

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of)
the Timken Company and The Ohio)
Power Company for Approval of a) Case No. 10-3066-EL-AEC
Unique Arrangement for the Timken)
Company's Canton, Ohio, Facilities.)

OPINION AND ORDER

The Commission, considering the above-entitled application, hereby issues its opinion and order in this matter.

APPEARANCES:

Steven T. Nourse, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, on behalf of Ohio Power Company.

Vorys, Sater, Seymour & Pease, LLP, by M. Howard Petricoff and Michael J. Settineri, 52 East Gay Street, Columbus, Ohio 43216, on behalf of the Timken Company.

Mike DeWine, Ohio Attorney General, by Thomas W. McNamee, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission of Ohio.

OPINION:

I. History of the Proceeding

The Timken Company (Timken) is a mercantile customer as defined by Section 4928.01, Revised Code. Ohio Power Company (Ohio Power) is an electric utility as defined by Section 4928.01, Revised Code.

On December 20, 2010, Timken and Ohio Power (collectively, Joint Applicants) filed a joint application (application) pursuant to Section 4905.31, Revised Code, seeking approval of a unique arrangement for Timken's Canton, Ohio, facilities, which manufacture specialty steel products. The Joint Applicants state that approval of the unique arrangement will allow Timken to pursue capital investments in production and energy conservation, which, in turn, should preserve employment and increase efficiency. Further, the Joint Applicants state that, through the application, Timken will integrate its

conservation efforts at the Canton facility into Ohio Power's peak demand reduction and energy efficiency programs.

Motions to intervene in the proceeding were timely filed by and granted to Industrial Energy Users-Ohio (IEU-Ohio), the Ohio Energy Group (OEG), and the Ohio Consumers' Counsel (OCC).

On January 10, 2011, OCC filed comments regarding the application.¹ Thereafter, on January 20, 2011, Timken and Ohio Power filed joint reply comments in response to OCC's comments. Further, on January 25, 2011, IEU-Ohio filed comments regarding the application. Thereafter, on February 8, 2011, Timken and Ohio Power filed joint reply comments in response to IEU-Ohio's comments.

Based upon the comments, the attorney examiner issued a procedural schedule setting dates for a prehearing conference and hearing.

On March 14, 2011, during the prehearing conference, OCC made several motions to compel Ohio Power to respond to requests for production of documents, which the attorney examiner denied. However, the attorney examiner directed Ohio Power to produce a privilege log to identify certain documents. The attorney examiner's orders were reflected in an entry issued March 16, 2011.

On March 18, 2011, OCC notified the attorney examiners that it had reviewed the privilege log and renewed its oral motion to compel Ohio Power to produce the documents identified on the privilege log. Accordingly, the attorney examiner scheduled a prehearing conference for March 23, 2011, for an *in camera* review of the documents identified on the privilege log, at which OCC withdrew its oral motion to compel. Shortly thereafter, on March 25, 2011, OCC filed a notice of withdrawal from the case, asserting its support for the reasonable arrangement and stating that its concerns dissipated upon learning that Timken was considering shopping for electric service and had issued a request for proposal in that regard.

The hearing in this matter was held on March 29, 2011. At the hearing, Timken presented one witness, Peggy Claytor, and offered into evidence the public and confidential versions of the joint application (Timken Exs. 1, 2), the public and confidential versions of the pre-filed testimony of Peggy Claytor (Timken Exs. 3, 4), the pre-filed testimony of James Griffith (Timken Ex. 5), the public and confidential versions of the pre-filed testimony of Salvatore Miraglia (Timken Exs. 6, 7), the pre-filed testimony of Joseph Hoagland (Timken Ex. 8), and the public and confidential versions of the pre-filed testimony of Andrew Black (Timken Exs. 9, 10).

¹ Because OCC withdrew from the case after filing comments, we will not further address its comments.

II. Summary of the Application and Comments

The Joint Applicants filed their application for approval of a unique arrangement pursuant to Sections 4905.31 and 4928.66, Revised Code, and Rules 4901:1-38-05 and 4901:1-39-05(G), Ohio Administrative Code (O.A.C.). The Joint Applicants assert that the application contains two primary components: (a) establishment of a special rate for energy prices to allow Timken to pursue capital investments in production and energy conservation, which, in turn, will sustain Timken's competitiveness and employment rates, and (b) integration of Timken's conservation efforts at the Canton facility into Ohio Power's peak demand reduction and energy efficiency programs, which will help Ohio Power achieve its statutory goals under S.B. 221 and will benefit other Ohio Power customers (Timken Ex. 1 at 1-2).

Regarding the special rate design for Timken, the Joint Applicants propose a declining discount off the applicable tariff rates beginning at 15 percent for the first twelve months, and, thereafter, declining by one percent every year for the first five years, and by two percent every year for the remaining years. The difference between the proposed special rates and the otherwise applicable tariff rates, or "delta revenue," would be accounted for and collected through Ohio Power's economic development rider (Timken Ex. 1 at 5).

