

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company for Approval of a) Case No. 09-551-EL-UNC
Residential Renewable Energy Credit)
Purchase Program Agreement.)

FINDING AND ORDER

The Commission finds:

- (1) The Applicants, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (Companies or Applicants), are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) Section 4928.64, Revised Code, requires the Companies to meet certain alternative energy resource benchmarks that may include the use of Renewable Energy Credits (RECs). In Case No. 08-935-EL-SSO, the Commission approved provisions for the development of a Residential Renewable Energy Credit Purchase Program (REC Program) pursuant to Section A.9 of the Companies' Stipulation and Recommendation, as amended by Section 5 of the Companies' Supplemental Stipulation, approved by the Commission.
- (3) On June 30, 2009, the Companies filed with this Commission an initial application requesting approval of a REC Program agreement that would be made available to all residential customers of the Companies through May 31, 2011 (REC Program). Pursuant to the REC Program, the Companies would enter into agreements with customers to purchase RECs generated from the customer's approved renewable energy project, including, but not limited to, solar and wind projects. The Companies explained that a participating customer would be required to generate one or more RECs, on an annual basis, with the REC being one megawatt hour of electricity derived from the customer's project. A solar and non-solar REC purchase price would be established on December 31 of each year based upon

the Companies' most recent Renewable Energy Request for Proposal for RECs actually purchased. All reasonable costs associated with the administration of the program would be recovered through the Companies' alternative energy rider (Rider AER). The REC Program would be for qualifying customers who entered into an agreement before the end of May 2011, and the term of the agreement would be for a 15-year period from the effective date of the agreement, with the customer having the ability to terminate the agreement upon 60-days notice. Moreover, the application explained that the REC Program, as proposed, would assist the Companies in meeting their respective alternative energy resource benchmarks in accordance with Section 4928.64, Revised Code.

- (4) On July 28, 2009, the Companies filed in this docket a letter, with attachments, setting forth a resolution of various outstanding matters with Ohio Consumers and Environmental Advocates (OCEA),¹ and an amended application (First Amended Application), containing a revised REC Program agreement. The letter stated that the Companies and OCEA agreed to terms for the revised REC Program agreement and that OCEA would support the application to establish a REC Program, as amended on July 28, 2009.
- (5) On August 31, 2009, the Natural Resources Defense Council (NRDC) filed a statement in support of the amended REC program delineated in the First Amended Application and revised REC Program agreement.
- (6) On September 11, 2009, the Companies filed a second amended application (Second Amended Application) for approval of a further revised REC Program agreement. The Second Amended Application primarily clarified the mechanism for determining the purchase price under the amended REC Program and established a schedule for the conditional issuance of renewable Requests for Proposal (RFPs) by the Companies during the period of 2009 through 2011. In the Second Amended Application, the Companies also requested that this matter,

¹ The Office of the Ohio Consumers' Counsel; The Neighborhood Environmental Coalition, The Empowerment Center of Greater Cleveland, United Clevelanders Against Poverty, Cleveland Housing Network, and The Consumers for Fair Utility Rates; Northwest Ohio Aggregation Coalition; and Citizen Power, Inc. are members of OCEA for purposes of this case.

which was originally docketed as Case No. 09-551-EL-REN, be assigned a "UNC" case designation. We find that this request is reasonable and should be granted.

