

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s Review    )  
of Customer Rate Impacts from Ohio        )   Case No. 13-1530-EL-UNC  
Power Company’s Transition to Market        )  
Based Rates.                                        )

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**COMMENTS  
BY  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

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**I. INTRODUCTION**

On June 27, 2013, the Public Utilities Commission of Ohio (“PUCO”) invited comments to consider any potential for unreasonable increases in customers’ bills that might result from Ohio Power Company’s (“AEP Ohio” or “Utility”) first-time use of an auction to obtain its electricity supply and the possible change in rate design. In its earlier decision in AEP Ohio’s electric security plan (“ESP”) case,<sup>1</sup> the PUCO reserved “the right to implement a new base generation rate design *on a revenue neutral basis* for all customer classes at any time during the term of the modified ESP.”<sup>2</sup> The Office of the Ohio Consumers’ Counsel (“OCC”) appreciates the opportunity to comment.

The ESP term is from June 2013 to May 2015. The first energy-only auction, with 10% of kWh to be acquired through an energy-only auction is scheduled to take place upon approval of the auction process.<sup>3</sup> By June 1, 2014, 60% of kWh is to be

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<sup>1</sup> In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan, Case No. 11-0346-EL-SSO, Opinion and Order at 15-16 (PUC Ohio August 8, 2012)..

<sup>2</sup> *Id.* at 16 (emphasis added).

<sup>3</sup> *Id.* at 40.

acquired through an energy-only auction.<sup>4</sup> And by January 1, 2015, 100% of energy is to be acquired through the auction process.<sup>5</sup> By June 1, 2015, AEP Ohio has committed to acquisition of 100% of energy **and** capacity through the auction process, completing the transition to 100% market-based generation rates.<sup>6</sup>

The AEP Ohio auction process, auction pricing, auction schedule for energy-only auctions and the customer retail rates resulting from the energy-only auctions are currently under review by the PUCO in Case No. 12-3254-EL-UNC.<sup>7</sup> Thus, the details of AEP Ohio's auction procedures and implementation are still pending before the PUCO. Also, although AEP Ohio has committed to setting 100% of generation rates, including both energy and capacity, through the auction process by June 1, 2015, the precise timing of this 100% energy and capacity auction has not yet been determined.

For purposes of implementing the blended rates that are expected to become effective on January 1, 2014 through May 2015, AEP Ohio has yet to make a proposal on how auction prices will be translated to customers' retail rates. Nor has AEP Ohio made a proposal on how auction prices will be translated to customers' retail rates when generation rates are based entirely on market prices beginning on June 1, 2015. If the translation of auction prices to retail rates could adversely affect customers' bills, then AEP Ohio should present a revenue-neutral base-generation rate design that implements

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 38, 40.

<sup>7</sup> Case No. 12-3254-EL-UNC, June 6, 2013 Entry at 3.

the transition to market-based rates without adverse customer impacts, either to residential or other customer classes.<sup>8</sup>

AEP Ohio has not yet presented any detailed analysis regarding the impact of auction prices on different customer classes' rates and bills. OCC therefore is not able to comment meaningfully regarding the customer impact of any new rate design.

Other Ohio utilities have taken different approaches regarding the design of rates for different customer classes in the transition from generation rates set by the PUCO to generation rates set by the market. Solutions to issues that arose during other utilities' transitions to market-based generation rates may be helpful in the development of AEP Ohio's generation rates to be effective during this transition. For example, the solutions may provide an example of the methodology for converting capacity charges into energy charges so that such capacity charges can be recovered from customers through an all-energy market-based rate.<sup>9</sup> The solutions may also be helpful in assessing whether intra-class rate designs, such as block rate structures, should be retained to ensure that customer rate impacts do not disproportionately affect customers within a customer class.<sup>10</sup>

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<sup>8</sup> OCC notes that AEP Ohio initially provided a rate design proposal in its ESP proceeding, but that proposal was not revenue neutral between classes, as required by the Commission in its Opinion and Order of August 8, 2012. AEP Ohio's proposal was also effectively abandoned during the course of this proceeding.

