

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company for Authority to Provide)
For a Standard Service Offer Pursuant to)
R.C. 4928.143 in the Form of an Electric)
Security Plan.)

Case No. 14-1297-EL-SSO

**REPLY BRIEF
FROM
CITIZENS COALITION**

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INTRODUCTION

Now comes the Citizens Coalition--which has been active in filing in PUCO matters since at least 2006--and files this Reply Brief in the above captioned docket, referred to herein as the current FE ESP IV case. The Coalition with its members is a signatory party to the Third Supplemental Stipulation and Recommendation (“Stipulation”) also signed by a number of parties to this proceeding. This Reply Brief will focus on various concerns addressed in the Initial Brief filed by the OCC, et. al. (hereinafter “OCC”). In particular this Brief will address pages 95 to 102 in which the OCC counsel question provisions of the Stipulation aimed at helping low-income families who are customers of the Companies.

COMMENTS

A. Discussion of the Principles for Establishing Programs That Help Needy Groups

OCC attorneys begin by challenging programs where “customers who are not benefitting are forced to fund or subsidize the programs for the small amount of customers who are receiving a benefit.” (OCC Initial Brief at page 95.)

We need to be very careful about making this the fundamental principle in assessing any program. Let us consider a few examples of some programs outside the utility area. Our State of Ohio has a Workers’ Compensation program which helps workers who are injured at their place of employment. Somebody has to pay for this compensation to workers whether it is product purchasers who pay higher prices for the goods they buy or all the workers themselves for whom there is less money for pay, because money goes for the injured workers. Our society does not accept the

argument that since only a few injured workers are “receiving a benefit,” our society should eliminate the Workers’ Compensation program.

Similarly Ohio’s program of Unemployment Compensation could be attacked as only benefitting “a small amount” of the workers who become unemployed. But few of us would then reach the conclusion that the Unemployment Compensation program should be eliminated even though this is paid for either through higher product prices or by lower money available for the wages of employed workers.

Even the Percentage of Income Program (PIPP)--which OCC supports (see testimony of OCC Witness Williams at Pages 99-100 of OCC Initial Brief)--has this aspect of benefitting the relatively small number of customers enrolled in PIPP while all customers (including the poor) must pay higher electric rates through a rider on their electric bill. While all of us must monitor and control the costs of PIPP, generally we support such a program since the alternative of putting the poor at serious risk of losing their utility service is unacceptable.

B. Evaluating the Concern between Higher Electric Rates for Customers against the Risks of Shutting off Service for the Poor

Nobody wants to pay higher electric rates. OCC—as have many community groups and many advocates--quite rightly has worked to keep down utility rates and bills. On the other hand, we all understand that there is a monumental difference between having to pay higher utility bills and losing one’s utility service due to poverty. To paraphrase an old joke, it is like the chicken and the pig arguing about their involvement with our breakfast. For the chicken, an egg is a contribution, to the pig, however, our fried bacon represents a bit more.

We do want to avoid higher rates and keep down any rate increases, but we also want to be careful that we do not establish a **tariff** system whose lower rates come at the cost of placing serious burdens on low-income families and destroying programs meant to relieve some of those burdens. PIPP has made a great difference for Ohio's vulnerable. Similarly the Fuel Fund Program has assisted thousands of families so their service was not disconnected. Rate increases can hurt our pocket books, but utility terminations can affect the very health and lives of customers as well as their families including children. Similarly, for the senior citizens and for vulnerable customers, loss of electric service can be devastating. That is why these low-income programs are so essential even if our rates may be somewhat higher.

C. All customers do Benefit from the Programs such as PIPP as well as from the Programs for the Poor Contained in this Stipulation.

Before considering the utility programs from the Stipulation, let us return to Worker Compensation Programs and Unemployment Compensation Programs. Do those who do not directly receive a monetary award from an injury or those who do not receive unemployment payments actually benefit in substantial ways from the existence of such programs? Upon reflection, we must respond in the affirmative.

We are benefitted by the understanding that if we are injured on the job or by loss of employment through no fault of our own, we will receive some assistance to deal with these problems. This "insurance" benefit is not only comforting, but promotes a more caring society. The alternative of "saving money" but discarding the unfortunate is not tolerable. We all acknowledge that someday it could be us who are badly hurt at work or us whose factory might close. We would then be very grateful for the programs that exist to help us.

