

PUCO EXHIBIT FILING

Date of Hearing: 6/8/12

Case No. 11-346-EL-SSO, etal

PUCO Case Caption: Volume XVI

Columbus Southern Power

Ohio Power Company

PUCO

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List of exhibits being filed:

AEP EX. 148

Schools Ex. 103

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Reporter's Signature: Maria Di Paolo Jones
Date Submitted:

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of Columbus :
Southern Power Company :
and Ohio Power Company :
for Authority to Establish:
a Standard Service Offer : Case No. 11-346-EL-SSO
Pursuant to §4928.143, : Case No. 11-348-EL-SSO
Ohio Rev. Code, in the :
Form of an Electric :
Security Plan. :

In the Matter of the :
Application of Columbus :
Southern Power Company : Case No. 11-349-EL-AAM
and Ohio Power Company : Case No. 11-350-EL-AAM
for Approval of Certain :
Accounting Authority. :

- - -

PROCEEDINGS

before Ms. Greta See and Mr. Jonathan Tauber,
Attorney Examiners, and Commissioner Andre Porter, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-A, Columbus, Ohio, called at
8:30 a.m. on Friday, June 8, 2012.

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VOLUME XVI

- - -

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PUCO Mission

Our mission is to assure all residential and business consumers access to adequate, safe and reliable utility services at fair prices, while facilitating an environment that provides competitive choices.

This mission is accomplished by:

- Mandating the availability of adequate, safe, and reliable utility service to all business, industrial, and residential consumers.
- Ensuring financial integrity and service reliability in the Ohio utility industry.
- Promoting utility infrastructure investment through appropriate regulatory policies and structures.
- Regulating utilities' rates and terms of service for monopoly and non-competitive services.
- Monitoring and Enforcing compliance with rules and statutory protections against deceptive, unfair, unsafe, and anti-competitive utility practices.
- Safeguarding the security of Ohio's regulated motor carrier and rail operations, through aggressive inspection, training, monitoring, and education programs.
- Enhancing safety at all public highway-railroad grade crossings in Ohio through education and the installation of lights and gates and other safety devices.
- Resolving through mediation, arbitration, and adjudication disputes between utilities and residential, commercial, and industrial customers, as well as between competing utilities.
- Fostering competition by establishing and enforcing a fair competitive framework for all utilities.
- Utilizing advanced technology for monitoring and enforcing utility compliance, facilitating the provision of information to stakeholders, and sharing information between state and federal agencies.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Investi-)
gation into Ohio Bell Tele-)
phone Company Exchange Rate) Case No. 79-629- -COI
Tariff, PUCO No. 3, as it)
relates to the treatment of)
Ohio Schools with respect to)
Local Measured Business Tele-)
phone Service.)

OPINION AND ORDER

The Commission, coming now to consider the above-captioned investigation, the evidence adduced at the public hearings hereon conducted August 29 and 30, 1979, by Attorney Examiner Thomas E. Taylor and Diane M. Hockman, the written briefs filed by the respective participants, and noting that all parties have waived the issuance of an Attorney Examiner's Report in this proceeding pursuant to Section 4901-1-18 Ohio Administrative Code, hereby issues its Opinion and Order.

APPEARANCES:

Mr. William J. Brown, Attorney General, by Mr. M. Howard Petrucoff, Assistant Attorney General, 30 East Broad Street, Columbus, Ohio, on behalf of the Ohio Department of Education and the Superintendent of Public Instruction.

Messrs. Charles E. Ballou and Charles S. Rawlinson, 100 Erieview Plaza, Cleveland, Ohio, on behalf of the Ohio Bell Telephone Company.

Mr. William A. Spratley, Consumers' Counsel, by Mr. David M. Neubauer, 137 East State Street, Columbus, Ohio, on behalf of the residential subscribers of the Ohio Bell Telephone Company.

Mr. Marvin I. Resnik, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio, on behalf of the Public Utilities Commission of Ohio.

Messrs. Folkerth, Calhoun, Webster, Maurer & O'Brien, by Mr. Geoffrey Stern, 230 East Town Street, Columbus, Ohio, on behalf of the Ohio Library Association, the Ohio Library Trustees Association, The Public Library of Columbus and Franklin County, The Akron and Summit County Public Library, The Way Public Library and the Redman Public Library.

