

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Promulgation of Rules for the Conduct of a Competitive Bidding Process for Electric Distribution Utilities Pursuant to Section 4928.14, Revised Code.)
Case No. 01-2164-EL-ORD)

ENTRY

The Commission finds:

- (1) On July 7, 1999, the governor of the state of Ohio signed Amended Substitute Senate Bill No. 3. That legislation, among many things, established a starting date for competitive retail electric service in the state of Ohio. Pursuant to Section 4928.14(B), Revised Code, each electric distribution utility (EDU) is required to offer customers within its certified territory an option to purchase competitive retail electric service after its market development period ends, the price of which is to be determined through a competitive bidding process. Prior to January 1, 2004, the Commission is required to adopt rules concerning the conduct of the competitive bidding process.
- (2) On August 30, 2001, the Commission initiated this rule making proceeding inasmuch as the market development period for the Dayton Power and Light Company is currently scheduled to end at the end of 2003 and significant lead-time may be needed for the EDUs to implement competitive bidding. The Commission directed its staff to initiate discussions with interested parties prior to proposing rules for Commission consideration. The EDUs and other interested stakeholders participated in discussions with our staff to assist our staff in developing a process to establishing a standard service offer and a competitive bidding process for each EDU.
- (3) The Commission also established an electronic mail distribution list, commonly called a list serve, for the sharing of information and documents. The list serve address is: bidding@pucolists.state.oh.us. Instructions for subscribing to the list serve are available on the Commission's web site at <http://www.puc.state.oh.us/ohioutil/Energy/ERIndustry/erin-dustry.html>.
- (4) The Commission's staff has proposed rules entitled Processing Applications for Standard Service Offer and Competitive Bidding Process. These rules are attached to this entry.
- (5) At this time, the Commission invites all interested stakeholders to submit comments on the staff's proposal. Initial comments (the original and 10 copies) must be filed with the Commission by March 7, 2003 and replies by March 21, 2003. Inasmuch as a list serve has

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician _____ Date Processed 2-20-07

been established, the Commission encourages commenters to join the list serve. Commenters may use the list serve to serve their comments on other commenters in lieu of service by mail.

- (6) In issuing these draft rules for comment, the Commission is mindful of the slow pace of the wholesale market's maturation relative to the pace that was expected at the time the General Assemble adopted Amended Substitute Senate Bill 3 in 1999. In this context, we specifically invite comments on the extent to which, if any, the Commission's final rules regarding the specification of a market based standard service offer price and competitive bidding option should explicitly acknowledge the slower than expected pace of wholesale market development. We request comments that speak to the flexibility that might be required to achieve appropriate transitional steps constrained by the status of the wholesale market.

It is, therefore,


ORDERED, That the all interested stakeholders are invited to file initial and/or reply comments to the staff's proposed rules by March 7 and 21, 2003, respectively. It is further,

ORDERED, That a copy of this entry be served upon all persons who filed comments in Case No. 99-1141-EL-ORD and all interested parties of record in this case.

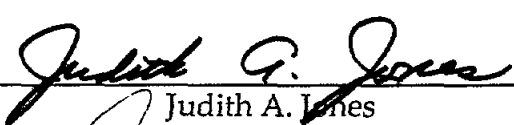
THE PUBLIC UTILITIES COMMISSION OF OHIO




 Alan R. Schriber, Chairman



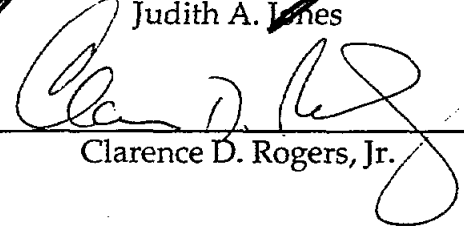
 Ronda Hartman Fergus



 Judith A. Jones



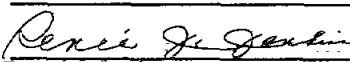
 Donald L. Mason



 Clarence D. Rogers, Jr.

