

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
ENTRUST ENERGY EAST INC. FOR
CERTIFICATION TO PROVIDE
COMPETITIVE RETAIL ELECTRIC SERVICE
IN OHIO.

CASE NO. 12-2854-EL-CRS

ENTRY

Entered in the Journal on March 3, 2021

{¶ 1} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy), Ohio Power Company (AEP Ohio), Dayton Power & Light Company (DP&L), and Duke Energy Ohio, Inc. (Duke) are electric distribution utilities (collectively, the EDUs), as defined by R.C. 4928.01(A)(6), and public utilities, as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 2} Entrust Energy East Inc. (Entrust) is an electric services company as defined in R.C. 4928.01; is certified to provide competitive retail electric service (CRES) under R.C. 4928.08; and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16. Accordingly, Entrust is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21 and is otherwise subject to the provisions of Ohio Adm.Code Chapter 4901:1-24. Moreover, as a certified supplier, Entrust is subject to the terms of the EDUs' respective supplier tariffs and coordination agreements, which illustrate the obligations and responsibilities in the EDU-CRES supplier relationship. Ohio Adm.Code 4901:1-10-29; See *Duke Energy Ohio, Inc.*, Case No. 89-6002-EL-TRF, P.U.C.O. Electric Tariff No. 20, Sheet No. 49.4; *Dayton Power & Light Co.*, Case No. 89-6004-EL-TRF, P.U.C.O. Tariff No. 17, 10th Rev. Sheet No. G8; *Ohio Power Co.*, Case No. 89-6007-EL-TRF, P.U.C.O. Tariff No. 20, 6th Rev. Sheet No. 103-55D; *Ohio Edison Co.*, Case No. 89-6006-EL-TRF, P.U.C.O. Electric Tariff No. S-2, Orig. Sheet 1 at Page 36-37 of 48; *The Cleveland Elec. Illum. Co.*, Case No. 89-6001-EL-TRF, P.U.C.O. Electric Tariff No. S-2, Orig. Sheet 1 at Page 36-37 of 48; *The Toledo Edison Co.*, Case No. 89-6008-EL-TRF, P.U.C.O. Electric Tariff No. S-2, Orig. Sheet 1 at Page 36-37 of 48.

{¶ 3} Entrust is also certified to provide competitive retail natural gas services (CRNGS), pursuant to R.C. 4929.20. See *In re Entrust Energy East, Inc.*, Case No. 13-475-GA-CRS.

{¶ 4} R.C. 4928.14 provides that the failure of a supplier to provide retail electric generation service to customers within the certified territory of an EDU shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer (SSO) under R.C. 4928.141, 4928.142, and 4928.143 until the customer chooses an alternative supplier. Within each Commission-approved supplier tariff noted above, there are several situations that may constitute default events necessitating customers served by a supplier to return to an EDU's SSO. One such situation includes when the supplier becomes in default of any agreement with, or requirement of, the regional transmission organization. Upon supplier default, the EDUs are required to serve written notice of the default in reasonable detail and with a proposed remedy to the supplier and the Commission. The supplier tariffs further note that on, or after, the date the default notice has been served, the EDU may file with the Commission a written request for authorization to terminate or suspend its coordination agreement with the supplier. If the Commission does not act within a certain number of days upon receipt of the request, depending on the nature of the default, the EDU's request to terminate or suspend shall be deemed automatically authorized. Termination of these coordination agreements have the same effect on a supplier's customers as the supplier's discontinuance of supply to its customers. Importantly, if a customer of a terminated supplier has not switched to another supplier prior to termination, that customer will then receive SSO supply from the EDU in the respective certified territory, consistent with R.C. 4928.14.

{¶ 5} Between February 23, 2021, and February 25, 2021, the regional transmission organization PJM Interconnection, LLC (PJM) notified the EDUs that Entrust, a load-serving entity in PJM, had defaulted on its obligations to PJM on February 23, 2021. PJM further notified the EDUs that, as of February 24, 2021, PJM was initiating the process to return the load served by Entrust in the EDUs' service territories to them as providers of last resort.

Consequently, PJM is requiring the EDUs to supply the load of the customers previously served by Entrust.

{¶ 6} On February 26, March 1, and March 3, 2021, Duke, DP&L, AEP Ohio, and FirstEnergy filed notices in this proceeding complying with the terms of their tariffs requiring notice of supplier default to be filed with the Commission. The EDUs state that their customers that were being served by Entrust will continue to receive electric service, without interruption, under the applicable SSO. The EDUs note that they had initiated the process for returning customers to SSO service, including notifying affected customers of the situation and continuing communication with Entrust. Additionally, pursuant to the terms of their tariffs, the EDUs formally request authorization to terminate their coordination agreements with Entrust. While the tariff does require the EDUs to propose a remedy to allow Entrust to avoid termination, the only feasible remedy as suggested by the EDUs would require Entrust to be reinstated as a PJM member, pay any and all penalties resulting from the default, and compensate the EDUs for any additional costs incurred with respect to the default.

