

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio )  
Army National Guard for Approval of a )  
Unique Arrangement Between The Toledo ) Case No. 14-1012-EL-AEC  
Edison Company and the Ohio Army )  
National Guard. )

OPINION AND ORDER

The Commission, having considered the record in this matter, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Col. Duncan D. Aukland, Ohio Adjutant General's Department, 2825 West Dublin-Granville Road, Columbus, Ohio 43235, on behalf of the Ohio Army National Guard.

James W. Burk, 76 South Main Street, Akron, Ohio 44308, on behalf of The Toledo Edison Company.

OPINION:

I. Background

The Commission has the authority to approve a unique arrangement between an electric utility and a customer or group of customers upon application by the customer or the utility, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05(B). On June 2, 2014, the Ohio Army National Guard (National Guard) filed an application with the Commission requesting approval of a unique arrangement between the National Guard and The Toledo Edison Company (Toledo Edison). The National Guard is a mercantile customer, as defined by R.C. 4928.02(A)(19). Toledo Edison is an electric light company, as defined by R.C. 4905.03(A)(3), and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

II. Summary of the Proceeding

In its application, the National Guard explains that a unique arrangement is necessary in order to allow the National Guard to sell the electricity output of new solar generation facilities to Toledo Edison as qualifying facilities (QFs) under the Public Utilities Regulatory Policy Act of 1978 (PURPA), as amended by the Energy Policy Act of 2005 (EPACT), and the regulations of the Federal Energy Regulatory Commission (FERC).

The National Guard asserts that the unique arrangement will provide the National Guard with the means to sell to Toledo Edison the net electric energy output from the installation of two new 250 kilowatt (kW) photovoltaic arrays; one array at its Walbridge, Ohio location and one at its Toledo, Ohio location. The National Guard also indicates that it already has an existing 82 kW photovoltaic panel array at its Toledo, Ohio location. The National Guard then avers that the unique arrangement does not involve an economic development project and that the National Guard does not request a discount on the electric service being provided by Toledo Edison. Further, the unique arrangement does not prevent the National Guard from obtaining generation service from a competitive retail electric service provider.

Pursuant to Ohio Adm.Code 4901:1-38-05(F), interested persons had the opportunity to file comments or objections regarding the application for a unique arrangement. No comments or objections were filed in this proceeding.

### III. Intervention

On June 23, 2014, Toledo Edison filed a motion to intervene in this proceeding. No party filed a memorandum contra the motion to intervene. The Commission finds that the motion to intervene is reasonable and should be granted.

### IV. Summary of Unique Arrangement

The National Guard asserts that the unique arrangement will provide a Power Purchase Agreement (PPA) for Toledo Edison to purchase the net electricity output of the National Guard's new facilities at prices negotiated between the National Guard and Toledo Edison, as the parties to the PPA. The National Guard avers that Toledo Edison will settle the net electricity output in the PJM market as an energy-only resource in the PJM reconciliation process. Pursuant to Ohio Adm.Code 4901:1-38-08, the net revenues from settlement of Toledo Edison's sale of the National Guard's electricity output in PJM, less payments to the National Guard for the net electricity output and other incremental expenses associated with administration of the PPA, will be included in Toledo Edison's Generation Cost Reconciliation Rider (Rider GCR), or successor rider, as the tariffs may be changed from time to time.

The unique arrangement provides that the National Guard will sell 100 percent of its net electricity output to Toledo Edison. Toledo Edison will pay the National Guard for the net electricity output at each of its facilities as measured on an hourly interval basis at an avoided energy cost rate of 1.60 cents/kWh for summer on-peak delivery, 1.70 cents/kWh for winter on-peak delivery, 1.20 cents/kWh for summer off-peak delivery, and 1.40 cents/kWh for winter off-peak delivery. Each month Toledo Edison will render a monthly invoice to the National Guard detailing the amounts due

to the National Guard for net energy produced based on the quantity and price described in the PPA, as well as the cost and amount of electric services delivered by Toledo Edison to the National Guard. Payments to the National Guard for electricity sold to Toledo Edison will be credited against Toledo Edison's bill for electric services rendered to the National Guard.

The unique arrangement also provides that the National Guard will receive electric service at each of its locations from Toledo Edison through the Partial Service tariff, Rate GS-15 or its successor. In any hour during which the National Guard is a net consumer of electricity, Toledo Edison will bill the National Guard for its net energy consumption according to the terms and conditions of Rate GS-15. In any hour during which the National Guard is a net producer of electricity, Toledo Edison will pay the National Guard for its net electricity output using the agreed upon rates.

The unique arrangement provides that the National Guard shall retain any renewable energy credits (RECs) for the term of the PPA. The parties may then negotiate which party will be entitled to any other future credits or benefits tied to renewable energy projects at such time as new credits or benefits arise.