RRG;geb

Entered in the Journal
FEB 20 2003



 Renee J. Jenkins
 Secretary

Processing Applications for Standard Service Offer and Competitive Bidding Process

4901:1-35-01 Definitions.

- (A) "Application" means an application for standard service offer and competitive bidding process pursuant to this chapter.
- (B) "Commission" means the public utilities commission of Ohio.
- (C) "Competitive retail electric service" has the meaning set forth in division (A)(4) of section 4928.01 of the Revised Code.
- (D) "EDU" means an electric distribution utility as defined in division (A)(6) of section 4928.01 of the Revised Code.
- (E) "ETP" means an electric transition plan filed by an EDU pursuant to Chapter 4928. of the Revised Code and approved by the commission.
- (F) "Market development period" has the meaning set forth in division (A)(17) of section 4928.01 of the Revised Code.
- (G) "Person" includes an individual, corporation, company, copartnership, association, or joint venture.

4901:1-35-02 Purpose and scope.

- (A) Pursuant to division (A) of section 4928.14 of the Revised Code, after its market development period, each EDU in this state shall provide consumers, on a comparable and nondiscriminatory basis within its certified territory, a market-based standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service. Pursuant to division (B) of section 4928.14 of the Revised Code, each EDU also shall offer customers within its certified territory an option to purchase competitive retail electric service the price of which is determined through a competitive bidding process. The purpose of this chapter is to establish rules for the form and process under which an EDU shall file an application for standard service offer and competitive bidding process and the commission's review of that application.
- (B) The commission may waive any requirement of Chapter 4901:1-35 of the Administrative Code for good cause shown or upon its own motion.

4901:1-35-03 Filing and contents of applications.

- (A) Each EDU in this state shall file an application for standard service offer and competitive bidding process by July 1, 2004 for all classes of customers where the market development period terminates at the end of year 2005. For an EDU which has a market development period terminating for certain customer classes earlier than the end of year 2005, an application for standard service offer under appendix A to this rule shall be filed at least six months prior to the end of that market development period. Such applications shall be filed with the commission in the form of an application for approval of a "standard service offer" or an application for approval of a "standard service offer and competitive bidding process" (xx-xxx-EL-ATA).
- (B) Applications for approval of a "standard service offer and competitive bidding process" shall include:
 - (1) A market-based variable rate. The market-based variable rate shall be consistent with the requirements of appendix A of this rule.
 - (2) A market-based fixed rate. The market-based fixed rate shall be consistent with the requirements of appendix B of this rule.
- (C) Applications for approval of only "standard service offer" shall include a market-based variable rate. The market-based variable rate shall be consistent with the requirements of appendix A of this rule. The filing of such an application does not relieve the EDU from filing an application pursuant to appendix B of this rule, by July 1, 2004.
- (D) A complete set of work papers must be filed with the application. Work papers must include, but are not limited to, any and all documents prepared by the EDU for the application and a narrative or other support of assumptions made of working paper schedule amounts. Work papers shall be marked, organized, and indexed according to schedules to which they relate. Data contained in the work papers should be footnoted so as to identify the source document used.
- (E) All schedules, tariff sheets, and work papers included in the application must be available in spreadsheet, word processing, or an electronic form compatible with personal computers. The electronic form does not have to be filed with the application but must be made available within two business days to any intervening party that requests it.

4901:1-35-04 Service of application

- (A) Concurrent with the filing of an application and the filing of any waiver requests, the EDU shall provide notice of proposed filings to each party in its ETP case and all competitive retail electric service providers. At a minimum, that notice shall state that a copy of the application and any waiver requests is available through the company's and commission's web sites, available at the company's main office, available at the commission's offices, and any other sites at which the company will maintain a copy of the application and any waiver requests.
- (B) The EDU shall provide copies of the application upon request, without cost, and within a reasonable period of time.

4901:1-35-05 Technical conference and filing of comments.

