BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901-7, Ohio Administrative Code, Standard Filing Requirements for Rate Increases.	))))	Case No. 12-2338-AU-ORD

REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,

I. PROCEDURAL HISTORY

On August 20, 2012, the Public Utilities Commission of Ohio ("Commission" or "PUCO") issued an Entry initiating its five-year review of the rules in Ohio Administrative Code Chapter 4901-7, relating to the standard filing requirements ("SFR") for applications to increase rates to customers. A subsequent Commission Entry, provided for interested parties to file initial comments on February 15, 2013 and reply comments on March 1, 2013.[1]

On February 15, 2013, Initial Comments were also filed by Columbia Gas of Ohio, Inc. ("Columbia") ("Columbia Initial Comments"), Duke Energy Ohio ("Duke") ("Duke Initial Comments"), Ohio Power Company ("AEP Ohio") ("AEP Ohio Initial Comments") and Waterville Gas and Oil Company ("Waterville") ("Waterville Initial Comments").

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[1] Entry at 3 (January 16, 2013).

The Office of the Ohio Consumers' Counsel ("OCC"), pursuant to the Attorney Examiner's January 16, 2013 Entry, provides these Reply Comments to the Initial Comments filed by interested parties on February 15, 2013.

II. REPLY COMMENTS

A. Columbia's Initial Comments.

Columbia has proposed modifications to the Commission's SFR in part to address passage of Sub. H.B. 95.[2] To that extent, OCC does not disagree with Columbia's Initial Comments that as a result of passage of H.B. 95 changes to the Commission's SFR are necessary. Furthermore, OCC concurs with the Utility's acknowledgement that the rule drafting process is complicated by the fact that the Sub. H.B. 95 enacted statutory changes are applicable only to natural gas companies, and that Columbia may not have identified all SFR sections that were impacted by the passage of Sub. H.B. 95.[3] Finally, OCC concurs with Columbia, and also remains willing to meet with the Commission Staff and other interested parties to assist with drafting revised SFRs that capture the changes necessitated by the passage of legislation.

Columbia proposed a modification to the Commission's SFR necessitated by Sub. H.B. 95, related to Chapter II Supplemental Filing Requirements (1) (Page 17), Columbia states:

> This section requires the filing of construction data for all projects in excess of $100,000 for natural gas companies. Columbia recommends revising the threshold requirement to $500,000 for gas utilities. This proposed change recognizes the change in investment levels used by gas companies for the tracking of

[2] Columbia Initial Comments at 1 (February 15, 2013).

[3] Id.

> specific projects since the last revision of the SFR. Over time, projects have become larger and more expensive, justifying the higher threshold reporting level under this rule.[4]

The PUCO should not accept Columbia's proposal. The reason for the reporting requirements has not changed; therefore, the reporting requirements should not be modified.

Columbia alleges, construction projects have become larger and more expensive; however, that does not mean that $100,000 projects have disappeared or that the need for regulatory review of such projects should cease. For example, the Utility has recently received Commission authority to implement its capital expenditure program.[5] As a result, Columbia may be deferring the cost of any number of projects that cost between $1,000 and $499,999. Under the Utility's proposal such projects would not receive regulatory review in Columbia's next rate proceeding. The PUCO Staff should recognize the likelihood that audit procedures of construction projects can identify accounting/reporting problems with smaller projects just as with larger projects. Customers should continue to receive the protection of this regulatory oversight. Therefore, the Commission should not modify the SFR in accordance with Columbia's recommendation.

B. Duke's Initial Comments

Chapter II, Section B: SFR (Large Utilities) – Section B Instructions

In regards to the instructions related to Working Capital, Duke asks for clarification "such that the requirements for being granted each component of working

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[4] Id. at 5.

[5] *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Implement a Capital Expenditure Program,* Case No. 11-5351-GA-UNC, Finding and Order at 11-13 (August 29, 2012).

capital are clear."[6] Further Duke asks the Commission to "end any controversy in Paragraph (E) by clarifying the support required from utilities to include "Miscellaneous Working Capital" when no allowance for "Cash Working Capital" is requested."[7]

Duke's request should be rejected. Duke's request attempts to have the Commission end a "controversy" that is more appropriately addressed in an actual rate case, not in the requirements for information to be filed by a utility with the Commission. Duke seeks to have the Commission determine in this rulemaking that cash working capital and miscellaneous working capital are two separate items. However, in distribution rate cases, the PUCO Staff has consistently, and correctly, taken the position in Staff Reports that in determining an allowance for working capital, cash working capital and miscellaneous working capital items should both be considered collectively.[8]

Under the SFR Cash working capital must be supported by a recent lead-lag study. (Section B, Paragraph (E)(1)) and miscellaneous working capital items' details must be provided on Schedule B-5.1. (Section B, Paragraph (E)(2)). It is often possible that a utility's cash working capital is negative, as was determined for each of the three FirstEnergy utilities in their last rate cases.[9] Negative cash working capital may be greater than the positive amount of any miscellaneous working capital items. This possible result, when cash working capital more than offsets miscellaneous working

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[6] Duke Initial Comments at 2.