The initial term of the PPA will begin on the later of the day following the Commission's approval of the unique arrangement, or when the National Guard notifies Toledo Edison that the installations have been completed pursuant to an interconnection agreement. The initial term of the PPA will end on June 30, 2015, but will automatically renew biennially thereafter for successive two-year terms. The PPA may be terminated with a 30-day written notice and mutual acceptance of both Toledo Edison and the National Guard. The PPA may also be terminated by either party independently and without mutual acceptance with a 180-day written notice. Changes to the agreement may be amended in writing, subject to Commission approval.

The National Guard and Toledo Edison agree that the National Guard's facilities will be operated as energy resources, as that term is defined by PJM. Toledo Edison may, where appropriate and achievable, seek market compensation for energy delivered from the projects through PJM-administered markets utilizing practices associated with generation that is less than 10 megawatts. Further, the National Guard is responsible for maintenance and operation of its owned generation resources and will retain all compliance liabilities and obligations associated with the facilities.

Toledo Edison will be entitled to recover the net revenues from settlement and reconciliation of Toledo Edison's sale of the National Guard's net electricity output in the PJM energy-only market, less payments to the National Guard for the output and any other incremental expenses incurred by Toledo Edison associated with administration of the PPA, through Toledo Edison's generation cost recovery rider (Rider GCR), or successor rider.

## V. Conclusion

Ohio Adm.Code 4901:1-38-05(B) authorizes a mercantile customer of an electric utility to file an application for approval of a unique arrangement with the electric utility. The applicant bears the burden of proof to show that the proposed arrangement is reasonable, does not directly or indirectly provide rebates, special rates, and free service in violation of R.C. 4905.33, and does not provide an unreasonable advantage or prejudice towards any party under R.C. 4905.35. Further, the applicant must provide an affidavit from a company official as to the veracity of the information provided.

Upon our review of the requirements for a mercantile customer to enter into a unique arrangement with its electric utility, the Commission finds that the requirements are clearly met. We find that the unique arrangement does not directly or indirectly provide rebates, special rates, or free service in violation of R.C. 4905.33. Additionally, we find that the unique arrangement does not provide an unreasonable advantage or prejudice towards any party in violation of R.C. 4905.35. This unique arrangement supports the public interest by providing the National Guard with a firm rate for the electricity produced by its existing and future solar photovoltaic generating facilities. This will facilitate the National Guard's installation of two new 250 kW photovoltaic arrays, which will coexist with its existing 82 kW photovoltaic generating facility.

The application is reasonable in that it is cost-effective, and promotes State policy consistent with R.C. 4928.02(C) and (F) by encouraging the development of distributed and small generation facilities and ensuring that an electric utility's transmission and distribution systems are available to an owner of distributed generation so that the owner can market and deliver the electricity it produces. The application demonstrates that the unique arrangement does not violate R.C. 4905.33 or 4905.35, and is just and reasonable. Further, the Commission finds that no hearing is necessary in this proceeding. Accordingly, we find that the unique arrangement is reasonable and should be adopted.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On June 2, 2014, the National Guard filed an application requesting that the Commission approve a unique arrangement with Toledo Edison.
- (2) Based on the application, the Commission finds that the National Guard should be authorized to enter into a unique arrangement with Toledo Edison consistent with this Order.

It is, therefore,

ORDERED, That the motion to intervene filed by Toledo Edison be granted. It is, further,

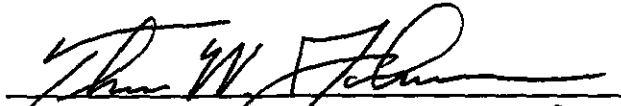
ORDERED, That the application for approval of a unique arrangement between the National Guard and Toledo Edison be approved. It is, further,


ORDERED, That the National Guard and Toledo Edison take all necessary steps to carry out the terms of this Opinion and Order. It is, further,

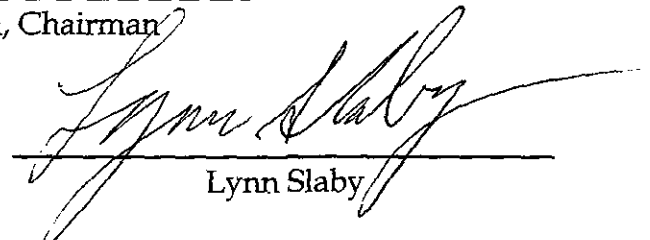
ORDERED, That nothing in this Opinion and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this Opinion and Order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Thomas W. Johnson, Chairman

  
Steven D. Lesser

  
Lynn Slaby

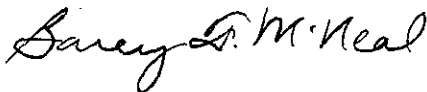
  
M. Beth Trombold

  
Asim Z. Haque

BAM/GAP/sc

Entered in the Journal

**JUL 23 2014**

  
Barcy F. McNeal

Barcy F. McNeal  
Secretary