- (A) Upon filing of an application, the commission, legal director, deputy legal director, or an attorney examiner will schedule a technical conference. The purpose of the technical conference is to allow interested persons an opportunity to better understand the EDU's application. The EDU will have the necessary personnel in attendance at this conference so as to explain, among other things, the structure of the filing, the work papers, the data sources, and the manner in which methodologies were devised. The conference will be held at the commission offices, unless the commission, legal director, deputy legal director, or an attorney examiner determines otherwise.
- (B) Within twenty days after the technical conference, any person may file comments and propose alternative methodologies to the EDU's application.
- (C) Within thirty days after the technical conference, the commission's staff may file comments and propose alternative methodologies to the EDU's application.
- (D) Within fifty days after the technical conference, any person may file a response to the comments and alternative proposals.

4901:1-35-06 Hearings.

- (A) If it appears to the commission that the proposals in the application may be unjust and unreasonable, the commission shall set the matter for hearing and shall publish notice of the hearing in accordance with Section 4909.18 of the Revised Code. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the EDU.

- (B) Interested persons wishing to participate in the hearing shall file a motion to intervene no later than thirty days after the issuance of the entry scheduling the hearing, unless ordered otherwise by the commission, legal director, deputy legal director, or attorney examiner. This rule does not prohibit the filing of a motion to intervene and conducting discovery prior to the issuance of an entry scheduling a hearing.

Definitions for Appendix A and Appendix B

Qualifying transmission entity is an entity that meets the specifications listed in Section 4928.12, Revised Code.

A **variable-rate service** is one in which the price of electric supply service is not specified in advance. The price may vary with changes in wholesale market prices and may be adjusted at any time as changes in market conditions dictate. A retail customer taking a variable-rate service assumes the risks of changes in wholesale market prices and conditions.

A **fixed-rate service** is one in which the price or price structure of electric supply service is specified in advance for a definite period of time. The nature of a fixed rate does not preclude variations in the actual rate charged based upon seasonal, time of day, or other usage considerations. The actual price, however, is specified in advance for a certain period, and all price changes within that period are specified in advance. The price of a fixed-rate service does not change with changes in wholesale market prices or conditions during the period in which the service is in effect. The provider of a fixed-rate service assumes the risks associated with changes in wholesale market prices and conditions.

Initial service offer is the provision of electric supply service to those customers who, at the end of the market development period, have not chosen another supply service, which may be offered by a competitive retail electric service provider or by the EDU.

Standard service offer is the provision of a market-based variable-rate firm generation service offered by the EDU as the provider of last resort.

Provider of last resort is the statutory responsibility of the EDU to provide electric supply service to its customers on a comparable and nondiscriminatory basis within its certified territory. This responsibility may be fulfilled by the EDU providing standard service offer and by providing all other retail electric services necessary to maintain essential electric service to consumers.

Appendix A

Applications for Standard Service Offer

Objectives: To provide a market-based, variable-rate retail electric supply service by the EDU as the standard service offer. The rate is variable based upon wholesale prices set by the market.

Content of the Application

As a part of the application, the EDU must demonstrate that any transmission affiliate is a member of a qualifying transmission entity.

The application must include a market-based, variable rate for the standard service offer. The standard service offer can not be a fixed rate unless the EDU chooses the competitive bidding process (Appendix B) per Section 4928.14(B), Revised Code ,to supply the fixed-rate standard offer.

The variable-rate standard service offer must be based on a transparent forward market, daily market, and/or hourly market. The application must include a description of the basis for price variations including a specification of what mechanisms may trigger price changes, and what portions of the price variability may be based upon specific commercial or contractual arrangements. If short-term (i.e., hourly and daily) variations are based on anything other than spot markets operated by the qualifying transmission entity, the application must demonstrate that such alternatives are based upon markets that are transparent and liquid, and that they offer an advantage over the spot market operated by the qualifying transmission entity. In either case, the variations and variability in prices of the standard service offer must be based upon the prices of actual wholesale transactions in the marketplace.

The application must specify and describe all other costs, in addition to the market-based cost of energy, which the EDU would incur in providing the variable-rate standard service offer. Such costs would include but not be limited to administrative costs and compensation for necessary risks or costs of hedging such risks. The application must also specify and discuss the means by which these costs will be recovered by the EDU. In this specification, it must be clearly distinguished whether these costs are to be recovered from all distribution customers or only from the customers taking the variable-rate standard service.