[7] Id.

[8] For example, see Cleveland Electric Illuminating Company ("CEI"), Case Nos. 07-551-EL-AIR et al., Staff Report at 7 and Schedule B-5 (12/4/07), "The Staff's working capital calculation is comprised of three different components. The calculation contains a revenue lag allowance component, an expense lag allowance component and an allowance for materials and supplies component."

[9] Cash working capital based on a lead-lag study was a greater negative than the allowance for material and supplies on Staff Report Schedule B-5, See Case Nos. 07-551-El-AIR et al., CEI Staff Report at 129, Ohio Edison Company Staff Report at 128 and Toledo Edison Company Staff Report at 129 (12/4/07).

capital items, has been consistently recognized by the PUCO Staff and the Commission – resulting in protection for customers regarding the setting of rates..

Chapter II, Section E: SFRs (Large Utilities) – Section E Instructions

In its Initial Comments, Duke proposes that Schedules E-4, E-4.1, E-4.3 and E-5 should be modified to delete the references to fuel, purchased power and gas costs.[10] OCC recommends, for the purposes of Schedule E-5 Typical Bill Comparison, that the gas and electric companies use whatever fuel cost is in effect at the time of the filing (i.e. Gas Cost Recovery, Fuel Adjustment Charge, Standard Service Offer, Standard Choice Offer, etc.) in order to derive what an estimate of a customer's monthly bill would be including fuel cost. This information is necessary so the parties representing different sectors of the public can quantify what the total impact the proposed distribution rate increase would be on the bills of the customers they represent. In terms of utilities which have exited the merchant function (i.e. gone to full choice), OCC would agree with Duke that the Commission should provide guidance as to what data should be used to quantify the total bill impact of the proposed distribution rate increase.

C. AEP Ohio's Initial Comments.

Appendix A Chapter 1

AEP Ohio proposes a modification to the Commission's SFR, Appendix A, Chapter 1. AEP Ohio states:

> AEP Ohio proposes utilities send a notice that includes a link to a website that would contain the required information. The utility would still send the notice of intent via mail, but in lieu of sending a hard copy of the documents or a CD with the files, it would include the location of a website with the documentation.[11]

[10] Duke Initial Comments at 5 (February 15, 2013).

[11] AEP Ohio Initial Comments at 2 (February 15, 2013).

OCC understands that the webpage would have all the same information available in hard copy or on disc; however, the Commission should require that the notice should state "that upon request a disc with the rate case filing documents will be provided." That resolves AEP Ohio's stated concern of "providing 900 compact discs," but still leaves open the option that a disc will be provided if requested by a mayor and legislative authority of a municipality within AEP Ohio's service territory.

Appendix A Chapter II (A)(5)(d), Chapter II (C)(12) and Chapter II (D)(13 & 14)

AEP Ohio asks the Commission to clarify the definition of "Control Budget" as used in the SFR,[12] but none of the portions of the SFR to which AEP Ohio cites contain the term "Control Budget." Therefore, the Commission should not clarify this term.

It may be possible that AEP Ohio meant to refer to the "corporate budget" used in Chapter II (D) Supplemental information provided at audit:

> (13) Corporate budget by month for each fiscal year that is included in any part of test year.
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> (14) If test year budgeted data is different from that reflected in the corporate budget, the annual budget which was the basis of the test year forecasted data by month for each fiscal year that is included in any part of the test year.

If "corporate budget" is the term AEP Ohio seeks to have defined as an "operating forecast" and a "forecasted view taking into account forward looking views,"[13] this

[12] Id at 2.

[13] Id at 3.

request should be rejected. The words proposed by AEP Ohio do not bring clarity and definition.

If the Commission determines that a definition of "corporate budget" is needed, then AEP Ohio's statement of what the PUCO Staff expects is reasonable – the corporate budget is that "approved by the Company's Board and Senior Management."

Existing Chapter II (D) (13) appropriately requires the utility to provide the Staff with the corporate budget for each fiscal year that is included in any part of the test year. Under existing Chapter II (D) (14), if the utility's test year budgeted (i.e. forecasted) data is different from that of the corporate budget, the utility is to also provide Staff the annual budget upon which that different forecasted data is based. Chapter II (D)(14) provides Staff the ability to discern how the utility's forecasted data varies from the corporate budget. Assuring that rates are set using an appropriate corporate budget is an important protection for customers.