- (7) On September 18, 2009, OCEA filed a letter stating its support of the Second Amended Application and revised REC Program agreement. The letter also encouraged approval of the amended REC Program at the earliest opportunity.
- (8) The Office of the Ohio Consumers' Counsel (OCC); The Neighborhood Environmental Coalition, The Empowerment Center of Greater Cleveland, United Clevelanders Against Poverty, Cleveland Housing Network, and The Consumers for Fair Utility Rates (the Coalition); Citizen Power, Inc. (Citizen Power); NRDC; and Northwest Ohio Aggregation Coalition (NOAC) filed motions to intervene in this docket.² OCC and NOAC state that the Companies' application will affect the rates that residential customers will pay for electric service. NRDC, the Coalition, and Citizen Power add that they are organizations that have a real and substantial interest in this matter inasmuch as the program will have an environmental impact in Ohio and have an affect on rates paid by low income customers of the Companies.
- (9) OCC, the Coalition, Citizen Power, NOAC, and NRDC have set forth reasonable grounds for intervention. Accordingly, their motions to intervene should be granted.
- (10) On August 12, 2009, William Ondrey Gruber filed a motion for admission *pro hac vice*, requesting that Theodore Robinson be permitted to practice before the Commission in this matter. Mr. Robinson is a member of the Pennsylvania Bar and represents Citizen Power. The Commission finds that the motion is reasonable and should be granted.
- (11) The Commission interprets Sections 4928.64 and 4928.65, Revised Code, as requiring a role for distributed generation in the state's alternative energy portfolio standard. The Commission further acknowledges the Companies' annual in-state renewable requirements under Section 4928.64, Revised Code. The

² While Northeast Ohio Public Energy Council (NOPEC) is a signatory party to both letters filed by OCEA, NOPEC never formally intervened in this matter.

Commission has reviewed the application, the amendments to the application, the letters supporting the amended application, the terms of the proposed REC Program, as amended, and the revised REC Program agreement. Accordingly, the Commission concludes that the proposed REC Program, as amended, will facilitate the development of distributed renewable generation in the state and will contribute to the Companies' efforts to satisfy their annual in-state renewable requirements. As the terms of the amended REC Program utilize a market-based purchase price when available, the REC costs under the proposed program should generally be reflective of existing market conditions. Additionally, the Commission finds that all reasonable costs associated with the administration of the program should be recoverable through the Companies' existing Rider AER, which is updated quarterly and reviewed annually. Therefore, the Commission finds the proposed REC Program, as amended, to be both reasonable and consistent with Sections 4928.64 and 4928.65, Revised Code.

It is, therefore,

ORDERED, That the application, as amended on June 30, 2009, and September 11, 2009, of The Toledo Edison Company, The Cleveland Electric Illuminating Company, and Ohio Edison Company is approved. It is, further,

ORDERED, That the Applicants are authorized to file in final form four complete copies of the tariff consistent with the REC Program delineated in this Finding and Order. Each Applicant shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the effective date of the new tariff shall be a date not earlier than the date of this order, or the date upon which four complete, printed copies of the final tariff is filed with the Commission, whichever date is later. It is, further,

ORDERED, That the Applicants shall notify all residential customers via a bill insert within 30 days of the start of the REC Program. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

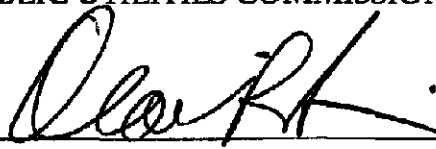
ORDERED, That the motions to intervene filed by OCC, NRDC, the Coalition, Citizen Power, and NOAC, and the motion for admission *pro hac vice* of Theodore Robinson, are granted. It is, further,

ORDERED, That this case be now and hereafter designated as 09-551-EL-UNC. It is, further,

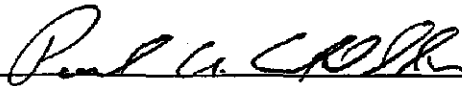
ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

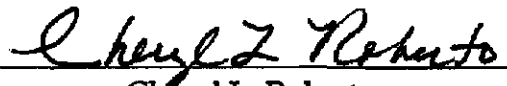


Alan R. Schriber, Chairman



Paul A. Centolella

Ronda Hartman Fergus



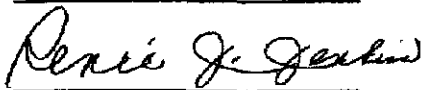
Cheryl L. Roberto

Valerie A. Lemmie

RLH:ct

Entered in the Journal

SEP 23 2008



Renee J. Jenkins
Secretary