

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s Review)
of its Rules for Standard Service Offers) Case No. 13-2029-EL-ORD
for Electric Utilities Contained in Chapter)
4901:1-35 of the Ohio Administrative)
Code.)

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

I. INTRODUCTION

The Public Utilities Commission of Ohio (“PUCO”) is conducting its five-year review of the rules (Ohio Adm. Code 4901-1-35) applicable to the Standard Service Offer that Ohioans can choose for electric generation service from Electric Utilities.¹ The stated purpose of these rules is to establish rules for the form and process under which an electric utility shall file an application for a standard service offer (“SSO”) and the PUCO’s review of that application.² The electric utility’s SSO provides the price customers may choose to pay for “all competitive retail electric services necessary to maintain essential electric service, including a firm supply of electric generation service.”³ By Entry the PUCO established February 26, 2014 and March 13, 2014 as the deadline for interested persons to file Comments and Reply Comments, respectively.⁴

¹ R.C. 119.032.

² Entry at 2 (January 29, 2014).

³ 4901-1-35-02(A).

⁴ Entry at 3 (January 29, 2014).

The Office of the Ohio Consumers' Counsel ("OCC") files these Comments to address the changes to these PUCO rules proposed by the PUCO Staff.⁵

II. COMMENTS

A. Certain PUCO Staff Proposed Changes To The Standard Service Offer Rules Violate The State Energy Policy (R.C. 4928.02) That Protects Ohio's Electric Consumers.

The PUCO Staff, in three SSO Rules, proposes a change to delete specific items required to be included in an application filed by an electric utility and replaces the specific requirement with a more general requirement. The PUCO Staff's proposed changes are:

4901-1-35-03 (B)(2)(h)

The CBP plan shall include a discussion of ~~time-differentiated pricing, dynamic retail pricing, and other alternative retail rate options~~ alternative rate retail options. * * *⁶

4901-1-35-11(B)(8)

The annual report shall describe the operation to date of alternative ~~any time differentiated pricing, dynamic~~ rate designs implemented under the [competitive bid process] ("CBP"), the approaches used to communicate price and usage information to consumers, and observed price elasticity.⁷

4901-1-35-11(C)(5)

The annual report shall describe the operation to date of alternative ~~any time differentiated pricing, dynamic~~ rate designs implemented under the CBP, the approaches

⁵ The PUCO Staff's proposed changes to the PUCO's SSO Rules, see Entry at Attachment A (January 29, 2014).

⁶ Entry at Attachment A page 5 of 23 (January 29, 2014).

⁷ Entry at Attachment A page 22 of 23 (January 29, 2014).

used to communicate price and usage information to consumers, and observed price elasticity.⁸

The PUCO Staff's above proposed SSO Rule changes--to relieve the electric utility of the obligation to specifically discuss in an application/describe in an annual report any **time differentiated and dynamic rate designs**--should not be approved. Approval of the Staff's proposed SSO Rules change would violate the state policy. R.C. 4928.02 (D) states:

Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management **time-differentiated pricing**, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure.⁹

The PUCO Staff's proposed change to the SSO rules violates the state policy described above. The PUCO should reject the proposed change.

The electric utilities are spending or considering spending huge amounts of money to modernize their infrastructure and implement smart grid technology (including with smart meters). That technology will enable time-differentiated pricing and dynamic retail pricing for consumers. And the utilities expect that Ohio consumers will pay for this massive investment in the infrastructure.

Subject to future evaluation, it may be that time-differentiated pricing is a consumer benefit of the utilities' infrastructure technology investment. Ohio consumers, who are being asked to pay for the utilities' infrastructure spending, should receive benefits commensurate with the sums they're paying for infrastructure. Therefore, Ohio's regulated utilities should be subject to PUCO oversight for their pricing of electric

⁸ Entry at Attachment A page 23 of 23 (January 29, 2014).

⁹ Emphasis added.

service, with benefits hopefully resulting for consumers. The information that the PUCO Staff would no longer require utilities to provide should continue to be provided because the information helps with attaining consumer benefits. Therefore, the PUCO Staff's proposed changes to eliminate the requirements for time-differentiated pricing and dynamic retail pricing in the PUCO's SSO rules should be rejected.

B. A Proposed PUCO Standard Service Offer Rule Change Unreasonably Relieves The Electric Utilities Of An Important Reporting Requirement.

The PUCO's Staff's Proposed SSO Rules provide that an electric utility proposing a standard service offer shall propose a plan for a competitive bid process.¹⁰ As part of the SSO Rule's requirement, the electric utility is to use an independent third party.¹¹ The PUCO Staff has proposed a change to the CBP reporting requirements to be provided by the independent third party under 4901-1-35-08(B)(7). The PUCO Staff's proposed change would make merely permissive, instead of mandatory, a requirement for the independent third party to provide information about the pricing of generation service for SSO customers:

A If possible, a listing of the retail rates that would result from the least cost winning bids, along with any descriptions, formulas, and/or tables necessary demonstrate how the conversion from winning bid(s) to retail rates was accomplished under the conversion process approved by the [PUCO] in the electric utility's CBP plan.¹²

It is imperative that the PUCO understand how the resulting CBP prices are to be converted to retail rates for Ohio consumers. Understanding how the results from an

¹⁰ 4901-1-35-08(A), Entry at Attachment A page 17 of 23 (January 29, 2014).

¹¹ 4901-1-35-08(A).

¹² Entry at Attachment A page 18 of 23, PUCO Staff's proposed change to 4901-1-35-08 (B)(7) (January 29, 2014).

auction are to be converted to retail rates is a critical aspect of the transparency needed in the SSO process. The PUCO Staff's proposed change to the above SSO rule would adversely impact the PUCO's ability to critically assess the resulting retail rates from a CBP, because information about retail electric rates for Ohioans would not be required. This change would lessen the transparency of the process; and therefore, should be rejected.

4901-1-35-08(D) states: "[t]he [PUCO] shall make the final selection of the least-cost winning bidder(s) of the CBP. The [PUCO] may rely upon the information provided in the independent third party's report in making its selection of the least-cost winning bidder(s) of the CBP." Yet, if the above PUCO Staff's proposed change is adopted by the PUCO, it is unclear exactly what information the independent third party will deem "possible" to provide to the PUCO. It is unreasonable to not require the independent third party to provide the PUCO with certain information critical to the CBP approval process that affects what standard offer customers pay for service. Therefore, the PUCO should reject the proposed change to SSO Rule 4901-1-35-08(B)(7).

III. CONCLUSION

The PUCO Staff's proposed changes to certain SSO Rules should be rejected in accordance with OCC's Comments above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* have been served on the persons stated below via electronic transmission to the persons listed below, this 26th day of February 2014.

/s/ Larry S. Sauer

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Summary: Comments Comments by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Sauer, Larry S.