

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of the Ohio :
Department of Development for an Order :
Approving Adjustments to the Universal :
Service Fund Riders of Jurisdictional Ohio :
Electric Distribution Utilities. :

Case No. 11-3223-EL-USF

RESPONSE OF
OHIO DEPARTMENT OF DEVELOPMENT
TO
OBJECTION OF
OHIO PARTNERS FOR AFFORDABLE ENERGY

Pursuant to the stipulation approved by the Commission in Case No. 10-752-EL-USF, the Ohio Department of Development ("ODOD") initiated the above-captioned proceeding on May 31, 2010 with the filing of its Notice of Intent ("NOI") describing revenue requirement and rate design methodologies ODOD proposes to utilize in preparing its 2011 Universal Service Fund ("USF") rider rate adjustment application. On August 2, 2011, in accordance with the procedural schedule established by the attorney examiner's June 21, 2011 entry in this docket, Ohio Partners for Affordable Energy ("OPAE") filed an objection to the rate design methodology proposed by ODOD in the NOI. No other party filed objections or comments. ODOD hereby submits its response to OPAE's objection pursuant to the procedural schedule set out in the June 21, 2011 entry.

As described in the NOI, ODOD proposes to utilize the same two-step declining block USF rider rate design approved by the Commission in all prior annual USF rider rate adjustment proceedings.¹ The first block of the rate will apply to all monthly consumption up to and

¹ ODOD NOI, 14.

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including 833,000 Kwh. The second rate block will apply to all consumption above 833,000 Kwh per month. For each jurisdictional electric distribution utility (“EDU”), the rate per Kwh for the second block will be set at the lower of the Percentage of Income Payment Plan (“PIPP”) charge in effect in October 1999 or the per Kwh rate that would apply if the EDU’s annual USF rider revenue requirement were to be recovered through a single block per Kwh rate. The rate for the first block rate will be set at the level necessary to produce the remainder of the EDU’s annual USF rider revenue requirement.

OPAE objects to the proposed rate design methodology on the ground that it violates the Section 4928.52(C), Revised Code, prohibition against shifting the cost of low-income customer assistance programs among customer classes.² This objection echoes an objection that has heretofore routinely been raised by the Office of the Ohio Consumers’ Counsel in the NOI phase of prior USF rider cases. Notwithstanding this objection, the majority of the parties in each of these earlier cases have endorsed the continued use of this rate design methodology in the stipulations that resolved the NOI phase of these proceedings. In each of these cases, the Commission has found that the stipulation satisfies its familiar test for evaluating stipulations, including the criteria that the stipulation is in the public interest and does not violate any important regulatory principle. ODOD continues to believe that this rate design methodology provides for a reasonable contribution by all customer classes to the USF revenue requirement and does not run afoul of Section 4928.52(C), Revised Code, as OPAE asserts.

Although Section 4928.52(A), Revised Code, specifies the costs to be recovered through the USF rider, the statute does not mandate the use of any specific rate design for the cost-recovery mechanism. Thus, subject to the Section 4928.52(C), Revised Code, requirement that

² OPAE Objections, 4-5.

the USF rider “shall be set in such a manner so as not to shift among the customer classes of electric distribution utilities the costs of funding low-income customer assistance programs,” the Commission is free to approve any rider rate design it finds to be reasonable. Obviously, the statutory prohibition against shifting the cost of funding the low-income customer assistance programs among customer classes requires interpretation, as the legislature could not have intended that each customer class contribute precisely the same percentage to the support of the low-income customer assistance programs that, by happenstance, they were contributing in 1999 as OPAE appears to suggest.³ Such an approach would ignore changes in the membership and relative consumption of the customer classes in the intervening years and would mean that, as the number of large industrial customers declined, the remaining industrials would be expected to contribute, in the aggregate, the same percentage of the USF rider revenue requirement that was originally spread over a larger industrial base. On its face, this makes no sense. Further, OPAE’s proposed remedy – that the same per-Kwh rate be charged to all customers of a particular EDU⁴ – would, itself, produce a different inter-class revenue distribution than that which existed for that EDU in 1999.

