

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|--|---|------------------------|
| In the Matter of the Implementation of |) | |
| Sections 4928.54 and 4928.544 of the |) | Case No. 16-247-EL-UNC |
| Revised Code. |) | |

INDUSTRIAL ENERGY USERS-OHIO'S COMMENTS

Samuel C. Randazzo (Reg. No. 0016386)
(Counsel of Record)
Frank P. Darr (Reg. No. 0025469)
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com

FEBRUARY 8, 2016

ATTORNEYS FOR INDUSTRIAL ENERGY USERS-OHIO

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|--|---|------------------------|
| In the Matter of the Implementation of |) | |
| Sections 4928.54 and 4928.544 of the |) | Case No. 16-247-EL-UNC |
| Revised Code. |) | |

INDUSTRIAL ENERGY USERS-OHIO’S COMMENTS

In 2015, the General Assembly modified R.C. 4928.54. R.C. 4928.54 originally delegated authority and discretion to the Director of the now Ohio Development Services Agency (“DSA”). This authority permits the Director to use competitive retail electric service (“CRES”) aggregation to satisfy the needs of residential customers receiving bill payment assistance funded by the Universal Service Fund (“USF”).

The recent modifications to R.C. 4928.54 now compel the Director to test whether this aggregation authority can be utilized to reduce the electric bill payments made by customers receiving such assistance and reduce the assistance funding tab (now approaching \$500,000,000 annually) picked up by Ohio’s electric distribution utility (“EDU”) residential, commercial and industrial customers.

On February 1, 2016, the Staff of the Public Utilities Commission of Ohio (“Commission”) filed a Staff Report¹ in this proceeding. The Staff Report briefly describes two options. It does not identify all the options that were considered or the reasons for selecting the options briefly described in the Staff Report.

¹ The document filed in this proceeding on February 1, 2016 contains a “Staff Recommendation” title. However, it is referred to as a “Staff Report” in the Entry issued the same day and inviting the submission of comments on or before February 8, 2016. The February 1, 2016 filing by the Commission’s Staff is referred to as a “Staff Report” for purposes of these comments.

The comments below flow from the public interest purpose that is the foundation for the recent changes to R.C. 4928.54. More specifically, the comments of the Industrial Energy Users-Ohio (“IEU-Ohio”) focus on an application of the Director’s aggregation authority (and use of the tools available to the Commission) to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by Ohio’s EDU customers. Ultimately, the means selected must be derived from these important and related purposes.

OPTION ONE – PIPP²-SEPARATE PROCUREMENT

The Staff Report, beginning at page 3, briefly describes the key parameters of Option One. Given the brevity of the Staff Report and the short amount of time available to submit comments, IEU-Ohio’s Option One comments focus on the Procurement Plan, Effect on Existing Contracts and the Load Separation parameters.

The Procurement Plan parameter indicates that the currently-approved EDU standard service offer (“SSO”) competitive bidding process (“CBP”) plans will be used to construct a separate CBP module. The Staff Report suggests that this separate CBP module will be used to test whether the Director’s aggregation authority can produce a better outcome than the otherwise applicable SSO result. This approach will, however, delay or phase-in any beneficial effects of a PIPP-Separate CBP.

Given current market conditions, IEU-Ohio recommends that the PIPP-Separate CBP include 100% of each EDU’s PIPP load and that multiple terms or lengths of the PIPP load supply contract be tested. Current market conditions indicate that a CBP focused on 100% of the PIPP load and the use of longer term supply contracts offer the

² Percentage of Income Payment Plan (“PIPP”).

best opportunity to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by the customers of Ohio's EDUs.

The Effect of Existing Contracts parameter also anticipates transitioning the PIPP load out of the SSO population. This "transitioning" element is also mentioned in the Aggregation parameter.

