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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO

In the Matter of the Commission's Review)
of Chapters 4901:1-9, 4901:1-10,)
4901:1-21, 4901:1-22, 4901:1-23,) Case No. 06-653-EL-ORD
4901:1-24, and 4901:1-25 of the Ohio)
Administrative Code.)

INITIAL COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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I. INTRODUCTION AND BACKGROUND

On April 4, 2007, the Public Utilities Commission of Ohio ("Commission" or "PUCO") issued an Entry seeking comments on the Commission Staff's ("Staff") proposed changes to the Commission's rules relating to metering options [Chapter 4901:1-9, Ohio Administrative Code ("O.A.C.")]; minimum service and safety standards for electric utilities (Chapter 4901:1-10, O.A.C.); operations by competitive retail electric service ("CRES") providers (Chapter 4901:1-21, O.A.C.); interconnection standards (Chapter 4901:1-22, O.A.C.); electric service provider enforcement (Chapter 4901:1-23, O.A.C.); certification to operate as a CRES provider (Chapter 4901:1-24, O.A.C.); and electric market monitoring (Chapter 4901:1-25, O.A.C.). A technical conference regarding the proposed rules was held on May 3, 2007 and the deadlines for initial and reply comments were extended to June 8, 2007 and July 24, 2007, respectively. Several parties, including Industrial Energy Users-Ohio ("IEU-Ohio"), filed initial and reply comments in the proceeding.

Subsequently, on May 8, 2008, Governor Strickland signed into law Amended Substitute Senate Bill No. 221 ("SB 221") amending various provisions of Amended

Substitute Senate Bill No. 3 ("SB 3"), which include various revisions to Section 4905.31, Revised Code, and Chapter 4928, Revised Code, thereby rendering the need for corresponding modifications to the rules under review in this proceeding. Consequently, the Commission issued the second set of Staff proposed rules in a July 23, 2008 Entry by reintroducing and adding revisions to the previously proposed rules described above.

The Commission's July 23, 2008 Entry requested comments on the proposed rules as well as answers to specific questions posed by the Commission pertaining to the proposed rules. IEU-Ohio provides its comments on the proposed rules for the Commission's consideration, and notes that to the extent that the current proposed rule revisions mirror the proposed rules as provided during the earlier proceeding, IEU-Ohio incorporates its previously filed comments and reply comments herein by reference, and will not repeat its previously submitted comments.

II. COMMENTS

A. Rule 4901:1-9-07(E)(3) – Nonresidential line extension charges

Staff proposes to add a provision to the line extension rules within Rule 4901:1-9-07, O.A.C. that requires the electric utility to be responsible for all new line extension costs, exclusive of the incremental costs of premium services.¹ The proposed rules also provide that if a substation is required to serve a customer, then the customer will be given the option to build and own the substation. These rules respond to Section 4928.151, Revised Code, which requires the Commission to adopt rules

¹ Proposed Rule 4901:1-9-07(A)(7) defines "premium service" as "include[ing], but not limited to, customer-requested oversizing of facilities, underground construction, and three-phase residential service."

prescribing a uniform statewide approach to electric transmission and distribution line extensions.

Rather than prescribing that electric utilities be required to fund 100% of the upfront cost of non-premium line extension costs, IEU-Ohio suggests the Commission take a more restrained approach, particularly with respect to customers served at higher voltages. Historically, electric utilities have required customers served at higher voltages to contribute towards the costs of facilities necessary to serve them, and there is no statutory reason that this approach cannot continue.

The proposed rules are intended to facilitate the State's effectiveness in the global economy.² However, the rules fail to recognize the negative impact they will have on existing Ohio businesses. In instances where existing businesses have paid for all or a portion of their line extension costs, requiring new customers to make no upfront contribution to line extension costs will create intra-class subsidies. This will result in a competitive disadvantage between current businesses and new entrants in instances in which existing customers were required to contribute to line extension costs. Therefore, rather than requiring electric distribution companies to entirely fund the costs of line extensions for customers served at higher voltages, the Commission should adopt a more restrained approach. Given the requirement to adopt a uniform statewide policy, IEU-Ohio suggests that for customers served at transmission level voltages, the rules provide for customer contributions towards the cost of line extensions. IEU-Ohio suggests the rule adopt the position advocated by Staff in the FirstEnergy distribution rate cases pending at the Commission as a reasonable compromise. Staff, while not adverse to upfront payment as one of the cost recovery

² Proposed Rule 4901:1-9 (B).

options, suggests that general service customers contribute 40% of the cost of line extensions and that transmission service customers contribute 60% of the cost of line extensions.³

Furthermore, the Commission should expand its rules to address issues of aging infrastructure. IEU-Ohio therefore suggests that the proposed rules provide that the replacement of existing facilities, including upgrades to meet modern day performance and reliability standards, does not constitute a line extension. In other words, it should be clear that line extensions should be specific to instances in which service is being provided to a new customer or new or expanded facility only.

In addition, IEU-Ohio suggests that the Commission use the rulemaking on line extensions as an opportunity to address the issue of whether additional fees or charges can be collected in instances in which the customer obtains alternate feed service, or a backup delivery point. Some electric distribution companies have previously submitted applications proposing additional charges under these circumstances and it appears it will be an issue in the Commission's consideration of electric security plans as well.⁴ These proposals have suffered from a lack of clarity and have not been demonstrated to be reasonable.⁵ However, IEU-Ohio recognizes there are instances in which redundant

³ *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and for Tariff Approvals*, PUCO Case Nos. 07-551-EL-AIR et al., Staff Report of Investigation at 20-21 (December 4, 2007).

⁴ See *In the Matter of the Application of the Cincinnati Gas & Electric Company for Approval of its Rider BDP, Backup Delivery Point*, PUCO Case No. 06-718-EL-ATA, Application at Exhibit C-1 (May 19, 2006) and *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of its Electric Security Plan; An Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, PUCO Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Application at 10 (July 31, 2008).

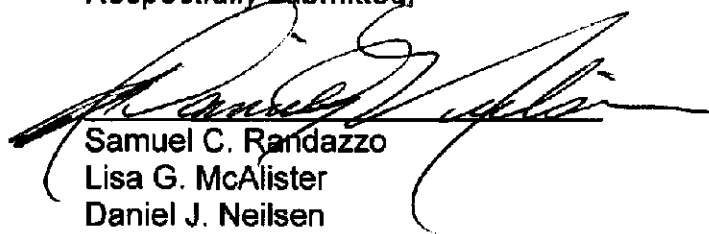
⁵ IEU-Ohio incorporates its comments submitted with its Motion to Intervene in Case No. 06-718-EL-ATA by reference.

delivery facilities may provide value to the customers, and in such instances the electric distribution company should recover the cost of plant in service. Addressing through the rules how and when electric distribution companies may be permitted to impose charges for alternative delivery feeds or a backup delivery point would be beneficial both for utilities and customers, and would negate the need to resolve or litigate this issue on a case-by-case basis.

III. CONCLUSION

For the reasons discussed herein, IEU-Ohio respectfully requests that the Commission modify the proposed rules as set forth above.

Respectfully submitted,



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