BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Amendment to the Agreement for Peak Shaving Power with Uniroyal Chemical Company, Inc.	))))))	Case No. 96-49-EL-AEC

FINDING AND ORDER

The Commission finds:

(1) The Applicant, The Cleveland Electric Illuminating Company, is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

(2) On January 16, 1996, the Applicant petitioned this Commission for approval of a First Amendment to the Peak Shaving Agreement with Uniroyal Chemical Company, Inc. (Customer).

(3) The Customer was originally served under an Agreement approved in Case No. 90-1516-EL-AEC by the Commission on December 20, 1990. The operating characteristics of the Customer shall allow the Company to curtail load without advance notice to the Customer during the Company's annual system peak load periods, in amounts and duration as determined by the Company in its sole discretion. The Amendment provides for a change in the base demand and extends the termination date of the contract.

(4) The terms of the Amended Agreement are as follows:

(a) The Company may curtail the Customer's load up to a maximum of 3,326 kWd, with that maximum amount known as the Peak Shaving Demand. The Base Demand of the Customer shall be the difference between the Customer's total monthly demand for billing purposes under the Industrial Schedule and the Peak Shaving Demand.

(b) The Base Demand shall be no less than 920 kWd during the months of October through April and 600 kWd during the months of May through September.

(c) This Amendment No. 1 shall be effective with the bill rendered for the month of January 1996 and shall continue for five (5) years thereafter. This Agreement will terminate with the electric bill rendered for the month of December 2000.

(5) The Commission finds that in the filed agreement the phrases "in the Company's sole determination" or "in the sole judgment of the Company" are used. We wish to make clear that such phrases do not mean that affected parties are precluded from bringing complaints, formal or informal, to challenge the exercise of Cleveland Electric Illuminating's discretion in a particular case.

(6) In Case No. 95-866-EL-UNC, the Commission required all jurisdictional electric companies to offer their interruptible customers the option of its tariffed buy through arrangement. The applicant provided evidence of such offering which evidently the customer declined. We will approve these arrangements based on the evidence submitted by the applicant of appropriate notice to the customer.

(7) The application should be approved as filed pursuant to Section 4905.31, Revised Code.

(8) The Commission puts the Applicant on notice that should certain regulatory or legislative changes occur in Ohio such that customers have substantially more choices as to the provider of their electric energy in the future, the Commission may consider allowing customers to take a "fresh look" at long term commitments. The Commission will continue to review this issue in its roundtable process.

(9) Our approval of this contract does not constitute state action for the purpose of the antitrust laws. It is not our intent to insulate the Applicant or any party to a contract approved by this Finding and Order from the provisions of any state or federal law which prohibits the restraint of trade.

It is, therefore,

ORDERED, That Amendment No. 1 to the Agreement be approved as filed and shall become effective pursuant to its terms. Two copies of the amended Agreement as filed shall be accepted for inclusion in this docket. It is, further,

ORDERED, That the Applicant report to the Energy and Water Division of the Commission's Utilities Department semiannually, in January and July, the results of the amended Agreement including the increase in load and sales, the total dollar increase in revenue due to the Agreement, the total dollar difference in the billing at the appropriate tariff rates and the billing at the contract rates, and the number of jobs believed to have been created and/or saved due to the contract, the details of all interruptions including date, time, duration, as well as any replacement electricity transactions and the price paid by the customer for such transactions. It is, further,

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

ORDERED, That the Commission's approval of this contract does not constitute state action for the purpose of the antitrust laws. It is, further,

ORDERED, That a copy of this Finding and Order be served upon the Applicant, the Customer and all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman

Jolynn Barry Butler

Ronda Hartman Fergus

David W. Johnson

Judith A. Jones

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A True Copy

Gary E. Vigorito
Secretary