The intent of the statutory prohibition against shifting the cost of funding the low-income customer assistance programs among customer classes was not to set the 1999 inter-class revenue responsibility in stone. Rather, this requirement was intended to prevent the Commission from implementing a USF rider rate design that would have a material adverse impact on a particular customer class and place an unreasonable burden on the members of that class. Declining block rates are commonplace in the utility industry. Indeed, the Ohio legislature recognized the reasonableness of using a declining block rate structure for recovering

³ OPAE Objections, 2.

⁴ *Id.*

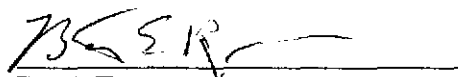
government-imposed obligations in mandating a three-step declining block rate for the recovery of the Kwh tax imposed on the state's electric utilities (*see* Section 5727.81, Revised Code). From ODOD's perspective, the volume discount reflected by the cap on the second block of the two-step USF rider rate is supported by principles of fairness and revenue stability. OPAE ignores that, under the two-step rider rate, the state's largest electric customers pay the identical USF rider per-Kwh rate for the first 833,000 Kwh consumed as all other customers, including the increment of the under-833,000 Kwh rate attributable to the shifting revenues from the first block to the second block in those instances in which the 1999 PIPP rider rate cap on the second block comes into play. As a matter of simple mathematics, when the cap on the second block cap block is triggered, the large industrials pay less per Kwh than customers consuming less than 833,000 Kwh per month. However, this does not mean, as OPAE would have it, that the resulting revenue distribution is unreasonable. As documented in ODOD's testimony in all previous USF rider rate adjustment proceedings, the impact of the increase in the under-833,000 Kwh block of the two-tier rate when the cap on the second block is triggered is *de minimis* when compared to the impact a single-step rate would have on the large industrials' revenue responsibility if a uniform per-Kwh rate were employed in such instances. Indeed, any case-to-case changes in the resulting revenue distribution under the two-block USF rider rate design are well within the range of estimation error inherent in any inter-class cost-of-service study – even if one ignores the impact of the loss of industrial load would have on the results of such a study. Moreover, these very modest case-to-case changes do no violence to principles of rate continuity.

OPAЕ also specifically complains that the 1999 PIPP rider of Ohio Power Company (“OPC”) was not adequate to fund OPC's PIPP program at the time and that, therefore, the continued use of the 1999 PIPP rider rate as a cap on the second-block OPC USF rider rate is

unreasonable.⁵ However, moving from the current OPC USF rider rate design to one per-Kwh USF rider rate applicable to all OPC customers as proposed by OPAE would produce the very type of material adverse impact on a particular customer class (*i.e.*, the industrials consuming over 833,000 Kwh per month) that the Section 4928.52(C), Revised Code, prohibition against shifting the cost of low-income customer assistance programs among customer classes was intended to prevent. Further, OPAE's argument that these customers have other means at their disposal to control their electric costs⁶ is totally irrelevant to the issue at hand. The question here is whether the revenue responsibility resulting under the two-tier USF rider rate design methodology proposed by ODOD is reasonable. Plainly, OPAE's proposal to require all OPC customers to pay a uniform per-Kwh USF rider rate would be totally inconsistent with the important principle of gradualism.

For the foregoing reasons, ODOD respectfully submits that OPAE's objection should be overruled and that ODOD should again be authorized to utilize the same two-block USF rider rate design methodology in preparing its application in this case that the Commission has approved in all prior USF rider rate adjustment proceedings.

Respectfully submitted,



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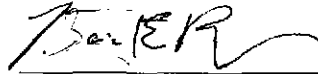
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⁵ OPAE Objections, 2-3.

⁶ OPAE Objections, 3.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, this 9th day of August 2011.



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