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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of the Application of Ohio Edison)
Company, The Cleveland Electric Illuminating)
Company, and The Toledo Edison Company for)
Approval of a New Rider and Revision of an)
Existing Rider.)

Case No. 10-176-EL-ATA

THE OHIO MANUFACTURERS' ASSOCIATION AND THE OHIO HOSPITAL
ASSOCIATION'S JOINT MEMORANDUM CONTRA
APPLICATION FOR REHEARING
BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

Pursuant to Ohio Revised Code ("R.C.") Section 4903.10 and Ohio Administrative Code ("O.A.C.") Rule 4901-1-35(B), the Ohio Manufacturers' Association ("OMA") and Ohio Hospital Association ("OHA") submit this joint memorandum contra to the Application for Rehearing of The Office of the Ohio Consumers' Counsel filed on June 25, 2011 (the "Application for Rehearing"). The OMA and OHA jointly urge the Public Utilities Commission of Ohio (the "Commission") to deny the Application for Rehearing, in particular, OCC's unfounded request to require all customer classes to make up the revenue shortfall associated with the Residential Generation Credit ("RGC"), rather than just the residential customers who solely receive the benefit from the RGC.

II. LEGAL ARGUMENT

The Commission's May 25, 2011 Opinion and Order (the "Order") in the above-captioned proceeding adopted the arguments of the PUCO Staff, OMA/OHA, and IEU-Ohio, and *appropriately concluded that the "revenue shortfalls resulting from Rider RGC should be recovered solely from the residential class."* (Opinion at 26). In the Application for Rehearing,

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the OCC misguidedly asks the Commission to “spread the revenue shortfall associated with the RGC across all customers [Application for Rehearing at 20],” while conveniently ignoring the fact that non-residential customers receive absolutely no benefit whatsoever from Rider RGC or any other all-electric discount available solely to residential customers.

1. OCC failed to raise any new claim.

The Commission should deny OCC's Application for Rehearing inasmuch as it raises no new issues for the Commission's consideration. As the Application for Rehearing overtly omits, the Commission already considered and rejected OCC's argument that the revenue shortfall associated with the RGC should be recovered from all customers as analogous to the recovery of delta revenue in a reasonable arrangement case. The Commission has already thoroughly considered OCC's arguments and OCC has raised no new issues for the Commission's consideration. OCC's Application for Rehearing should be denied for this reason alone.

2. There is no legitimate reason for recovering the revenue shortfall associated with Rider RGC from non-residential customers.

The PUCO Staff¹ and OMA/OHA,² among others,³ persuasively argued that there is no justification for requiring non-residential customers to pick up the revenue shortfall from Rider RGC—a rider providing a discount solely to the residential customer class. The Commission accepted these arguments and affirmatively stated on page 26 of the Order that “there has been

¹ See pages 20-23 of the Initial Post-Hearing Brief Submitted on Behalf of the Public Utilities Commission of Ohio Staff.

² See pages 7-9 of the Joint Post-Hearing Brief of The Ohio Manufacturers' Association and Ohio Hospital Association.

³ See pages 9-11 of the Post-Hearing Brief of Industrial Energy Users-Ohio.

no legitimate reason set forth to justify recovery from all customer classes.” The Application for Rehearing sets forth no new ground for rehearing and should be denied.⁴

3. The Application for Rehearing misinterprets the Order and provides no legitimate reason for recovering the revenue shortfall from Rider RGC from non-residential customers.

OCC’s Application for Rehearing inaccurately claims that R.C. 4905.31 and the Commission’s rules regarding reasonable arrangements not only apply to this case, but require that the revenue shortfall associated with Rider RGC be recovered from all customer classes. This is simply untrue. As the Commission noted in the Order:

The Commission finds that revenue shortfalls resulting from Rider RGC should be recovered solely from the residential class. As Staff argues, there has been no legitimate reason set forth to justify recovery from all customer classes. **Despite OCC's assertion that the discounted rate is analogous to a reasonable arrangement, which is typically spread among all customer classes, as the Companies point out, OCC's own witness stated that the discounted rate was not for economic development purposes. No other reason for analogizing is apparent.**

(Emphasis added). Simply put, this is not a reasonable arrangement case and the rules relating to a reasonable arrangement case do not apply.

III. CONCLUSION

For the reasons stated above, OMA and OHA request that this Commission adopt the positions of OMA and OHA on the issues set forth above and deny the OCC’s Application for Rehearing.

⁴ It should be further emphasized that OCC wants to have its cake and eat it too—namely have non-residential customers fund multiple all-electric discounts for residential customers for which they receive no benefit. As the Order explains, and “as OMA and OHA point out, nonresidential customers already fund Rider EDR which provides a significant portion of the discount for electric space heating customers.” (Order at 26).

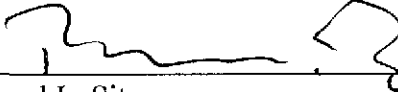
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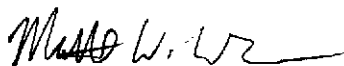


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memo Contra of The Ohio Manufacturers' Association and The Ohio Hospital Association was served upon the following parties of record via electronic mail this 5th day of July 2011.



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