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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Staff Proposal for an Economic Development Tariff Template.) Case No. 11-4304-EL-UNC
)

REPLY COMMENTS OF OHIO PARTNERS FOR AFFORDABLE ENERGY

INTRODUCTION

On July 15, 2011, the Commission issued an Entry requesting comments on a proposed template to be used to file for 'reasonable arrangements' which provide lower rates to business customers while transferring responsibility for the payment of the delta revenue – the amount of the business customers' bill that the utility would collect under approved tariffs less the amount agreed to under the special contract – to all other customers. Pursuant to the Entry, Ohio Partners for Affordable Energy ("OPAE") hereby files its reply comments.

COMMENTS

Impact on the Competitive Market

Large customers, both industrial and mercantile, have championed the opportunities provided by the competitive electricity market as critical to economic growth. The competitive market can provide price certainty over a long period of time, answering a need expressed by the OMA Energy Group ("OMA"), so long as the regulatory framework ensures the ability of suppliers to offer such arrangements. OMA at 6. The Industrial Energy Users-Ohio ("IEU") urge the use of market-based tools to

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foster economic development. IEU at 14. The comments of the FirstEnergy operating companies ("FirstEnergy") also referenced the competitive market, suggesting that a bidding process be used to reduce the amount of delta revenue to be recovered from other customers, essentially substituting lower-priced, competitively sourced capacity and energy for standard tariff rates, with the delta being the difference between the bid price and the economic development rate. FirstEnergy at 3-4.

OPAE suggests that, should this tariff proposal go forward, it be accompanied by a simplified bidding process in a manner similar to that described by FirstEnergy. If a business customer requests service under the economic development tariff template, the customer's load should be put up for auction under a standardized process overseen by the Commission. If the auction produces a lower price, then the business customer should be provided with that price. There would be no delta revenue to be recovered from other customers. If the auction produces a price lower than current tariffs but above the economic development subsidy, the delta would be reduced per the suggestion of FirstEnergy. If the auction does not produce a lower price, the subsidy provided by the tariff would be put in place and a full dose of delta revenue would be foisted on other customers.

The competitive market should be the first option to advance economic development interests. OPAE agrees with FirstEnergy that the competitive market, through the use of auctions, should be the preferred method to provide discounts off the tariffed rates to business customers. In this way, other customers do not have to subsidize the economic development discounts.

Delta Revenue

There is a famous quote from Senator Russell Long, "Tax reform means, 'Don't tax you, don't tax me, tax that fellow behind the tree.'" The comments of the utilities and many of the business organizations resemble Senator Long's insight. All but one of the utilities, The Dayton Power and Light Company, are unwilling to pay any share of the delta revenue, preferring to shift all of the cost of the discounts onto customers. At least one business organization, Ohio Energy Group ("OEG"), would even further circumscribe responsibility for delta revenue, exempting customers taking service under economic development tariffs or other reasonable arrangements from having to pay for the subsidy provided to others large businesses. OEG at 4.

On one level, the position of OEG makes sense because adding an economic development rider which recovers the revenue forgone to the rate of a company served under the tariff would at least partially offset the value of its economic development rate. However, businesses also benefit from the vibrant economy these subsidies are designed to produce. The increased economic activity promised in return for the subsidies will create more demand for their products as well. If all customers benefit, then all customers, including those on special arrangements, should pay. See OMA at 14.

Capping the Benefits

Several commenters, including the Ohio Hospital Association ("OHA"), recognize that there is no limit on the number of customers that can take advantage of these tariffs (beyond the number that qualify), meaning there is no upward limit on the amount of lost revenue that can be shifted to other customers for recovery. OHA at 4. OP&E

recommends the Commission conduct a statewide survey to ascertain how much in increased rates residential and small commercial customers are willing to pay per month to subsidize businesses in Ohio beyond the amount of economic development aid already funded through taxes.

This situation is exacerbated by making the special rate discounts available to mercantile customers which can be made up of aggregated locations of national accounts. As the Office of the Ohio Consumers' Counsel ("OCC") points out, this would allow fast food restaurants which are part of a national chain, big box merchants, bank branches, and other similar commercial entities to qualify for the discount. OCC at 4-6. A special arrangement for electric service will not attract more of these types of business, because it is customers and traffic that drive the establishment and growth of these businesses. As the OCC comments note, this makes the potential for free riders under the templates as proposed quite large. OCC at 6.

To overcome these problems, should the Commission choose to move forward with the template, it should limit availability to industrial customers and place a hard cap either in total dollars or in percentage of bill on the amount of delta revenue that other customers will have to pay. When the hard cap is reached, there is no more subsidy until those contracts expire and are re-negotiated. An open-ended program could conceivably leave residential and small commercial customers paying more in economic development subsidies than they pay for the electricity they use. Therefore, OPAE suggests again that this whole concept of a special arrangement template be vetted through statewide surveys and focus groups of residential and small commercial customers, with the results filed in this docket. It is only fair to get the reaction of the

'man in the street' before obligating him or her to pay for another subsidy to large businesses. To this point, comments provided by individual ratepayers have not been supportive of the Staff's proposal.

Accountability

Several commenters noted the need for greater accountability in the award of these economic development rates. The utilities are put in the position of enforcing the requirements of the tariffs, a responsibility they are not comfortable with. The metrics which companies must meet to comply with the tariffs lack specificity. Penalties for non-compliance are prospective only; there are no much-needed clawback provisions. And, the special rates can be awarded years before any jobs materialize. While OPAE appreciates the desire to reduce transaction costs, something akin to reducing unnecessary regulation, the ratepayers that pay the delta revenue deserves to know what they are paying for and what actual benefit was produced.

CONCLUSION

As OPAE noted in its initial comments, Ohio's economy has been ravaged during the past decade. Our organizational members, all anti-poverty and community development organizations, would prefer to be out of business because they are not needed anymore. Instead, demand for our services is growing while our resources are not. Economic development is important to our members but paying for development through utility rates rather than taxes will increase already unaffordable electric bills necessitating additional funding for energy assistance that simply is not available.

The desire for simplicity – to be able to move at the speed of business and minimize transaction costs – is a good thing, but one can have too much of a good

thing. Before the precious, hard-earned dollars of residential and small business ratepayers are committed to subsidizing everything from fast food restaurants, big box retailers, and bank branch offices to steel and aluminum plants, we need to ensure that the costs of these subsidies will produce real jobs that will remain in Ohio for years to come. Ohioans understand that companies other than utilities can pull up stakes and abandon their employees; we have seen far too much of that during the past decade. Subsidies that simply add to the bottom line of a business and produce no tangible benefits to those paying the delta revenue are simply another cost shift.

Should the Commission move forward with this tariff, the accountability of the beneficiaries of this largesse must match the size of the subsidy. There should be real and measurable employment targets and verification procedures that have teeth. While these types of provisions may scare off some potential beneficiaries, the Commission needs to treat ratepayer dollars like taxpayer dollars and carefully scrutinize expenditures. There should be a cap on the amount of economic development subsidies that can be provided through the proposed mechanism. All customers should be responsible for their share of the lost revenues based on the kilowatt hours used by each customer class, and the utilities should pay their fair share. Finally, the Commission should incorporate the opportunities provided by the competitive market into this process as much as possible to minimize or eliminate the need to force small customers to shoulder the cost of new jobs and investments through any mechanism other than their cost-of-service rates.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served electronically upon the persons identified below in this case on this 15th day of August 2011.

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