In order to temper the effect of spikes in prices during the term of the unique arrangement, the proposed rate design includes a "limiter" or a pre-set ceiling for Timken's power costs every month of the unique arrangement. According to the Joint Applicants, the base amount of the limiter will be set at the cost of power for each month in 2008, as this was the last normal year prior to the recession. Thereafter, the limiter ceiling will be reset each year by increasing the prior year's monthly maximum by 5 percent. In order to limit the resulting delta revenue in the event that power prices reach unexpected levels, the special rate design also includes a cap on the limiter should it result in a tariff discount of more than 25 percent. The Joint Applicants emphasize that no tariff discounts over 25 percent will be authorized. Further, as an additional limit on the delta revenue to be collected through the economic development rider, the Joint Applicants propose an absolute cap on the aggregate discount arising from the rate discount and limiter. Additionally, the special rate design preserves Timken's right under S.B. 221 to switch from purchasing electricity under the standard service offer to purchasing electricity on the open market, in which case the unique arrangement would terminate. The Joint Applicants assert that this will eliminate any further delta revenue from being passed through the economic development rider (Timken Ex. 1 at 5-8, 13-15).

The Joint Applicants pledge that approval of the application will maintain employment at the Canton facility at a specified level and will ensure an agreed-upon

amount of capital investment in production and energy conservation assets. Timken agrees to report the status of its Canton facility employment and investment levels to the Commission Staff (Staff) on an annual basis. If Timken fails to maintain the pledged level of employment, and capital investment, the Joint Applicants state that the monthly rate discount will be reduced proportionately with the percentage level of development shortfall, absent a *force majeure* determination (Timken Ex. 1 at 19-20).

The Joint Applicants state that Timken's size and energy flexibility assist Ohio Power in maintaining system reliability and economic rates for the benefit of Ohio Power's other customers. Specifically, the Joint Applicants describe Timken as able to interrupt a significant number of megawatts (MW) on short notice. Consequently, Timken has agreed that Ohio Power may interrupt power to its Canton facility on short notice in order to enhance reliability of the Ohio Power system for firm customers and also for economic reasons. Further, the Joint Applicants state that they have entered into an agreement whereby Timken will commit existing demand reduction and energy efficiency projects along with future projects and demand response projects for integration with Ohio Power's demand reduction, demand response, and energy efficiency programs. Specifically, Timken asserts that, as part of the application, it pledges all reductions it has made in kilowatt hour (kWh) consumption and the shift from on-peak to off-peak usage to Ohio Power's energy efficiency and peak demand reduction plan. Timken states that, since 2007, it has achieved in excess of 46 million kWh in reductions. Further, Timken asserts that it will not seek waiver of the energy efficiency/peak demand reduction rider or additional cash payments for these conservation projects in light of the special rates. Additionally, Timken agrees to permit Ohio Power and Staff to measure and verify the energy savings and/or peak demand reductions resulting from Timken's projects (Timken Ex. 1 at 2-3, 8-9).

In its comments, IEU-Ohio states that it takes no position regarding the application. Nevertheless, IEU-Ohio expresses its belief that the application is inconsistent with Commission precedent regarding delta revenues. Specifically, IEU-Ohio states that, in prior cases involving unique arrangements, the Commission has found that, when the arrangement provides for a company to be the exclusive supplier under the arrangement, there is no risk that the customer will shop for competitive generation and then return to the provider of last resort's (POLR) standard service offer (SSO), citing *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company and Columbus Southern Power Company*, Case No. 09-119-EL-AEC, Opinion and Order (July 15, 2009) at 13-14 (Ormet), and *In the Matter of the Application for Establishment of a Reasonable Arrangement Between Eramet Marietta, Inc. and Columbus Southern Power Company*, Case No. 09-516-EL-AEC, Opinion and Order (October 15, 2009) at 8-9 (Eramet). IEU-Ohio contends that the Commission has directed in such situations that any POLR revenues paid by customers be credited against delta revenues and used to reduce the impact of the unique arrangement on other ratepayers' bills. IEU-Ohio points

out that the Joint Applicants' proposed application contains no such provision, and requests that approval of the application should be conditioned upon such a requirement.