Return to the Percentage of Income Payment Program. Basically this insures that low-income customers can retain their utility service so long as they pay a percentage of their monthly income to

the utility company even though this amount is short of what is their actual bill. The shortfall is made up by the monthly rider charge on everyone's bill. Our recent "Great Recession," our ongoing economic problems, and bankruptcy "reorganizations" have alerted us all to the cruel fact that nobody's economic position is guaranteed. Today we, as part of the employed, can pay our utility bill, even including modest increases. Tomorrow through economic or social vicissitudes we could find ourselves and our families very grateful for PIPP because we can maintain our electricity (which also is often involved with keeping our heating systems working.)

Besides PIPP, we have other programs to help low-income customers in Ohio including the "Winter Reconnection Order" and the newer Fuel Fund Programs which are taken up in the next Comment D. All of these, much as Worker Compensation and Unemployment Compensation, are part of that social safety net that makes life a little more bearable, especially in difficult times.

D. Discussion on the Benefits of the Fuel Fund Programs.

The OCC counsel on page 96 of their Initial Brief demand an explanation for a "fuel fund." In the Stipulation there are provisions for the Companies to continue aiding the Fuel fund programs including through OPAE and through the community organizations involved with the Citizens Coalition. We are not quite certain why the OCC attorneys are questioning this program. Our recollection is that at one time OCC itself was involved with distributing such funds.

But no matter, let us begin with what is a "fuel fund."

Even with PIPP, there are many customers who find themselves threatened with utility disconnections because of financial problems. The OCC brief itself on Page 99 points out our economically distressed areas. The fuel fund programs have been around for some seven years. Eligible customers who are facing imminent shutoff and who lack funds can apply to one of the community agencies administering a "fuel fund." The latter then provide small amounts generally no

more than \$300.00 per family and then only once a year so that the family can avoid disconnection. Thousands of families in the Companies regions have been forced by their economic situations to apply to these fuel funds for necessary assistance. The experiences of the community agencies administering these fuel funds are that such program are necessary in order to prevent utility disconnections for thousands of families.

Hopefully this concise explanation satisfies the request by OCC attorneys in their Initial Brief. So what is the problem? Everything seems fine since these fuel funds are now in existence and have been functioning for a number of years in providing a backup for when a low-income electric customer confronts a termination threat and no other program is available to help them. Again, what is the problem?

Very simple. These programs, funded from past ESP's, have run out of funds or will shortly. All these fuel fund programs end this year in a few months. There is a need for renewing the financing for these fuel funds. That is precisely what the Stipulated ESPIV will do and such Company financing will be available for the next eight years.

It also needs to be clarified that these funds are meant for and really "belong" to low-income families. The agencies themselves do not "own" these funds. These agencies administer these programs under tight procedures and oversight, but the funds are not "theirs" to use however they might wish. Here are the Stipulation provisions directly related to the Citizens Coalition and its community agencies:

In order to assist low-income customers (defined as customers at or below 200 percent of the Federal Poverty Guideline) in the CEI service territory in paying their electric bills, a fuel fund provided by the Companies shall be continued consisting of \$1,390,000 to be spent in each calendar year from 2017 through 2019. Any unspent funds from the annual fuel fund provided herein will be carried over through the following calendar year but must be spent prior to June 1, 2019. The Cleveland Housing Network ("CHN"), the Consumer Protection Association ("CPA") and the Council for Economic Opportunities in Greater Cleveland ("CEOGC") shall each receive fuel fund monies in the amount of \$463,333 per year, with \$46,300 used to administer the fuel fund and \$417,033 used for low income funding. (See pages 5 and 6 of the Stipulation.)

These funds are all meant for the poor in a total sum of \$1,390,000 per year. These three agencies, much like trustees, are designated to administer funding, with a small ten percent administrative fee for the agency. (This is not very much when one considers that the agency must interview thousands of families every year for eligibility screening.) As a side note, it is implicit that should one of the designated agencies not be able to administer a Fuel Fund, that the Companies will not cut that funding but find a way to insure the total amount of needed funding reaches those families. One way, in such a situation, would be to increase the funding for the other two agencies that have already been successful in administering the overall program. Funding in this amount is necessary for this territory whether two or three Agencies administer these funds. Funding in this territory has been exhausted every year since its inception.

