

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for :
Establishment of a Reasonable :
Arrangement between ASHTA Chemicals, : Case No. 12-1494-EL-AEC
Inc. and The Cleveland Electric :
Illuminating Company. :

COMMENTS

SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

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June 28, 2012

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INTRODUCTION

On May 7, 2012, ASHTA Chemicals Inc. (“ASHTA”) filed an application for establishment of a reasonable arrangement between ASHTA Chemicals Inc. and The Cleveland Electric Illuminating Company. ASHTA is a “mercantile customer” as defined in Section 4928.01, Revised Code and is within the certified service area of and obtains electric distribution service from The Cleveland Electric Illuminating Company (“CEI”), an electric distribution utility (“EDU”) as defined by Section 4928.01, Revised Code, and receives electricity from CEI at transmission voltage (138 kV).

The Commission has authority to approve and authorize a reasonable schedule or arrangement between a mercantile customer and an EDU upon application by a mercantile customer, pursuant to Section 4905.31, Revised Code. By this application, ASHTA is requesting that the Commission authorize and approve such arrangement.

Staff has several concerns with the application as it is proposed. A description of the proposal follows, with the staff issues of concern to follow.

COMMENTS

A. Terms & Lack of Information:

Under the filed application, ASHTA requests firm electricity service in an amount to be sufficient for its full requirement at a delivered price per kWh that includes all generation, transmission and distribution charges plus any surcharges, riders or other adders. ASHTA is also requesting an “all-in” kWh-based price with a time differentiated rate. The term of the arrangement is proposed to be 10 years.

The application filed by ASHTA does not provide a recommended price per kWh, nor a recommended discount per kWh. Without knowing this information, in addition to uncertainties in the electricity markets, it is difficult to determine the amount of delta revenues and impacts on other rate payers who will be responsible for paying the delta revenue. Due to these uncertainties, the Staff finds the 10 year term to be excessively long. To agree to such uncertainties, especially over such a long term, is inappropriate.

If the arrangement is found to be acceptable by the Commission, any resulting delta revenues should be capped (annually and over the term of the agreement) and should decline over the term of the agreement for the protection of the ratepayer. Neither of these provisions is proposed in the filed arrangement.

B. Economic Development:

Staff is also concerned with the benefits to ratepayers verses the costs to ratepayers as they relate to this arrangement. The stated benefits include 15 new jobs, 95 retained jobs, and an estimated \$115 to \$135 million capital investment in Ohio. However, the Staff prefers arrangements that include delta revenues (costs to be paid by other ratepayers) typically provide for more new employment opportunities.

In addition, the Staff is encouraged that the applicant is working with JobsOhio and exploring additional economic development incentives from other governmental and non-governmental organizations.

However, even if the Commission finds there are benefits resulting from this arrangement, as previously stated, it is impossible to calculate the costs to ratepayers that would result from this arrangement.

C. Time Differentiated Rate Design:

Under the proposed schedule or arrangement, firm electricity service would be supplied to ASHTA in an amount to be sufficient for its full requirement at a delivered price per kWh that includes all generation, transmission and distribution charges plus any surcharges, riders or other adders. ASHTA is requesting “all-in” kWh-based pricing with a time differentiated rate design that will encourage ASHTA to maximize its off-peak consumption capabilities.

ASHTA further wants to take advantage of off-peak consumption capabilities. This is a matter between ASHTA and their third party supplier. If CEI will not be

providing energy requirements, then the off-peak capabilities and opportunities provide no benefit to CEI or its customers therefore should not be part of the reasonable arrangement.

D. Energy Efficiency Integration:

ASHTA states its intention to negotiate with CEI to determine how and to what extent ASHTA's customer-sited capabilities will be committed to CEI for integration into CEI's portfolio.

If the arrangement is found to be acceptable by the Commission, ASHTA should commit such "savings" into CEI's portfolio, to be counted fully towards CEI's compliance, including participation in PJM's demand response program. Staff recommends this be done explicitly in this contract, without any further cost recovery mechanisms or rider exemptions (with the exception of the PJM participation), for the term of the agreement. However, it is impossible, based on information available at this time, to determine the value that any such efficiency gains or demand response capabilities may be able to contribute to CEI's annual requirements.

Lastly, in the case of economic development and retention arrangements, Sections 4928.64(B) and 4928.66(A)(2), Revised Code, permit the Commission to make adjustments to the baseline used to determine the compliance requirements that may otherwise apply to an EDU. In conjunction with approving the schedule or arrangement described herein, ASHTA requested that the Commission remove any increase in ASHTA's energy

and demand billing determinants from the computation of any such baseline that may otherwise apply to CEI, its successors or assigns.

Relative to the proposed adjustments to the baseline used to determine the compliance requirements that may otherwise apply to an EDU, staff believes it is premature for the Commission to rule at this time. The issue should be presented by CEI when the company files its energy efficiency or portfolio compliance case. This application proposes increased production capacity and a new product offering. Typically, staff does not recommend adjustments to the baseline for compliance until the equipment is fully operational and the savings can be verified. Adjustments to the baseline for compliance purposes should not be approved until the equipment is fully operational and the savings can be verified.

E. Shopping:

ASHTA is currently sourcing generation supply from a third party and states its intention to continue to do so. The Staff is encouraged that ASHTA has found beneficial rates from a third party supplier. ASHTA is proposing an “all-in” rate. ASHTA can contract with a third party supplier for an “all-in rate”. This proposal provides no incentive for ASHTA to attempt to get the lowest rate possible from their third party supplier. This potentially puts further financial burden on the EDU and its customers.

CONCLUSION

The Staff believes there is not sufficient information to act on this application at this time. The Staff respectfully requests that the Commission take these comments into consideration in this case.

Respectfully submitted,

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Ohio Attorney General

William L. Wright
Section Chief

/s/ Thomas W. McNamee

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon Counsel of Record, Samuel C. Randazzo, McNees, Wallace & Nurick, 21 East State Street, 17th Floor, Columbus, Ohio, 43215, this 28th day of June, 2012,

sam@mwncmh.com.

/s/ *Thomas W. McNamee*

Thomas W. McNamee
Assistant Attorney General

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Summary: Comments submitted on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio