BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Applications of The Toledo Edison Company and General Motors LLC, for Integration of Mercantile Customer Energy Efficiency or Peak-Demand Reduction Programs.	)))))	Case No. 10-2126-EL-EEC Case No. 10-2127-EL-EEC

FINDING AND ORDER

The Commission finds:

(1) Section 4928.01(A)(19), Revised Code, defines a mercantile customer as a commercial or industrial customer that consumes more than 700,000 kilowatt hours of electricity per year or that is part of a national account involving multiple facilities in one or more states. Section 4928.66, Revised Code, imposes certain energy efficiency and peak demand reduction requirements upon Ohio's electric distribution utilities, but also enables mercantile customers to commit their peak demand reduction, demand response, and energy efficiency programs for integration with an electric utility's programs in order to meet the statutory requirements.

(2) The Toledo Edison Company (TE or utility) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission. TE recovers its costs of complying with the EEDR requirements imposed by Section 4928.66, Revised Code, from its customers through its Rider DSE2 (EEDR rider).

(3) Rule 4901:1-39-05(G), Ohio Administrative Code (O.A.C.), permits a mercantile customer to file, either individually or jointly with an electric utility, an energy efficiency commitment (EEC) application to commit the customer's EEDR programs for integration with the electric utility's programs, pursuant to Section 4928.66, Revised Code, in order to meet the utility's statutory requirements.

(4) In Case No. 10-834-EL-POR, the Commission's September 15, 2010 entry established a pilot program (EEC Pilot Program) to accelerate the review and approval process for applications filed by mercantile customers under Rule 4901:1-39-05(G),

O.A.C. The EEC Pilot Program expedites the processing of EEC applications through the use of a standard template and a 60-day automatic approval process under which the application is deemed approved unless suspended or denied by order of the Commission or attorney examiner. In its May 25, 2011 Second Entry on Rehearing, the Commission expanded the EEC Pilot Program to include applications requesting an exemption from the utility's EEDR rider for a period longer than 24 months, but held that any such exemption will be subject to adjustments every two years to ensure that the exemption accurately reflects the EEDR savings. The Commission also determined that, henceforth, mercantile customers will have one calendar year to sign a commitment agreement with the electric utility for EEDR projects implemented within the past three calendar years in accordance with the three-year measurement period under Section 4928.66, Revised Code. The electric utility will then have until March 31 of the following year to file a complete application with the Commission. In addition, the Commission held that as Section 4928.66, Revised Code, provides that mercantile customers may commit their EEDR programs for integration with a utility's programs, the right of a customer to commit its program to the utility lies with the customer; and that in order for the utility to count the program, the customer must file an application in accordance with Rule 4901:1-39-05(G), O.A.C. *Pilot Program*, Case No. 10-834-EL-POR, May 25, 2011 Entry, at 5-6, 8. The issue of commitment payments was subsequently clarified in the September 20, 2011 Fourth Entry on Rehearing, to exclude peak demand reduction programs such as participation in a PJM program from the EEC Pilot, and that establishment of a maximum customer commitment payment be addressed in the utility's portfolio review case. The Fourth Entry on Rehearing also extended the auto-approval process to applications involving exemptions beyond 24 months, but on the condition that all extensions of the exemption beyond the initial period be subject to review. *Pilot Program*, Case No. 10-834-EL-POR, September 20, 2011 Entry, at 3-4. On July 17, 2013, the Commission issued a Finding and Order adopting the EEC Pilot Program and directing the Commission's staff to make all appropriate modifications to incorporate the program into Chapter 4901:1-39, O.A.C., which is currently under review in Case No. 13-651-EL-ORD.

(5) The above-captioned EEC applications were filed pursuant to Rule 4901:1-39-05(G), O.A.C., on December 30, 2010, as joint applications by TE and General Motors LLC (GM) a mercantile customer. However, these applications were not subject to a 60-day automatic approval under the EEC Pilot Program then in effect, because, at that time, the applicants requested EEDR rider exemptions rather than cash rebates.

