928.66(A)(2)(d), Revised Code.

- (4) An application filed pursuant to Rule 4901:1-39-05(G), O.A.C., shall:
- (a) Address coordination requirements between the electric utility and the mercantile customer with regard to voluntary reductions in load by the mercantile customer, which are not part of an electric utility program, including specific communication procedures.
  - (b) Grant permission to the electric utility and staff to *measure and verify energy savings and/or* peak-demand reductions resulting from customer-sited projects and resources.
  - (c) Identify all consequences of noncompliance by the customer with the terms of the commitment.
  - (d) Include a copy of the formal declaration or agreement that commits the mercantile customer's programs for integration, including any requirement that the electric utility will treat the customer's information as confidential and will not disclose such information except under an appropriate protective agreement or a protective order issued by the Commission pursuant to Rule 4901-1-24, O.A.C.
  - (e) Include a description of all methodologies, protocols, and practices used or proposed to be used in measuring and verifying program results, and identify and explain all deviations from any program measurement and verification guidelines that may be published by the Commission.
- (5) An application to commit a mercantile customer program for integration pursuant to Rule 4901:1-39-05, O.A.C., may also

include a request for an exemption from the cost recovery mechanism set forth in Rule 4901:1-39-07, O.A.C. See Rule 4901:1-39-08, O.A.C. To be eligible for this exemption, the mercantile customer must consent to providing an annual report on the energy savings and electric utility peak-demand reductions achieved in the customer's facilities in the most recent year.

- (6) Further, under Section 4928.66, Revised Code, if a mercantile customer makes an existing or new demand response, energy efficiency, or peak demand reduction capability available to an electric utility pursuant to Section 4928.66(A)(2)(c), Revised Code, the electric utility's baseline must be adjusted to exclude the effects of all such demand-response, energy efficiency, or peak demand reduction programs that may have existed during the period used to establish the baseline.
- (7) TE is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (8) KH is a mercantile customer as defined in Section 4928.01(A)(19), Revised Code.
- (9) The joint application and attached Exhibit A explain that, from March 2006 through April 2009, KH implemented lighting system upgrades, a compressor management system, Hessap A/C and spindle cooler controls, and a new equipment shutdown procedure. The joint application contains a request for a mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C., and a request for a mercantile rider exemption, as set forth in Rule 4901:1-39-08, O.A.C., through 2022, as a result of these projects.
- (10) On February 2, 2010, the Ohio Environmental Council (OEC) filed a motion to intervene, asserting that there is a danger that if the energy savings justifying KH's exemption from

Rider DSE2 are insufficient, TE will not meet the energy savings requirements under Section 4928.66, Revised Code.

- (11) On April 14, 2010, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this proceeding, stating that the interests of Ohio's residential consumers may be adversely affected by this case, in the event that KH's energy savings are not sufficient under the requirements set forth in Section 4928.66, Revised Code, and, as a result, consumers have to pay additional costs toward Rider DSE2.
- (12) The Commission finds that OEC and OCC have set forth reasonable grounds to intervene in this proceeding. Accordingly, their motions to intervene should be granted.
- (13) On May 25, 2010, Commission Staff (Staff) filed a letter recommending approval of the joint application. Staff noted that the Applicants provided the following items in support of the joint application: (1) annual energy baseline consumption data; (2) an accounting of incremental energy saved; (3) a description of projects implemented and measures taken; (4) a description of the methodologies, protocols, and practices used to measure and verify the energy savings; (5) an accounting of expenditures to demonstrate the cost-effectiveness of the project; and (6) supporting documents to verify the timeline and in-service dates of the project. In its evaluation of the joint application, Staff reviewed the items listed above, as well as further supporting documentation provided by TE, including, but not limited to, engineering studies, engineering estimates, and new lighting receipts. Staff confirmed that the methodology the Applicants used to calculate energy savings conforms to the general principles of the International Performance Measurement Verification Protocol. Staff also found that the length of the exemption sought is reasonable.

- (14) Upon review of the joint application and supporting documentation provided by the Applicants, as well as Staff's recommendation, the Commission finds that the requirements related to the joint application, as delineated above, have been met.
- (15) The Commission finds that the request for a mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C., and for a mercantile exemption from Rider DSE2 pursuant to Rule 4901:1-39-08, O.A.C.,<sup>1</sup> do not appear to be unjust or unreasonable, and thus, a hearing on the matter is unnecessary. Accordingly, we find that the joint application should be approved. As a result of such approval, we find that TE should adjust its baseline according to each project's installation date, pursuant to Section 4928.66(A)(2)(c), Revised Code, and Rule 4901:1-39-05, O.A.C. However, we note that although these projects are approved, they are subject to evaluation, measurement, and verification in the portfolio status report proceeding initiated by the filing of TE's portfolio status report on March 15 of each year, as set forth in Rule 4901:1-39-05(C), O.A.C.
- (16) The Commission also notes that every arrangement approved by this Commission remains under our supervision and regulation, and is subject to change, alteration, or modification by the Commission.

It is therefore,

ORDERED, That the motions to intervene filed by OEC and OCC be granted. It is, further,

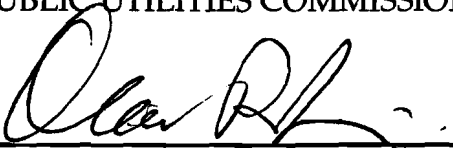
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<sup>1</sup> On October 15, 2009, the Commission rejected the benchmark comparison method, reversing its prior position. Given that the agreement between the mercantile customer and the electric utility were entered into prior to the effective date of this rule on December 10, 2009, the Commission believes that it is both equitable and reasonable to recognize the existing mercantile customer-sited capabilities and investments that relied upon the previously adopted rule's methodology.


ORDERED, That the joint application filed by TE and KH be approved. It is, further,

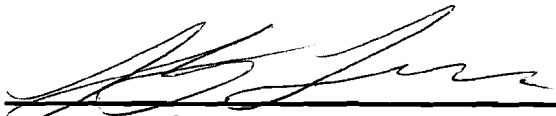
ORDERED, That a copy of this Finding and Order be served upon all parties of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman

  
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Paul A. Centolella

  
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Valerie A. Lemmie

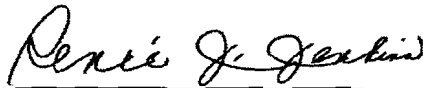
  
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Steven D. Lesser

  
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Cheryl L. Roberto

RLH/sc

Entered in the Journal

**JUN 16 2010**

  
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Renee J. Jenkins

Renee J. Jenkins  
Secretary

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CONCURRING OPINION OF COMMISSIONER PAUL A. CENTOLELLA

This case presents comparable circumstances to those in Case No. 09-595-EL-EEC, *In the Matter of the Application of Progressive Insurance Company and The Cleveland Electric Illuminating Company for Approval a Special Arrangement with a Mercantile Customer*. For the reasons stated in my Concurring Opinion in Case No. 09-595-EL-EEC, I would approve the proposed agreement subject to reexamination based on the total exemptions granted for this utility using a benchmark comparison approach and potential modification of such exemptions.

  
Paul A. Centolella, Commissioner