E. Discussion of Provision in Stipulation of New Customer Advisory Agency to Help Customers:

The Stipulation has a provision for a new consumer agency to serve customers. (See page 97 of OCC Initial Brief.) It is a matter of common knowledge that ordinary residential customers now receive mailings, telephone communications, and other offers about exercising their many energy choices. (Each of us has had our own experiences with these.) Unfortunately, these can often be overwhelming. The Internet while helpful with utility rate offerings and marketer information cannot provide for actual discussion and customer questions. We are well aware, as is the OCC, that customers often need professional, objective, and readily available information to make informed choices. The Citizens Coalition has strongly recommended that a “Utility Advisers Agency” be established where residential customers can call and receive needed information and have their questions answered.

The Citizens Coalition made this strong recommendation in the case of In Re the Commission’s Investigation of Ohio’s Retail Electric Service Market, Case No. 12-3151-EL-

COI. For this recommendation from the Citizens Coalition in that 2012 case see our COMMENTS OF THE CITIZENS COALITION TO COMMISSION STAFF’S MARKET DEVELOPMENT WORK PLAN and REPLY COMMENTS OF THE CITIZENS COALITION” These were filed with the PUCO and provided to all parties including the OCC in that case.

LET US BE VERY CLEAR. The Citizens Coalition is not offering any of those pleadings as any kind of proof or evidence for this record. The Coalition is simply pointing out that it has in the past raised this recommendation in an official PUCO proceeding. In this current case the Companies and the Citizens Coalition have negotiated for the establishment of such a Consumer Utility agency.

During the current case Company Witness Eileen Mikkelsen provided testimony about this new Consumer agency. In her Supplemental Testimony dated December 22, 2014, (Company EX. 8) at Page 5, she stated “...the Companies, in aggregate, will provide \$3 million to the Citizens Coalition for its use in: 1) establishing a Customer Advisory Agency to provide independent assistance to all of the Companies’ residential customers who have questions related to shopping or other energy usage concerns....” This amount because of amendments to the Stipulation was then raised to the current eight million dollars of funding. In her Fifth Supplemental Testimony dated December 1, 2015, page 5, line 28-30 (Company Ex 155), the \$3 million was raised to an aggregate total of \$8 million to reflect \$1 million per year for each year of the 8 year ESP term.

The overall goal and mission of this new Consumer Agency was set forth in the Stipulation and in the testimony of Expert Witness Mikkelsen. She also testified

- 17 Q. And does the stipulation provide for any
- 18 details regarding the Customer Advisory Agency?

19 A. Yes. The stipulation notes that the
20 Customer Advisory Agency will be designed to ensure
21 the preservation and growth of the competitive market
22 in Ohio and will be available to help all residential
23 customers in the three service territories of the
24 companies.
(See Tr Vol II 233:17-24, Mikkelsen Cross)

She also did provide testimony on the next steps for implementing this new Consumer Agency as well as the agencies that will be a necessary part for that implementation, once the Stipulation is accepted. Here is her testimony:

Q. Beyond that, are there any additional
1 details of how the Customer Advisory Agency will be
2 established?
3 A. The additional detail regarding that is
4 that the companies as well as CHN, CPA, and CEOGC
5 will work together to determine the details for the
6 Customer Advisory Agency before the effective date of
7 ESP IV.

8 Q. So the details will be created later.
9 They are not contained within the stipulation; is
10 that correct?

11 A. No. As I mentioned, the detail as to
12 what the intent of the Customer Advisory Agency is
13 included in the detail -- in the stipulation. The
14 implementation details will be worked out.

15 Q. Okay. And the sentence we are
16 referencing says, "The Companies, CHN, CPA and CEOGC
17 will determine the details for this Customer Advisory
18 Agency in discussions conducted between the date the
19 Stipulation in this proceeding is approved and the
20 date when the ESP IV takes effect." Is that correct?