{¶ 7} As explained above, under the tariffs approved by the Commission, the EDUs must submit both a written notice of the supplier default and request for authorization to the Commission for approval prior to suspending or terminating coordination agreements with a certified supplier. If the Commission takes no action within a prescribed timeframe after receipt of the request for approval, the request is deemed approved. The attorney examiner finds the filed notices comply with the requirements set forth in the tariff and agrees with the EDUs that swift action for returning customers to their respective SSO load is in the best interests of the affected customers. As such, the attorney examiner authorizes the termination of the coordination agreements between the EDUs and Entrust. To the extent the EDUs have not begun this process, the attorney examiner directs them to begin returning customers back to the EDUs' respective SSO load, unless the customer chooses an alternative supplier in the interim. In order to cover the costs associated with procuring the necessary supply, Ohio Adm.Code 4901:1-24-14(A) states that an EDU may require a CRES

provider to issue and maintain financial security with the EDU in order to protect the EDU and its customers in the event that the CRES provider defaults on its obligations. To the extent the costs associated with procuring the necessary supply for customers returning to the SSO exceed the amounts of the financial securities held by Entrust, the EDUs may request to defer and recover those incremental costs in a subsequent application for Commission review and approval.

{¶ 8} Moreover, Ohio Adm.Code 4901:1-24-11 and Ohio Adm.Code 4901:1-27-11 require CRES providers and CRNGS providers, respectively, to inform the Commission of any material change to the information supplied in a certification application within 30 calendar days of such material change. The rules also state that, after notice and an opportunity for a hearing, the Commission may suspend, rescind, or conditionally rescind a provider's certificate if it determines that the material change will adversely affect the provider's fitness or ability to provide the services it is certified to provide. As Entrust's default certainly qualifies as a material change to its business operations, the attorney examiner directs Entrust to file a notice of material change in this docket and in Case No. 13-475-GA-CRS on or before March 25, 2021. In the notices, Entrust should inform the Commission on whether it plans to continue to operate as a CRES and CRNGS provider in the state of Ohio.

{¶ 9} Finally, the attorney examiner stresses that the approximately 3,500 customers being served by Entrust will not experience any interruption of power while they are returned to the SSO load or choose an alternative certified supplier. Additionally, the attorney examiner notes any applicable enrollment switching fees in the EDUs' tariffs that would apply to customers enrolling with a new CRES provider should be waived for Entrust's customers for 60 days. As such, a customer being served by Entrust may choose to switch to a new alternative supplier at any time within that 60-day period without restriction or additional fees associated with that choice.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the EDUs' requests for termination of the coordination agreements with Entrust be approved. It is, further,

{¶ 12} ORDERED, That the EDUs immediately begin the process of transitioning Entrust's customers back to the SSO load. It is, further,

{¶ 13} ORDERED, That Entrust file a notice of material change in this docket and in Case No. 13-475-GA-CRS regarding the default event, as well as notice to the Commission as to whether it plans to continue operating as a CRES provider and CRNGS provider in the state of Ohio, consistent with Paragraph 8. It is, further,

{¶ 14} ORDERED, That Entrust advise the Commission's Service Monitoring and Enforcement Department by March 12, 2021, as to the status of all its customers not transitioned to the applicable EDU's SSO or an alternative supplier. It is, further,

{¶ 15} ORDERED, That the EDUs waive any applicable switching fees for those Entrust customers who choose an alternative supplier in the next 60 days. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Megan Addison

By: Megan Addison
Attorney Examiner

NJW/hac

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Case No(s). 12-2854-EL-CRS

Summary: Attorney Examiner Entry ordering that the EDUs' requests for termination of the coordination agreements with Entrust be approved; ordering that the EDUs immediately begin the process of transitioning Entrust's customers back to the SSO load; ordering that Entrust file a notice of material change in this docket and in Case No. 13-475-GA-CRS regarding the default event, as well as notice to the Commission as to whether it plans to continue operating as a CRES provider and CRNGS provider in the state of Ohio, consistent with Paragraph 8; ordering that Entrust advise the Commission's Service Monitoring and Enforcement Department by March 12, 2021, as to the status of all its customers not transitioned to the applicable EDU's SSO or an alternative supplier; and, ordering that the EDUs waive any applicable switching fees for those Entrust customers who choose an alternative supplier in the next 60 days electronically filed by Heather A Chilcote on behalf of Megan Addison, Attorney Examiner, Public Utilities Commission