In their joint reply to IEU-Ohio's comments, the Joint Applicants state that the provision in the unique arrangement permitting Timken to shop for generation service would allow Timken to potentially acquire power at prices lower than the special rate, thereby terminating the arrangement and eliminating further accrual of delta revenues to be paid by Ohio Power's customers. The Joint Applicants argue that this provision is a significant component of the arrangement and that requiring Ohio Power or Timken to absorb any discount attributable to POLR fees would undercut the purpose of the arrangement. Further, the Joint Applicants distinguish the proposed unique arrangement from the *Ormet* and *Eramet* cases, in which the Commission required a POLR charge offset to delta revenue recovery. The Joint Applicants point out that, in *Ormet* and *Eramet*, the utility company was deemed by the Commission to be the exclusive supplier of generation service, which, the Joint Applicants contend, was the basis for the POLR charge offset. In contrast, the Joint Applicants assert, Ohio Power may not be Timken's exclusive supplier, as the arrangement preserves Timken's right to shop.

III. Summary of the Testimony

Peggy Claytor, Manager of State Government Affairs for Timken, testified that the terms of the unique arrangement permit Timken to terminate the arrangement and shop in the energy market for generation in the event that the price of generation on the open market should fall below the tariff price (Timken Ex. 3 at 3-4). Ms. Claytor testified that, if this occurred, retail customers paying the economic development rider would benefit as termination of the unique arrangement would cease the pass-through of any future delta revenues (Timken Ex. 3 at 4). Additionally, Ms. Claytor testified that the terms of the unique arrangement contain penalty provisions that would operate should Timken fail to fulfill the employment and investment goals established in the application (Timken Ex. 3 at 5). Finally, Ms. Claytor stated that, subsequent to filing the joint application, Timken considered shopping for generation by initiating a request for proposal for generation supply (Timken Ex. 3 at 4-5).

James Griffith, President and Chief Executive Officer for Timken, testified that, prior to the recession, Timken's annual payroll generally exceeded \$465 million and that Timken typically paid \$165 million in state and local taxes annually and purchased \$1.39 billion worth of goods and services from 1,800 Ohio businesses but that preliminary figures for 2010 were far from these totals (Timken Ex. 5 at 3-4). Mr. Griffith continued that electricity constitutes the third largest cost component of Timken's steel operations and that increasing domestic and global competition necessitate that it acquire electricity at a lower cost and obtain some degree of certainty as to future cost increases for electricity (Timken Ex. 5 at 5-6). Mr. Griffith testified that, if the application is approved, Timken will

experience higher profitability, which will increase its competitiveness and make it more attractive for capital investments in manufacturing (Timken Ex. 5 at 6).

Salvatore Miraglia, President of the Steel Group at Timken, testified that the cost of electricity constitutes one-third of Timken's costs of production at its Canton facilities and that its price for electricity has increased significantly since 2007 (Timken Ex. 6 at 3). Mr. Miraglia stated that this significant increase has impacted Timken's ability to be cost-competitive, leading Timken to request the Commission to approve the application (Timken Ex. 6 at 3-4).

Mr. Miraglia explained that the application provides for a discount off the Canton facility's rates beginning at 15 percent in the first year and declining by one percent through the sixth year of the arrangement. Thereafter, Mr. Miraglia explained that the discount will decline by two percent every year for the remainder of the ten-year term, and, after conclusion of the ten-year term, Timken would pay tariff rates. Mr. Miraglia further testified that the unique arrangement includes a "limiter," which caps the electric costs at the Canton facility to no more than a compounding five percent increase. To begin with, Mr. Miraglia testified, the limiter will be based on 2008 monthly bills due to decreased usage in recent years as a result of the recession, and will increase by five percent every year of the unique arrangement. Mr. Miraglia further explained that the application provides that Timken cannot receive a discount greater than 25 percent off the tariff price during any month of the term of the unique arrangement and that there is an additional cap on the aggregate discount Timken may receive over the entire term (Timken Ex. 6 at 4-6).

Mr. Miraglia further testified that, upon approval of the unique arrangement, Timken has pledged to maintain a certain level of employment at the Canton facility and to invest a certain amount in the Canton facility over the term of the unique arrangement, including a specific portion toward investment in energy conservation. Mr. Miraglia concluded that approval of the unique arrangement would benefit Timken, the Canton facility and its employees, and the State of Ohio (Timken Ex. 6 at 6-8).

Joseph Hoagland, President of United Steelworkers Local 1123, testified that Timken is an important part of the Canton community as it provides employment opportunities, including union jobs. Mr. Hoagland asserted that, if approval of the application will cause Timken to maintain employment levels in its Canton facility, it will benefit the people of Ohio and, particularly, union steelworkers (Timken Ex. 8 at 1-2).

Andrew Black, Manager of Technical Services, Alloy Steel Business of Timken, testified that Timken's Canton facility has the ability to rapidly interrupt its load upon short notice up to a certain amount. Mr. Black testified that this characteristic allows Ohio Power to immediately free up a large block of capacity to protect the grid or to avoid

higher costs for power in the event of an economic interruption. Mr. Black further testified that Timken has continuously implemented energy efficiency projects to lower electricity use, and that, through the application, Timken will commit the results of its demand reduction and energy efficiency efforts for integration with Ohio Power's demand reduction, demand response, and energy efficiency programs (Timken Ex. 9 at 3-5).

