

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Verification of     )  
the Energy Efficiency and Peak Demand     )  
Reductions Achieved by the Electric     ) Case No. 12-665-EL-UNC  
Distribution Utilities Pursuant to Section     )  
4928.66, Revised Code.     )

ENTRY

The Commission finds:

- (1) The Cleveland Electric Illuminating Company, Columbus Southern Power Company, The Dayton Power and Light Company, Duke Energy Ohio, Inc., Ohio Edison Company, Ohio Power Company, and The Toledo Edison Company (collectively, electric utilities) are public utilities, as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction and general supervision of the Commission, in accordance with Sections 4905.04, 4905.05, and 4905.06, Revised Code.
- (2) Section 4928.66, Revised Code, requires the Commission to take certain actions related to the implementation of energy efficiency and peak demand reduction programs by the electric utilities, including an annual verification of each electric utility's achievement of energy and peak demand reduction requirements.
- (3) On January 27, 2010, in Case No. 09-512-GE-UNC (09-512),<sup>1</sup> the Commission directed Staff to issue RFP No. EE-10-PES-01 in order to obtain a qualified engineering consultant to serve as the statewide Independent Program Evaluator (Evaluator). RFP No. EE-10-PES-01 sets forth the scope of work for the Evaluator, including, but not limited to, the following:  
(a) evaluating and validating the electric energy savings and peak demand reductions resulting from each approved electric utility program and mercantile customer activity;  
(b) determining program and portfolio cost-effectiveness; and

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<sup>1</sup> *In the Matter of Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-GE-UNC.

- (c) conducting some program process evaluations of energy efficiency programs.
- (4) On March 17, 2010, after consideration of the proposals received in response to the RFP, the Commission issued an entry in 09-512, selecting ECONorthwest to serve as the Evaluator. Each of the electric utilities was directed to enter into a contract with ECONorthwest by March 31, 2010, for the purpose of providing payment for its services under the RFP.
- (5) On February 16, 2011, a letter was filed in 09-512 on behalf of ECONorthwest, explaining that, as of the date of the letter, the key personnel performing the work of the Evaluator had already left or would soon be leaving ECONorthwest, in order to form a new firm called Evergreen Economics (Evergreen). In the letter, ECONorthwest requests that the contracts between the electric utilities and ECONorthwest be transferred completely to Evergreen. ECONorthwest states that the transfer of the contracts would not affect the fundamental elements of the project.
- (6) A letter was also filed in 09-512 on behalf of Evergreen on February 16, 2011. This letter confirms that, as of the date of the letter, the key personnel performing the work of the Evaluator had already left or would soon be leaving ECONorthwest, in order to form Evergreen. Evergreen requests that the contracts between the electric utilities and ECONorthwest be transferred completely to Evergreen. Evergreen maintains that the transfer of the contracts would not affect the fundamental elements of the project, and that it is committed to completing all of the work described in ECONorthwest's proposal to the Commission in response to the RFP and contained in ECONorthwest's contracts with the electric utilities. Evergreen assures that all of the details of ECONorthwest's proposal, such as the project budget, analysis tasks, personnel, billing rates, timeline, and deliverables, will remain the same. Evergreen states that it intends to make the transfer as smooth as possible so that the project work can continue without interruption and with no diminution in quality.
- (7) Because the key personnel performing the work of the Evaluator have left ECONorthwest for Evergreen, and

Evergreen has assured that all of the details of ECONorthwest's proposal will remain the same, with no impact on the fundamental elements of the project, the Commission authorizes Evergreen to take over as Evaluator from ECONorthwest and to carry out the terms of ECONorthwest's proposal. The Commission authorizes Evergreen to proceed with this project, at the direction of Staff. The Commission expects that the transfer will occur smoothly and without any interruption or diminution in quality of the work performed under the RFP, as assured by both ECONorthwest and Evergreen.

- (8) The electric utilities shall transfer their current contracts with ECONorthwest to Evergreen, by March 31, 2012, for the purpose of providing payment for Evergreen's services under the RFP. The contract shall incorporate the terms and conditions of the RFP, ECONorthwest's original proposal as adopted by Evergreen, and relevant Commission entries in this case and 09-512. The combined cost of the services of ECONorthwest and Evergreen rendered for the three-year period, pursuant to the RFP, shall not exceed \$2,000,000.
- (9) Evergreen shall submit invoices for services completed as required by the contract, consistent with the terms of the RFP, or as detailed in its contract with the electric utilities, subject to approval by Staff. All invoices must be submitted to the Commission's project coordinator for approval and, subject to approval, will be forwarded to the electric utilities for payment to Evergreen within 30 days of receipt by the electric utilities.
- (10) *Evergreen will execute its duties pursuant to the Commission's statutory authority to investigate and obtain records, reports, and other documentation under Sections 4903.02, 4903.03, 4905.06, 4905.15, and 4905.16, Revised Code. Evergreen shall be subject to the Commission's statutory duty under Section 4901.16, Revised Code, which states, in relevant part:*

Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the

transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent. Whoever violates this section shall be disqualified from acting as agent, or acting in any other capacity under the appointment or employment of the commission.

- (11) Upon request of Evergreen or Staff, the electric utilities shall provide any and all documents and information requested. The electric utilities may conspicuously mark such documents or information "confidential." In no event shall the electric utilities refuse or delay providing such information or documents to Evergreen or Staff.
- (12) The following process shall apply to the release of any document or information the electric utilities mark as "confidential." Staff or Evergreen shall not publicly disclose any document marked "confidential," except upon three days' prior written notice of intent to disclose served upon counsel for the electric utilities. Three days after such notice, Staff or Evergreen may disclose or otherwise make use of such documents or information for any lawful purpose, unless the electric utilities move the Commission for a protective order pertaining to such information within the three-day notice period. The three-day notice period will be computed according to Rule 4901-1-07, Ohio Administrative Code. Service shall be complete upon mailing or delivery in person.
- (13) Evergreen shall perform its duties as an independent contractor. Neither the Commission nor Staff shall be liable for any acts committed by Evergreen in the performance of its duties.

It is, therefore,

ORDERED, That Evergreen be authorized to perform the consulting activities set forth above. It is, further,

ORDERED, That the electric utilities and Evergreen observe the requirements set forth in this entry. It is, further,

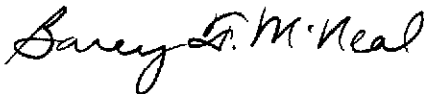
ORDERED, That a copy of this entry be served upon The Cleveland Electric Illuminating Company, Columbus Southern Power Company, The Dayton Power and Light Company, Duke Energy Ohio, Inc., Ohio Edison Company, Ohio Power Company, The Toledo Edison Company, and all parties of record in Case No. 09-512-GE-UNC.

## THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman  
Paul A. Centolella  
Steven D. Lesser  
Andre T. Porter  
Cheryl L. Roberto

SJP/sc

Entered in the Journal

**FEB 23 2012**  
Barcy F. McNeal  
Secretary