(6) The application in Case No. 10-2126-EL-EEC, as originally filed, listed the following four EEDR projects implemented from July 2008 to January 2010 at GM's Defiance, Ohio Casting Operations, and requested an ongoing exemption from TE's EEDR rider as an incentive for each:

Project 1: Flexible Production Schedule for Plant 2 West with projected annual savings of 22,113,000 kWH and a coincident peak-demand reduction of 2,255 kW.

Project 2: Shut Down Air Separation Plant with projected annual savings of 15,064,000 kWH and a coincident peak-demand reduction of 2,000 kW.

Project 3: Improve Aluminum Foam Casting Area Shutdown Effectiveness with projected annual savings of 1,403,600 kWH and a coincident peak-demand reduction of 619 kW.

Project 4: Flexible Production Schedule Site-Wide, 4-Day Foundry Campaign with annual projected savings of 13,525,000 kWH and a coincident peak-demand reduction of 3,522 kW.

(7) The application in Case No. 10-2127-EL-EEC, as originally filed, listed the following seven EEDR projects implemented from January 2006 to November 2009 at GM's Toledo, Ohio Transmission Plant, and requested an ongoing exemption from TE's EEDR rider as an incentive for each:

Project 1: Implemented shutdown process for lighting, equipment, and ventilation system with projected annual savings of 7,724,680 kWH and a coincident peak-demand reduction of 2,333 kW.

Project 2: Installation of 6RWD Area Energy Management System with projected annual savings of 4,055,961 kWH and a coincident peak-demand reduction of 1,467 kW.

Project 3: Installation of GF6 Area Energy Management System with projected annual savings of 1,388,998 kWH and a coincident peak-demand reduction of 1,005 kW.

Project 4: Creation of the Shutdown Task Specific Instructions for all Production Equipment Shutdown in 6RWD with projected annual savings of 3,828,998 kWH and a coincident peak-demand reduction of 1,100 kW.

Project 5: Non-production weekends Power House Compressed Air System Pressure Reduction with projected annual savings of 576,000 kWH and a coincident peak-demand reduction of 100 kW.

Project 6: Spring/Summer/Fall Weekend Boiler Shutdown with projected annual savings of 357,600 kWH and a coincident peak-demand reduction of 75 kW.

Project 7: Limited usage for aeration blowers in WWTP with projected annual savings of 2,087,960 kWH and a coincident peak-demand reduction of 200 kW.

(8) On January 14, 2011, TE filed a motion for protective order pursuant to Rule 4901-1-24(D), O.A.C., in both cases to prevent disclosure of GM's current and future energy usage, as well as engineering studies and internal calculations detailing the energy savings attributable to GM's projects, which TE contends is confidential trade secret information the disclosure

of which would result in competitive harm to the customer. No opposition has been filed to this motion, which appears reasonable and should be granted for a period of 24 months from the issuance of this order.

(9) On April 15, 2011, the Ohio Environmental Council (OEC) filed a motion to intervene in Case No. 10-2127-EL-EEC. Although we will grant OEC's motion to intervene as an interested party in that proceeding, we note that OEC has not raised any specific defect or objection to the application or amendments, or to Staff's recommendations or amendments.

(10) On July 20, 2012, the applicants filed amendments to the application in Case No. 10-2127-EL-EEC to reduce the annual savings for Projects 2 and 3 to 2,027,980 kWH and 1,388,998 kWH, respectively, and changed their request from an EEDR rider exemption to a commitment payment of $40,373 for Projects 1 and 4-7.