As already mentioned, the transition feature of Option One will delay the introduction of the beneficial effect of a PIPP-Separate CBP. It also suggests an unwarranted deference to existing SSO supply contracts. After all, the PIPP load for certain EDUs has already been separated from the SSO load.³

The Load Separation Parameter indicated that the PIPP-Separate CBP is to be broken into 100 tranches. This structural element appears to flow from misplaced reliance on the SSO CBP model.⁴

The Director's aggregation authority is similar to the governmental aggregation authority that has been used by Ohio's local governmental authorities for about 15 years. This aggregation authority is designed to test the value of a group buy -- not create a separate default generation supply product for the PIPP load. Accordingly, the Staff's recommended reliance on the SSO CBP model may exclude approaches that offer the

³ *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, *et al.*, Opinion and Order at 22 (November 22, 2011); *In the Matter of the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order at 30 and 42 (July 18, 2012).

⁴ The preoccupation with the SSO CBP model that is implied by the Staff Report may also be a tendency arising from the reliance placed on the Commission's SSO consultant. On a practical level, testing the application of the Director's aggregation authority by reference to a CBP that mimics the SSO CBP increases the likelihood that the application of the Director's aggregation authority will **not** produce a benefit relative to the SSO CBP outcome.

best opportunity to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by the customers of Ohio's EDUs.

OPTION TWO - ADMINISTRATIVE DISCOUNT

The Staff Report contains one short paragraph on Option Two. For purposes of these comments, IEU-Ohio assumes that the Option Two approach is similar to the "percent off" approach that the Commission has approved as part of electric security plans ("ESP").⁵

In the Commission's prior use of the "percent off" approach, the Director retained his aggregation authority but, in the interim, the purpose of this aggregation authority was advanced by obtaining generation supply for the PIPP load from a CRES provider willing to meet the full requirements of the PIPP customers at a price lower than the otherwise applicable SSO. The opportunity was created by a CRES provider making an offer to provide generation supply to the PIPP load at price discounted relative to the otherwise applicable generation supply price.

As already noted, the Commission has previously approved the use of the Administrative Discount approach. This approach could continue to operate as an element of ESPs (at least on an interim basis) until further work is done to determine how best to exercise the Director's aggregation authority.

The Administrative Approach may offer a prompt step in the right direction. Given the huge escalation in the annual amount of USF funding that is occurring year-to-year, taking a prompt step in the right direction has virtue relative to the *status quo*.

⁵ See footnote 3.

As discussed above with regard to Option One, mirroring the approach taken to pick suppliers for the default SSO product and to establish a price for default supply may exclude administrative approaches that offer a better opportunity to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by the customers of Ohio's EDUs.

CONCLUSION

Implementation of the Director's aggregation authority and use of the tools available to the Commission must be guided by the General Assembly's obvious desire to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by "EDU" customers. The Staff Report's Option One and Option Two are not mutually exclusive and, most likely, not the exclusive or best means by which to advance the public interest.

Respectfully submitted,

/s/ Samuel C. Randazzo

Samuel C. Randazzo (Reg. No. 0016386)

(Counsel of Record)

Frank P. Darr (Reg. No. 0025469)

Matthew R. Pritchard (Reg. No. 0088070)

MCNEES WALLACE & NURICK LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

mpritchard@mwncmh.com

ATTORNEYS FOR INDUSTRIAL ENERGY USERS-OHIO

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Industrial Energy Users-Ohio's Comments* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 8th day of February 2016, *via* electronic transmission.

/s/ Samuel C. Randazzo
Samuel C. Randazzo

William Wright
Assistant Attorney General
Chief, Public Utilities Section
180 East Broad Street
Columbus, OH 43215
william.wright@puc.state.oh.us

**ON BEHALF OF THE STAFF OF THE PUBLIC
UTILITIES COMMISSION OF OHIO**

Bryce McKenney
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215
bryce.mckenney@puc.state.oh.us

ATTORNEY EXAMINER

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/8/2016 4:06:01 PM

in

Case No(s). 16-0247-EL-UNC

Summary: Comments of Industrial Energy Users-Ohio electronically filed by Mr. Samuel C. Randazzo on behalf of INDUSTRIAL ENERGY USERS-OHIO