<sup>9</sup> See, e.g., Ohio Edison Company Tariff P.U.C.O. No. 11, Sheet 114 (6<sup>th</sup> Revised), p. 1 of 2, filed pursuant to PUCO Orders in In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Case No. 10-388-EL-SSO (PUCO August 25, 2010), and In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, 12-1230-EL-SSO (PUCO July 18, 2012), and In the matter of the application of The Cleveland Electric Illuminating Company in support of Staff's 2013 Annual Review of the Generation Service Rider (Rider GEN), Case No. 13-811-EL-RDR (PUCO Entry of June 11, 2013).

<sup>10</sup> *Id.*

The PUCO should direct AEP Ohio to propose a rate design, with supporting testimony, for the transition to market-based rates in this proceeding. And the PUCO should require AEP Ohio to provide an analysis of the impact on customers' rates and bills. After this is presented, ample time will be necessary for the parties to perform discovery to evaluate the impact on customers with different usage characteristics, and to make appropriate counter-proposals, through responsive testimony, to minimize impact on residential customers. OCC recommends a discovery period of 120 days after AEP Ohio files its proposal and supporting testimony, followed by evidentiary hearings and briefs.

## **II. COMMENTS**

### **A. PUCO Areas of Inquiry**

#### **1. Adverse rate impacts on customers**

The PUCO should not assume that "adverse" customer impacts will result from the shift to market-based rates. If existing rate structures (rate design) are maintained after the introduction of market-based rates, such disparate rate impacts could possibly be avoided. Until AEP Ohio makes its rate design proposal, no party will be able to assess the customer impact of the transition to market-based rates under a new rate design.

#### **2. Cross-Subsidies between customer classes**

AEP Ohio contended in the ESP proceeding that cross-subsidies exist between classes. But the PUCO's mandate for revenue-neutrality between customer classes should mean that each customer class would be allocated the same proportion of revenues in the transition period (from the date SSO rates first reflect a blending of generation rates set by the PUCO with market-based rates, until June 1, 2015, when rates are to be set

entirely by the market) that was being allocated to each customer class immediately before the transition period begins.

### **3. Phase-Out of historical rate designs**

The PUCO also inquired about the phase-out of historical rate design mechanisms. As OCC stated above, there is not yet a proposal from AEP Ohio that specifically identifies any rates to be phased-out or re-designed. Therefore, it is not yet possible to meaningfully comment on this question. If a particular rate or rate component were to be phased-out or re-designed, the PUCO would need to examine the impact on both the customers taking service under the rate and other customers.

### **4. Methodologies to transition to market-based rates for customers**

The PUCO has also asked for comments on “methodologies to transition to market based rates.” As suggested above, it may be that a revenue-neutral transition could be implemented through a proportionate adjustment to all rates without significant adverse impact to customers. And, as stated, “revenue-neutral” means the proposal should not change how much revenue AEP Ohio will be allowed to collect from different customer classes. Until AEP Ohio’s proposed translation of market prices to retail rates is known, the examination of any transition methodology is premature.

### **5. Potential impacts on high-usage customers during winter (i.e. electric-heating customers)**

Finally, the PUCO inquires about “potential impacts on high winter usage customers.” These customers are typically electric-heating customers. Again, without knowing how AEP Ohio will propose to translate auction prices to retail rates, it is not possible to determine the potential impact on electric-heating customers. To the extent that the current rate structure is maintained and rates are adjusted between rate blocks on

a revenue-neutral basis, it is possible that electric-heating customers may experience a *de minimis* impact. If there is not a *de minimis* impact on electric-heating customers, the PUCO should attempt to avoid rate shock to these customers. Specifically, it may be appropriate to adjust residential rate design so that electric-heating customers' rates increase gradually, enabling such customers to implement energy efficiency measures before rates are fully adjusted. The PUCO previously addressed rate impacts to electric-heating customers resulting from FirstEnergy's ESP and distribution rate proceedings,<sup>11</sup> and also initiated a generic investigation of these issues that is still pending.<sup>12</sup> In any event, the rates paid by AEP Ohio's customers should be assessed for their protection once AEP Ohio files its proposal.

