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 Authority to Establish a Standard Service Offer pursuant to R.C. §4928.143 in the Form of an Electric Security Plan.	)	Case No. 10-388-EL-SSO

OHIO PARTNERS FOR AFFORDABLE ENERGY'S POST-HEARING BRIEF

A. Introduction

Ohio Partners for Affordable Energy ("OPAE") hereby submits its post-hearing brief to the Public Utilities Commission of Ohio ("Commission") in this proceeding to consider the applications of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("Companies") to establish a standard service offer pursuant to Revised Code §4928.143 in the form of an electric security plan ("ESP"). OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low and moderate-income Ohioans. OPAE provides essential services in the form of bill payment assistance programs and weatherization and energy efficiency services to low-income customers of the Companies. OPAE members are also ratepayers of the Companies. Thus, OPAE serves as an advocate, service provider, and nonprofit customer group. OPAE is a signatory party to the stipulation and recommendation filed by the Companies on March 23, 2010 in this docket. In this brief, OPAE will address several of the issues that OPAE expects will be raised on brief by parties who oppose the stipulation and recommendation.

B. The stipulation's opponents have not recognized the statutory authority of the Ohio Department of Development ("ODOD") to bid out competitively the generation load of customers on the Percentage of Income Payment Plan ("PIPP").

The Office of the Ohio Consumers' Counsel ("OCC") presented the testimony of Wilson Gonzalez who found fault with the stipulation provision A.1 at 7 that the retail load of PIPP customers will be excluded from the bid product and will instead by supplied by the Companies at a 6% discount off the PIPP customers' price to compare. To provide this discount, the Companies will enter into a wholesale bilateral contract with FirstEnergy Solutions for this power supply commencing June 1, 2011. Under the bilateral contract, FirstEnergy Solutions will supply power to the Companies at wholesale in an amount sufficient to meet the requirements of all PIPP customers taking service under the Companies' tariffs and riders for generation service. The stipulation also states that, as contemplated under the Commission rule, PIPP customer load and usage is non-shoppable except as provided for in R.C. § 4928.54 if a better price is obtained.

Mr. Gonzalez refers to this provision in the stipulation as the "PIPP generation sole source contract with FirstEnergy Solutions." OCC Ex. 2 at 5, 27. Mr. Gonzalez believes that a similar arrangement would also be available under a market rate option ("MRO"), in which there were instructions for no less than a 6% discount for a bidder's PIPP generation supply bid. He believes that, due to its being competitive instead of negotiated, such a bid would most likely come in with a higher than 6% discount and benefit PIPP customers more. He estimated that a half of a percent more discount to the PIPP generation supply would result in $1 million in additional savings (or an additional $1 million in cost to customers in the ESP over the MRO). OCC Ex. 2 at 27.

OPAE does not agree that a competitive bid for PIPP generation supply has been foreclosed by the stipulation. Ohio law provides the Ohio Department of Development ("ODOD") with the ability to bid out the PIPP load competitively, and the stipulation and recommendation filed in this case cannot waive ODOD's authority. Ohio Revised Code §4928.54 states:

> Beginning on the starting date of competitive retail electric service, the director of development may aggregate percentage of income payment plan program customers for the purpose of competitively auctioning the supply of competitive retail electric generation service to bidders certified under section 4928.08 of the Revised Code. ...The objectives of the auction shall be to provide reliable retail electric generation service to customers based on selection criteria that the winning bid provide the lowest cost and best value to customers. . .

Given that this provision is in statute, the Commission has no authority to ignore it, a fact that the stipulation recognizes by actually citing the law as quoted above. Jt. Ex. 1 at A.1, page 8. ODOD retains its authority to bid out competitively the PIPP load. It is simply not true that a lower price than the 6% discount is unavailable under the ESP stipulation. OPAE bargained for a discount for PIPP customers. If the stipulation is approved, it is a certainty that PIPP customers will receive the 6% discount. If ODOD determines that it will bid out the PIPP supply and achieves a better price, then the lower price will apply. It is unfair to state that the MRO would have produced a greater discount simply because it is competitive when the competitive option is still available under the ESP and when there is no evidence supporting the assertion that a higher discount would have occurred under the MRO.