For each standard service offer customer group, the application must provide a sample bill calculation. This calculation shall be made in the same way and with the same elements that the EDU is proposing to use in calculating the variable-rate standard service offer (including any adders),except that the market price data used shall be actual historical data from the past year. The EDU should utilize whatever methods are appropriate (ranges, averages, moving averages, etc.) to present an illustration of the level and behavior of the proposed standard service offer, had it been in effect during the prior year.

The application must also include an executive summary, the standard filing requirements required under Rule 4901:1`-20-03(C)(2), Ohio Administrative Code, and proposed tariffs for the standard service offer.

Appendix B

Applications for Competitive Bidding Process

Objectives: To provide a market-based, fixed-rate retail electric supply service by the EDU to residential and small nonresidential customers who elect this option or who do not chose another option. The plan may also include a market-based, fixed-rate retail electric service to other customers. The plan may also establish the fixed-rate service as the standard service offer.

Content of Application

The application must include a plan for a bidding process to establish a fixed-rate service for residential and small nonresidential customers. The bids must be solicited for firm, full-requirements service. The EDU may choose to further subdivide this group into smaller customer groups for bidding and rate purposes. No maximum is placed on the number of customer classes to be bid. However, it is not intended that every specialized niche identifiable by a separate load profile be given its own fixed rate service. The application shall provide a discussion and analysis of the rationale for the selection of the customer groupings to be served, and this analysis must address the goal of promotion of competition and customer choice.

The application may include a plan for a bidding process to establish a fixed-rate service for large general service customers, and other customer classes. The bids must be solicited for firm, full-requirements service.

The bidding methodology is to be chosen by the applicant and approved by the Commission as a part of the application process.

The bidding process must include an independent third-party auctioneer in order to provide confidence in the impartiality of the auction process. The application will specify the process by which an independent third-party auctioneer will be selected and by which the auction will be conducted. However, if the EDU believes that some method other than an independent third-party auctioneer is warranted, the application must provide an analysis of the rationale, a description of the alternative method, and a discussion which addresses the issue of providing confidence in the impartiality of the process.

The EDU shall specify the term of the supply contract that will result from the bidding process. The term shall be no less than one year and no more than three years. If the plan contemplates subdividing the residential and small non-residential customers, the term of contracts for subdivided groups should be the same, unless a justification is provided that rationalizes different terms for different groups.

The bidding process must enable small generation providers to participate in the process.

The fixed rate established under this section is to be a retail rate for retail electric service. To the greatest extent reasonably possible, the costs and risks of providing service at retail are to be the responsibility of the bidding parties and are to be reflected in the bid prices. The EDU should incur costs or bear risks only to the extent that such costs and/or risks cannot be shifted or that such shifting would create significant inefficiencies. In the application, the EDU must (1) clearly identify any costs which it would expect to incur in providing the fixed-rate service, (2) clearly identify any risks it would expect to bear in providing this service, and (3) provide a discussion as to the possibilities (if any), mechanisms, and costs of hedging these risks. The application should also clearly indicate if any of the identified costs or risks are chargeable to the distribution function, to be recovered from all customers (as opposed to being part of the supply function for fixed-rate service, to be recovered only from customers taking this service).

The fixed-rate service for which bids are solicited shall be used as the initial service offer for residential and small general service customers and may be used as the initial service offer for large general service customers. Customers who choose this fixed-rate service (or, in the absence of affirmative choice, are placed in the initial service offer) at the end of the market development period are free to choose another supply option at any time. However, customers who are not taking this fixed-rate service after the end of the market development period do not have an automatic right to choose fixed-rate service at a later time without restriction or conditions (e.g., minimum stays, exit fees, pricing adjustments, etc.). The application should specify any such restrictions or conditions necessary to prevent the supplier from being subject to excessive risks. The application should also provide an analysis and justification for these restrictions and conditions.