Appendix A Chapter II (B)(2)

AEP Ohio also proposes a modification to Appendix A Chapter II (B) (2).[14] AEP Ohio states:

> The requirement for a five year forecast of income and expense, or in lieu thereof, a forecast of specific drivers of the required return and the revenues necessary to support it is superfluous. The Company questions how forecasts over this long of a time frame benefits the evaluation of a case. The forecasted test year represents the Company's best assumptions for future revenues and costs, and AEP Ohio recognizes the importance of this data in the time horizon. But every year beyond the test year becomes more fraught with ambiguity and unknowns, and the Company questions the benefit that long of a timeframe brings to the audit of the case. The Commission should remove this requirement. In the

[14] Id at 4.

> alternative the Commission could mirror the three year forecast requirement for telephone, waterworks and sewage companies.[15]

The PUCO should deny AEP Ohio's proposal. As the time between utility rate cases seems to be increasing, it is more important that the utility's financial forecast be provided for more outlying years than fewer as AEP Ohio proposes. Maintaining five years of financial forecasting beyond the rate case under review should be important to the PUCO Staff and Commission for the purpose of assessing financial integrity of the utility going forward, and for establishing amortization periods to coincide with the anticipated period between rate cases. Therefore, the Commission should not adopt AEP Ohio's proposed SFR modification to reduce the years of financial forecast provided as part of the SFR requirements.

Appendix A Chapter II (C)(18)

AEP Ohio requested that the following SFR requirement be modified:

> (18) The utility shall provide a breakdown in the same general format as Schedule B-2.3 which shows plant in service data from the last date certain to the end of that year, annually thereafter up to the most recent annual report, and from the most recent annual report to the date certain in the current case.[16]

This requirement provides the PUCO Staff with reconciliations of plant balances from the date certain in the utility's last rate case to subsequent annual reports and then to the date certain in the current rate case. Instead AEP Ohio proposes to provide a five year history and says "The [data] is accessible in audited balances in FERC Form 1.[17]"

AEP Ohio's proposal should be rejected. It is reasonable to require a utility to provide the Staff with reconciliation of plant balances from the last date certain to the

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[15] Id.

[16] Id. at 4

[17] Id.

current date certain. Such a reconciliation provides Staff the ability to discern changes in plant that have occurred since rate were last set, which AEP Ohio's proposal for a five year history does not provide. This information is appropriate for the PUCO Staff and others to have in evaluation of the utility's rate base that is a prime subject of setting fair rates for customers to pay.

D. Waterville Initial Comments.

In its Initial Comments, Waterville proposed that Chapter IV of Appendix A be amended to permit natural gas companies with up to 15,000 customers to submit abbreviated applications for increases in rates and charges. [18] The PUCO should not accept this proposal for the following reasons. According to customer counts in the 2011 Annual Reports to the Commission filed by 25 natural gas companies, 12 of those already have the ability to file Abbreviated Applications under Chapter IV. Eight natural gas companies fall under the definition of Large Utilities (Chapter II) and the remaining five companies would be considered Small Utilities under Chapter III for the purposes of the SFR. If the Commission were to adopt Waterville's proposal, none of the current natural gas companies considered to be Small Utilities would have to file under Chapter III . According to the 2011 Annual Reports to the Commission, Orwell Natural Gas Company had 7,303 customers at the end of 2011; Pike Natural Gas Company had 7,140 customers; Eastern Natural Gas had 6,564; Waterville Gas and Oil had 5,829 and Oxford, Inc. had 4,281.

Instead, a more reasonable approach (that balances the interest of the utilities and customers) would be to adopt the SFR filing criteria for Chapter III and Chapter IV that is

[18] Waterville Initial Comments at 1 (February 14, 2013)..

currently applicable to the Water Utilities. For Chapter IV, Abbreviated Filing, the current filing criteria for gas utilities can be changed from “2,000 or less customers” to “2,500 or less customers”. For Chapter III, Small Utilities, the current filing criteria for gas utilities can be changed from “more than 2,000 but less than 10,000 customers” to “more than 2,500 but less than 15,000 customers”. This change would allow some customer expansion to occur for the gas companies that currently make Abbreviated Filings before they get moved into the Small Utility filing requirements. The same would also be true for existing gas companies that are now considered Small Utilities for SFR purposes. Those companies would not be considered Large Utilities until they add another 5,000 customers from the current 10,000 threshold. Then, of course the filing criteria for Chapter II, Large Utilities, would have to be amended to “15,000 or more customers. OCC’s recommendation, while not as far reaching as Waterville’s proposal, should still address concerns regarding mitigating the costs associated with the filing requirements for natural gas companies filing under Chapter III or Chapter IV.

III. CONCLUSION

Any modifications to the SFR Rules should be made in accordance with the above recommendations.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Reply Comments have been served via electronic service upon the persons on the service list below this 1st day of March, 2013.

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