

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
The Cincinnati Gas & Electric Company)
To Modify its Non-Residential Generation)
Rates to Provide for Market-Based) Case No. 03-93-EL-ATA
Standard Service Offer Pricing and to)
Establish an Alternative Competitively-Bid)
Service Rate Option Subsequent to the)
Market Development Period.)

In the Matter of the Application of)
The Cincinnati Gas & Electric Company for)
Authority to Modify Current Accounting) Case No. 03-2079-EL-AAM
Procedures for Certain Costs Associated)
With The Midwest Independent)
Transmission System Operator.)

In the Matter of the Application of)
The Cincinnati Gas & Electric Company for)
Authority to Modify Current Accounting)
Procedures for Capital Investment in its) Case No. 03-2080-EL-AAM
Electric Transmission and Distribution) Case No. 03-2081-EL-ATA
System and to Establish a Capital)
Investment Reliability Rider to be Effective)
After The Market Development Period.)

INITIAL BRIEF OF
OHIO MANUFACTURERS' ASSOCIATION

The Ohio Manufacturers' Association ("OMA") a trade association whose 2,400 members engage in all facets of manufacturing, hereby submits its Initial Brief in the above-captioned proceedings.

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OMA hereby adopts in total the Initial Brief of Constellation NewEnergy, Inc., Constellation Power Source, Inc., MidAmerican Energy Company, Strategic Energy LLC, and WPS Energy Services, Inc. (aka Ohio Marketers Group).

OMA makes the additional argument below: The Cincinnati Gas & Electric Company (“CG&E”) may not lawfully end the market development period (“MDP”) for industrial customers as proposed in the Stipulation and Recommendation (“RSP Stipulation”) submitted in these cases. Ohio Revised Code (“R.C.”) Section 4928.40(B)(2) of Ohio’s electric restructuring legislation provides the following factors for consideration in ending the MDP for a customer class:

- (2) For purposes of this chapter, the market development period shall not end earlier than December 31, 2005, unless, upon application by an electric utility, the commission issues an order authorizing such earlier date for one or more customer classes as is specified in the order, upon a demonstration by the utility and a finding by the commission of either of the following:
 - (a) There is a twenty per cent switching rate of the utility’s load by the customer class
 - (b) Effective competition exists in the utility’s certified territory.

The stipulation approved by the Commission in the CG&E ETP case (“ETP Stipulation”¹) provides that “CG&E may end the MDP for non-residential customers upon reaching 20% load switching by class * * * .” ETP Stipulation at ¶5. The RSP Stipulation provides that “the market development period ends for non-residential consumers on December 31, 2004.”² However, the only testimony in this case regarding load switching by class is contained in the testimony of CG&E witness Stevie. Mr. Stevie’s testimony, correcting the pre-

¹ *In re CG&E ETP Case*, Case No. 99-1658-EL-ETP et al., Stipulation and Recommendation (May 8, 2000).

² Joint Ex. 1 at ¶1.

filed testimony originally prepared by William Greene, states that the industrial class switching percentage is only 19.87%,³ not the required 20%. Moreover, even Staff witness Cahaan testified that his conclusion that the statutory requirements for early termination of the MDP have been met was based only upon “the representation to me and the information provided that a 20 percent level of shopping had been reached.”⁴ Therefore, CG&E’s attempt to end the MDP for the industrial class violates R.C. Chapter 4928 and the ETP Stipulation. For this reason alone, the proposed RSP Stipulation should be rejected.

WHEREFORE, for the reasons given in the Ohio Marketer’s Group’s Initial Brief and for the reasons that CG&E has not met the statutory requirements of R. C. Section 4928.40(B)(2), OMA respectfully requests the Commission reject the RSP Stipulation.

Respectfully submitted on behalf of
THE OHIO MANUFACTURERS’ ASSOCIATION



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³ CG&E Ex. 4, revised by Stevie on stand (Tr. Vol. II at 133, line 5).

⁴ Tr. Vol. V at 231 (Cahaan).

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Initial Brief was served upon the parties of record listed below by electronic service, this 22nd day of June, 2004.


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Revision to William L. Greene's Testimony

Yes, I'd like to change two areas of my testimony. I would like to update the switching percentage and revise my testimony relative to CG&E's ability to recover the cost it incurs during the high-cost summer months to serve standard offer service customers.

I would like to update my testimony on page 4, line 17. That line currently states, "As of April 9, 2004, the following are the levels of switching by customer class". I would like to revise the date to May 14, 2004.

On line 18, I would like to update the Commercial Class switching percentage to 22.04%. On Line 19, I would like to update the Industrial Class switching percentage to 19.87 %. On Line 20, I would like to update the Public Authority Class switching percentage to 20.37 %. And on Line 21, I would like to update the Residential Class switching percentage to 4.91%.

Also, due to changes in CG&E's ERRSP proposal identified in Mr. Steffen's testimony that would allow CG&E to recover incremental fuel and purchase power cost, I would like to revise page 6 of my testimony. I want to add, to the end of line 14, the following:

"Under the ERRSP, the minimum stay rules are intended to ensure that those consumers who cause CG&E to incur higher costs during the summer months, pay their fair portion of those higher costs. Without the minimum stay rule, consumers who did not switch after the summer months would be paying their share of the higher peak-period costs as well as the portion of those costs attributable to those who have switched away after causing CG&E to incur these higher costs. These higher costs would be reflected in the incremental fuel and economy purchase power costs that only non-switchers pay."

In addition, on page 6, I would like to strike the last word in line 22 and all of line 23, as well as lines 1 and 2 on page 7. I would like to replace them with the following,

"those consumers that remain with CG&E will be subsidizing the consumers that have been allowed to switch.."