OPINION:

In Case No. 78-863-TP-ATA, this Commission approved for filing an application submitted on behalf of The Ohio Bell Telephone Company, pursuant to Section 4909.18 Revised Code, relating to the rate treatment to be afforded elementary and secondary schools in Ohio with regard to local measured rate business service. The Commission conducted no evidentiary hearings under that docket, but, rather, accepted a stipulation and agreement entered into between Ohio Bell and certain school districts in Montgomery County, Ohio, arising out of negotiations in Case 78-737-TP-CSS, viewed by the Commission as reasonable based upon what was perceived to be the unique circumstances facing elementary and secondary schools at that point in time. In essence, the tariff revision in question provided a "cap", or ceiling on measured rate charges to any Ohio school chartered by the State Board of Education pursuant to Section 3301.16 Revised Code. The proposed schedule was subsequently filed with the Commission, became effective July 1, 1978, and has remained in effect since that date.

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On July 18, 1979, the instant investigation was initiated by the Commission, the subject matter limited to the receipt of evidence concerning the present circumstances of Ohio schools and the propriety of continuing the above-described tariff treatment afforded schools as a result of Case No. 78-863-TP-ATA. Public hearings were held as scheduled on August 29 and 30, 1979, with written post-hearing briefs filed by several participants thereafter.

Upon review of all evidentiary materials of record relevant to a proper determination of the issue presented by this docket, the Commission concludes that the tariff treatment presently afforded Ohio schools remains reasonable based upon their unique circumstances. The circumstances perceived by this Commission to be unique to Ohio schools include, but are not necessarily limited to, the public purpose served, legal mandates vis-a-vis mandatory student attendance, limited funding mechanisms available to school systems, budgetary problems presently facing the schools, and their inability to pass through the additional costs associated with mandatory measured rate telephone service. The record in this proceeding does not indicate any appreciable change in the circumstances surrounding the school systems since the advent of the tariff in question, and no apparent likelihood of noticeable improvement in the foreseeable future.

It should be noted that in the interim since the public hearings on this investigation, there have been both legislative and judicial recognitions of the unique situation confronting the schools of Ohio. More specifically, the Ohio Legislature has enacted Section 4933.29 Revised Code, effective January 1, 1980, exempting Boards of Education of any public school district from time of day electrical pricing, while the Ohio Supreme Court, in its decision in County Commissioners Assn. v. Pub. Util. Comm., 63 Ohio St. 2d 243 (1980) observed:

"The schools were given special treatment because of (1) their unique status, (2) their unique needs, (3) their inability to pass on costs, and (4) their financial plight. Although there are similarities between the counties and the schools, the differences justify the differential in treatment both under the statutes and the Ohio and United States constitutions."

Accordingly, consistent with the foregoing discussion, the Commission concludes that the tariff treatment presently afforded Ohio schools is reasonable in light of their unique situation, and therefore the tariff in question shall remain in full force and effect and the subject Commission-initiated investigation shall hereby be terminated and closed of record.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- 1) This investigation was initiated July 18, 1979, the subject matter limited to receipt of evidence concerning the present circumstances of Ohio schools and the propriety of continuing the tariff treatment afforded schools chartered pursuant to Section 3301.16 Revised Code as a result of Commission Case No. 78-863-TP-ATA.
- 2) Publication of legal notice of the pendency of this proceeding was made in accordance with the Commission's July 18, 1979 Entry, and public hearings were held as scheduled on August 29 and 30, 1979.

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- 3) Ohio schools are in a unique situation. The circumstances giving rise thereto include, but are not limited to, the public purpose they serve, legal mandates regarding mandatory attendance, limited funding mechanisms, budgetary problems, and the inability to pass through the additional costs associated with increases in telephone service charges.
- 4) There have recently been both legislative (Section 4933.29 Revised Code) and judicial (County Commissioners Assn. v. Pub. Util. Comm., 13 Ohio St. 2d 243 (1960)) recognitions as to the unique situation confronted by Ohio schools.
- 5) The tariff treatment presently afforded Ohio schools is reasonable in light of their unique circumstances.

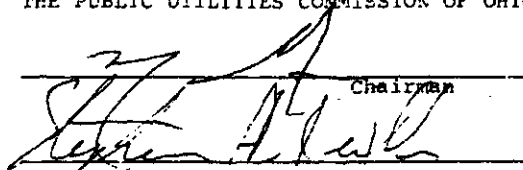
It is, therefore,

ORDERED, That Ohio Bell Telephone Company Exchange Rate Tariff, P.U.C.O. No. 3, Section 2, 1st Revised Sheet No. 13, Section (B)(3), and the rate treatment afforded thereby, being considered reasonable, shall remain in full force and effect. It is, further,

ORDERED, That this investigation is hereby terminated and closed of record. It is, further,

ORDERED, That copies of this Opinion & Order be served upon all parties of record to this proceeding.

THE PUBLIC UTILITIES COMMISSION OF OHIO

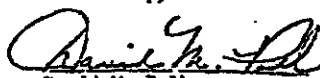

Chairman

Voted *no* → 
Commissioners

Entered in the Journal

OCT 13 1980

A True Copy


David H. Polk
Secretary

TET/gw

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