**B. Essential Information to Evaluate the Impact of Rate Changes on Customers.**

The PUCO is directing AEP Ohio to set forth its proposed generation rate design for the transition to charging market-based rates to customers. It is important that the PUCO also direct the Utility to provide information that will assist in the assessment of

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<sup>11</sup> 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, 2011 Ohio PUC LEXIS 661 (PUC Ohio May 25, 2011).

<sup>12</sup> In the Matter of Aligning Electric Distribution Utility Rate Structure With Ohio's Public Policies to Promote Competition, Energy Efficiency, and Distributed Generation, Case No. 10-3126-EL-UNC (PUC Ohio December 29, 2010) (initiating generic investigation).

the impact on customers' electric bills. The PUCO should require<sup>13</sup> AEP to provide information that includes (but is not limited to) the following:

1. Detailed Total Bill analysis for each rate schedule<sup>14</sup> and, within each rate schedule, by level of consumption. (This should be provided in electronic format with all source formulas intact and in native application.)
2. Estimated competitive-bid prices for future auctions that are then translated into retail rates for customers.
3. Explanation and detail on the proposed manner of translating auction prices to retail rates, including converting capacity charges to energy charges for each rate schedule.

An adequate period for discovery<sup>15</sup> should then commence upon the filing of AEP Ohio's proposal, including supporting testimony, and specific information. OCC submits that an adequate period for discovery in this proceeding would be 120 days. After an adequate period for discovery, intervening parties should be permitted to submit

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<sup>13</sup> The PUCO's Rules require that an EDU, as part of its electric security plan or market rate offer, provide "[a] complete description of the CBP plan and testimony explaining and supporting each aspect of the CBP plan. The description shall include a discussion of any relationship between the wholesale procurement process and the retail rate design that may be proposed in the CBP plan." O.A.C. 4901:1-35-03(2)(a). The Rules further require "a clear description of the rate structure ultimately chosen by the electric utility, the electric utility's rationale for selection of the chosen rate structure, and the methodology by which the electric utility proposes to convert the winning bid(s) to retail rates of the electric utility." O.A.C. 4901:1-35-03(2)(i). Since this proceeding is effectively a proceeding designed to further refine AEP Ohio's Electric Security Plan from Case No. 11-346-EL-SSO, and specifically the rate design and rate structure being implemented, these rules are applicable to this proceeding. OCC also notes that, under R.C. 4909.18, the PUCO has authority, in any rate proceeding, to direct utilities to provide such additional information as the PUCO "may require in its discretion."

<sup>14</sup> For example, residential rate schedules RS, RS-ES, RS-TOD, RDMS for the Ohio Power Rate Zone and R-R, R-R-1, RLM, RS-ES, RS-TOD, RS-ROs 2 for the Columbus Southern Power Rate Zone.

<sup>15</sup> R.C. 4903.082 grants all parties and intervenors "ample rights of discovery" and requires the Commission to review its rules regularly "to aid full and reasonable discovery by all parties. The Commission's Rules of Practice in turn encourage "the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings." O.A.C. 4901-1-16(A). The Rules give all parties the right to obtain discovery of "any matter, not privileged, which is relevant to the subject matter of the proceeding." O.A.C. 4901-1-16(B)

responsive testimony regarding AEP Ohio's proposal and its impact on customers. The PUCO should then hold evidentiary hearings, followed by the submission of briefs.

### **III. CONCLUSION**

The PUCO should direct AEP Ohio to present how it proposes to translate auction prices to customers' retail rates. In accordance with the Commission's ESP Order, this should include a revenue-neutral base-generation rate design that could be used to mitigate adverse rate impacts on customers resulting from the transition to market-based rates. Further, the PUCO should require AEP Ohio to provide specific information and all data used to establish such rates. The information and data provided should allow intervening parties to assess impacts on customers' bills. Thereafter, the PUCO should give all parties adequate time to perform discovery. This should be followed by the submission of responsive testimony by intervening parties, and evidentiary hearings and briefs.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these *Comments* was served on the persons stated below via electronic transmission to the persons listed below, this 12<sup>th</sup> day of August, 2013.

/s/ Edmund "Tad" Berger

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