CONCLUSION:

Pursuant to Section 4905.31, Revised Code, and Rule 4901:1-38-05, O.A.C., the Commission has authority to approve schedules for electric service upon application of a public utility or establish reasonable arrangements for electric service upon application of a public utility and/or mercantile customer.

Here, the Joint Applicants propose a unique arrangement between Ohio Power, a public utility, and Timken, a mercantile customer, consisting of a special rate design for Timken consisting of a declining discount off the applicable tariff rates over a ten-year period (Timken Ex. 1 at 5; Timken Ex. 6 at 4). The rate design prevents spikes in prices by utilizing a limiter on Timken's power costs for every month of the unique arrangement, and prevents excessive delta revenues from being passed to the economic development rider by capping the limiter in the event the discount should exceed 25 percent of the regular tariff price (Timken Ex. 1 at 6-7, 14; Timken Ex. 6 at 4-5). As an additional safeguard on the overall amount of delta revenue, the rate design includes an absolute cap on the aggregate discount (Timken Ex. 1 at 7-8, 15; Timken Ex. 6 at 5-6). Additionally, the rate design preserves Timken's right under S.B. 221 to switch from purchasing electricity under the standard service offer to purchasing electricity on the open market, in which case the unique arrangement would terminate (Timken Ex. 1 at 7, 15; Timken Ex. 3 at 3-4). As Timken's witness, Ms. Claytor, testified, if this occurred, retail customers who pay the economic development rider would benefit because termination of the unique arrangement would cease the pass-through of any future delta revenues (Timken Ex. 3 at 4). Further, despite IEU-Ohio's comments requesting that any POLR revenues paid by customers should be credited against delta revenues as in the *Ormet* and *Eramet* cases, the Joint Applicants have pointed out that Timken's right to shop distinguishes the proposed arrangement from *Ormet* and *Eramet*, and eliminates the need for POLR revenues to be credited against delta revenues. This is particularly so given that Timken's witness, Ms. Claytor, testified that Timken had considered shopping for generation by initiating a request for proposal for generation supply (Timken Ex. 3 at 4-5).

The Joint Applicants assert that approval of the application will sustain Timken's competitiveness and level of employment at the Canton facility (Timken Ex. 1 at 19; Timken Ex. 5 at 6). Timken's witness, Mr. Hoagland, testified that Timken is an important part of the Canton community as it provides employment opportunities (Timken Ex. 8 at 1). Additionally, as Timken's witness, Mr. Griffith, testified, Timken purchases a

significant number of goods from Ohio businesses and, prerecession, typically paid \$165 million in state and local taxes (Timken Ex. 5 at 3). Additionally, the Joint Applicants assert that approval of the application will allow Timken to pursue capital investments in production and energy conservation (Timken Ex. 1 at 1). As Timken's witness, Mr. Black, testified, through the application, Timken will commit the results of its demand reduction and energy efficiency efforts for integration with Ohio Power's demand reduction, demand response, and energy efficiency programs, which will assist Ohio Power in achieving its statutory goals under S.B. 221 (Timken Ex. 9 at 4). Further, the application provides that, since 2007, Timken's demand reduction and energy efficiency efforts have resulted in over 46 Million kWh in reductions (Timken Ex. 1 at 8).

For the aforementioned reasons, the Commission finds that the Joint Applicants' request for a unique arrangement is reasonable, is consistent with Section 4905.31, Revised Code, and Rule 4901:1-38-05, O.A.C., and should be approved.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On December 20, 2010, Ohio Power and Timken filed a joint application pursuant to Section 4905.31, Revised Code, and Rule 4901:1-38-05, O.A.C., to establish a unique arrangement for electric service to Timken's Canton, Ohio facilities.
- (2) Comments regarding the application were filed by IEU-Ohio.
- (3) Based upon the comments, the attorney examiner set this matter for hearing before the Commission.
- (4) The hearing in this matter occurred on March 29, 2011.
- (5) The amended application is reasonable and should be approved.

ORDER:

It is, therefore,

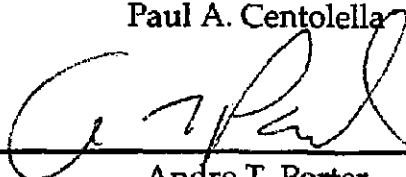
ORDERED, That the application for a unique arrangement filed by Ohio Power and Timken be approved. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella



Andre T. Porter

Steven D. Lesser



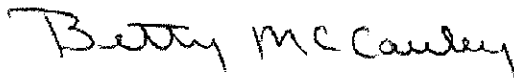


Cheryl L. Roberto

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Betty McCauley
Secretary