(11) On August 21, 2012, Staff filed its review and recommendations in both cases. Staff recommends that the application in Case No. 10-2127-EL-EEC, as amended, be approved granting the GM Toledo Transmission facility a rider exemption for 47 months for Projects 2 and 3, as well as a one-time commitment payment of $40,373 for Projects 1 and 4-7. With respect to Case No. 10-2126-EL-EEC, however, Staff recommended that only Project 3 be approved as filed, cutting the rider exemption period to eight months. Staff also notes that any portion of the DSE2 Rider assessed to GM during the recommended exemption periods should be refunded to the Customer, and any exemption over two years should be subject to review and potential adjustment to ensure that the exemption accurately reflects the EEDR savings.

(12) On August 29, 2012, TE and GM filed amended exhibits to their application in Case No. 10-2126-EL-EEC, to remove Project 2, which involved changes to equipment operating schedules to reduce operating times at given production levels, in light of the Staff's determination that this project was not eligible for incentives under the EEC Pilot Program. The applicants also changed their request from a rider exemption to a commitment payment of $178,190 for Projects 1 and 4.

(13) On December 4, 2012, TE filed a notice of amendments to their application in Case No. 10-2126-EL-EEC that references a November 30, 2012 filing which does not appear in the case docket. This "second amendment" included an explanation and report that revised the amount of annual energy savings listed for the three remaining projects to reflect the actual (as opposed to projected) amount of energy savings. For Project 3, the only project for which an EEDR rider exemption is still sought, the projected annual savings has been revised from 1,403,600 kWH to 1,775,303 kWH.

(14) On January 8, 2013, Staff filed amended recommendations in Case No. 10-2126-EL-EEC, in which it recommended Commission approval of the projects as revised through the various amendments. Staff now recommends that the GM Defiance Casting Operations be granted a one-time commitment payment of $122,946 for Projects 1 and 4, and a ten-month rider exemption based on the actual energy savings for Project 3. Any portion of the rider assessed to GM during the exemption period should be refunded to the customer.

(15) Upon review of the applications as amended, all supporting documentation, and Staff's recommendations as amended, the Commission finds that the requirements related to these applications have been met, and that the requests for mercantile commitment pursuant to Rule 4901:1-39-05, O.A.C., does not appear to be unjust or unreasonable. Thus, a hearing on these matters is unnecessary. Accordingly, we find that these applications, as amended, should be approved, and TE should refund to GM commitment payment of $122,946 and $40,373, as well as any assessed charges under the utility's EEDR rider during the exemption periods approved by this order. Further, with respect to the impact of a utility's negative EEDR rider,[1] the utility shall hold the customer harmless from any effects of regulatory delay in the issuance of this order. As a result of such approval, we find that the utility should adjust its baselines, pursuant to Section 4928.66(A)(2)(c), Revised Code, and Rule 4901:1-39-05, O.A.C. We note that although these projects are approved, they are subject to evaluation,

1 See updates to Rider DSE filed by TE on December 10, 2012 and May 31, 2013 in Case Nos.12-2978-EL-RDR and 89-6008-EL-TRF.

measurement, and verification in the portfolio status report proceeding initiated by the filing of the utility's portfolio status report on March 15 of each year, as set forth in Rule 4901:1-39-05(C), O.A.C. Further, every arrangement approved by this Commission remains under our supervision and regulation, and is subject to change, alteration, or modification by the Commission. Finally, as noted above, all EEDR rider exemptions of more than 24 months are subject to review and adjustment every two years to ensure that such exemption accurately reflects the projected EEDR savings.

It is, therefore,

ORDERED, That both of the captioned applications, as amended, be approved. It is, further,

ORDERED, That the utility refund to the customer the commitment payments set forth above, and any assessed charges under the utility's EEDR rider during the exemption periods approved by this order. It is, further,

ORDERED, That the motion of the Ohio Environmental Council to intervene in Case No. 10-2127-EL-EEC be granted. It is, further,

ORDERED, That TE's motion for protective order pursuant to Rule 4901-1-24(D), O.A.C., in both of the captioned cases be granted for a period of 24 months from the issuance of this order. 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

Todd A. Snitchler, Chairman

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

Asim Z. Haque

RMB/vrm

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Barcy F. McNeal
Secretary