C. The stipulation's opponents have not shown that decoupling is preferable to lost revenue recovery.

A second complaint against the stipulation concerns the recovery of lost revenues from the implementation of energy efficiency programs. The Natural Resources Defense Counsel ("NRDC") presented witness Dylan Sullivan who testified that lost revenue collection is a charge to customers for the revenue that a utility may forgo as it implements energy efficiency programs. NRDC Ex. 1 at 2. The purpose of lost revenue collections is to ensure that a utility's implementation of energy efficiency programs does not endanger the collection of fixed costs between rate cases. Mr. Sullivan testified that other regulatory tools, such as revenue decoupling, are available and that decoupling is preferable to the stipulated lost revenue recovery because it ensures that a utility recovers no more and no less than its Commission-determined fixed costs between rate cases. Mr. Sullivan also prefers decoupling because the stipulated lost revenue collection does not remove the incentive to increase sales. Mr. Sullivan believes that customers would be better served by revenue decoupling. He also testified that decoupling adjustments in other states have been less than 1% of base rates. NRDC Ex. 1 at 5.

OCC witness Gonzalez recommended that lost revenue recovery be stricken from the stipulation and that the issue be addressed in a more appropriate venue. OCC Ex. 2 at 38. If the Companies file for recovery of lost distribution revenues in the 2013-2015 Program Portfolio Plan cases, the parties to those cases can consider approaches to the recovery of distribution lost revenues, such as a revenue decoupling mechanism. Mr. Gonzalez states that a revenue decoupling mechanism ensures that a utility accounts as revenue for distribution fixed cost recovery no more and no less than the amount authorized in its last rate case. He states that revenue decoupling is more protective of customers than the stipulated lost revenue recovery because such lost revenue recovery does not relate the lost revenues being sought for recovery to the utility's authorized cost recovery. He calculated that the Companies would recover more under the stipulation's lost revenue approach than if a revenue decoupling mechanism was in effect. OCC Ex. 2 at 39.

Both OCC and NDRC have failed to define what they are proposing in terms of decoupling. There are scenarios for decoupling under which utilities will over-earn. Questions concerning decoupling include whether there is weather normalization, corrections for price elasticity, and load growth. It is not always true that decoupling is the preferable option. The methodology used to define the lost revenue recovered by decoupling makes a great difference in whether utilities will over-earn.

It should also be noted that the Companies will not collect lost revenues for certain portions of their demand-side management ("DSM") portfolio, such as efficiency relating to the commitment of mercantile customer efficiency. Decoupling, on the other hand, would compensate the utility for lost revenue caused by these projects, which produce the bulk of the energy savings under the 2009-2012 portfolio. In addition, if lost revenue associated with the DSM portfolio is accurately measured, it is the functional equivalent of the lost revenue that would be collected via a decoupling mechanism. Meeting a 0.5% target means a loss of 0.5% of distribution revenue; both the collection mechanism in the stipulation and the revenue collected via decoupling would be roughly the same. The exclusion of certain lost revenue from recovery tips the scale in favor of the approach taken in the stipulation.

NRDC and OCC have not demonstrated that decoupling is the preferable option to the stipulated lost revenue recovery in this instance. It is sheer conjecture at this point whether a decoupling mechanism is a better option compared to the lost revenue recovery provided for the stipulation.

C. The stipulated fuel fund ensures a minimum level of funding to help customers maintain essential electric service.

The stipulation provides $1.5 million for OPAE's fuel fund program to be allocated as $500,000 in 2012, $500,000 in 2013, and $500,000 in 2014. Jt. Ex. 1 at 32. Opponents to the stipulation may argue that this amount is inadequate to meet the needs of low-income customers. There is some basis for such an argument because the $500,000 provided for the 2009 program was completely used up in just over three weeks.

The fuel fund is a very important program that assists low-income customers to pay their bills. OPAE believes it is critical to continue this funding and bargained for its extension in this stipulation. The $500,000 amount is a continuation of the present fuel fund annual amount, but OPAE recognizes that more funding per year could be used to assist the Companies' customers. The stipulation represents the amount that OPAE was able to achieve in the negotiation process, but OPAE notes that additional funding could be effectively used to serve the expanding number of qualified customers.

D. Conclusion

As a signatory party to the stipulation and recommendation, OPAE urges the Commission to adopt it in its entirety. The statutory authority of ODOD to bid competitively the PIPP load cannot be compromised by the stipulation or by the Commission itself. If a competitive bid process for the PIPP load results in a lower price than the stipulated discount, this option is still available. In addition, the opponents of the stipulation have not provided a detailed definition of a revenue decoupling mechanism that would be preferable to the stipulated lost revenue recovery. Finally, the stipulated fuel fund amount, which remains at the current level, is necessary to meet the needs of low-income customers though demand will remain higher than the resources available.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief was served electronically upon the parties of record identified below in this case on this 30th day of April 2010.

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