21 A. Yes. The details that statement is
22 referencing is the details of how to design the
23 Customer Advisory Agency to ensure the preservation
24 and growth of the competitive markets in Ohio and to
25 be available to help all the residential customers in
1 the three service territories.
(See Tr Vol II 233:25- 235:1 (Mikkelsen Cross))

The Citizens Coalition and its community agencies have worked for many years to help low-income families. In fact, the Coalition's attorney was actively representing low-income families and residential consumers before the OCC was even established in the 1970's. Moreover it is **this** same attorney who with his community clients, such as the Greater Cleveland Welfare Rights Organization and Low Income People Together, were in the forefront of establishing the PIPP in the early 1980's. Having established the Fuel Fund Programs along with First Energy and having it accepted by the PUCO in various ESP Stipulations, the Citizens Coalition is now advocating for a program to establish a new Consumer Advisory Agency that can help low-income families as well as all customers with bills, utility situations, and energy choices.

OCC attorneys wonder how this program could help low-income families who are on PIPP. (See Page 98 of OCC Initial Brief.) The answer is fairly simple. By helping the low-income customers with the knowledge of energy choices and rates as well as helping them make use of energy efficiency programs (which are available through agencies such as Coalition member CHN), it may be possible to "lift" customers out of having to depend on PIPP. This would benefit not only those customers but all customers whose bills would thus have a reduced monthly PIPP rider.

Finally, the inclusion of this new Consumer Agency with an eight year funding of \$1 million each year in itself demonstrates the hard negotiating that took place between First Energy and the Citizens Coalition. This is further supported by the fact that if after three years this program is not

working successfully, the program might be ended but the funds would still help customers whether through the fuel fund or energy efficiency programs.

F. The Provision in the Stipulation to provide \$1.7 Million a Year to CHN is Needed and in the Interests of the Public as well as FE Customers, especially Low-income Customers

The Stipulation also contains a section which continues the funding for the Community Connections Program (CCP). This program is for low income clients below 200% of poverty. This program helps people lower not just their energy burden but helps lower their energy bill, reduce their carbon foot print, and lessen financial stress in their homes. This program sometimes even helps clients get off of other programs such as bill assistance programs like PIPP, PRC and Fuel Funds. CCP can provide a wide variety of assistance to its clients such as supplying refrigerator and freezer replacements for high energy use appliances, replacing incandescent light bulbs with more efficient and longer lasting CFL bulbs, furnishing efficient window air conditioners, heat pumps, and electric water heaters, and even insulating homes.

CCP is also a necessary program when leveraged with other weatherization programs such as Home Weatherization Assistance Program (HWAP) funded by the State of Ohio and the HouseWarming Program funded by Dominion East Ohio Gas. Some homes are unable to receive these other programs without the assistance of the CCP due to the need for electrical panel upgrades, correcting some wiring issues in the home such as poor wiring splices that do not meet electrical code, or replacing unsafe wiring. Without these necessary electrical corrections to the home prior to weatherization work, the home could not be weatherized. Under the CCP program clients can even receive a roof repair and/or replacement so the home can receive **insulation** by one of the weatherization programs.

The point is very simple. When the Companies and the Citizens Coalition agree in the Stipulation on continuing the funding for the Community Connections program, this assists the eligible customers, the Companies, and other Company customers. The eligible customers live in more energy efficient homes and have less need of assistance because their electric bills are lower. The Companies benefit because they are not saddled with increasing costs. Other customers benefit in a number of ways including improving the environment, cutting global warming, and moderating climate changes besides experiencing reductions in the PIPP rider and less need for funding for various bill assistance programs financed in various ways by all customers.

In conclusion, the Stipulation clauses related to the Community Connections Program are beneficial for all and in the public interest.

CONCLUSION

The Citizens Coalition have endeavored to respond to various concerns raised by the OCC attorneys in their Initial Brief, especially as these relate to provisions of the Stipulation which provide substantial benefits for low income customers and in addition provide benefits for all residential customers. Three specific programs are helped by the Stipulation. These are the Fuel Fund Programs, the new Customer Advisory Agency, and the Community Connections Program. The total worth of these Provisions is about \$35,000,000. This, however, does not take into account the ongoing value of these programs in terms of energy efficiency, conservation, reductions in global warming, improvements in the environment, and reduced need for new plant. When all these benefits are included as well as the other benefits set forth in the arguments and evidence of those favoring the

Stipulation, all of the legal tests are satisfied which are required for the PUCO to accept the Stipulation and order it into effect.

Respectfully submitted,

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SERVICE

This legal pleading was served upon all parties to this proceeding on
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