

**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)	Case No. 14-1297-EL-SSO
for a Standard Service Offer Pursuant to)	
R.C. 4928.143 in the Form of an Electric)	
Security Plan.)	

**INITIAL REHEARING BRIEF OF INDUSTRIAL ENERGY
USERS-OHIO**

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I. INTRODUCTION

In an Opinion and Order issued on March 31, 2016, the Public Utilities Commission of Ohio (“Commission”) modified and approved an application seeking approval of an electric security plan (“ESP”) for the Ohio Edison Company, Cleveland Electric Illuminating Company, and the Toledo Edison Company (“FE”). As a term of the ESP, the Commission authorized a Retail Rate Stability Rider (“RRS”).

Following approval of the ESP application, FE and other parties sought rehearing of the authorization of the RRS and other matters. In response to applications for rehearing, the Commission granted rehearing. In a separate entry, it set for an evidentiary hearing consideration of alternative proposals to the RRS.

At the evidentiary hearing, FE presented testimony in support of a modification to the RRS (“Modified RRS Proposal”). The Staff of the Commission (“Staff”) disagreed with FE’s proposal and recommended an alternative, a Distribution Modernization Rider

(“DMR Proposal”). In their prefiled testimony, neither FE nor Staff offered recommendations concerning a method of allocating and recovering the revenue requirements generated by their proposals.

Industrial Energy Users-Ohio (“IEU-Ohio”) takes no position regarding the merits of either proposal, but does recommend methods of allocating the revenue requirement if the Commission approves either the FE or Staff proposal.

If the Commission approves the Modified RRS Proposal, IEU-Ohio recommends that the Commission direct that the RRS rates for commercial customers taking service under the GS, GP, GPU, and GT rate schedules be based on billing demand.

If the Commission approves the DMR Proposal, the Commission should adopt an allocation based on distribution revenue. This allocation will better reflect cost causation and is consistent with the State Electric Services Policy. If the Commission does not allocate the revenue requirement on only distribution revenue responsibility, it should allocate a portion of the revenue requirement based on demand. While a demand-based allocation is a second best solution, it is superior to an energy-based one that would result in shifting the revenue responsibility in ways that would undermine Ohio’s effectiveness in the global economy.

II. BACKGROUND

In its Application, FE sought Commission approval of the RRS. FE Ex. 1. Subsequently, FE and several parties entered into Stipulations which included a term recommending authorization of the RRS and that the RRS for customers taking service under the GS, GP, GPU, and GT rate schedules be based on billing demand. FE Ex. 2 at 10. The Commission issued its Opinion and Order in this matter on March 31, 2016.

Opinion and Order (Mar. 31, 2016). In the Opinion and Order, the Commission modified and approved an application for an ESP, including the RRS, to be effective June 1, 2016 and directed FE to file tariff sheets in compliance with the Commission's decision. *Id.* at 121.

After the Commission issued its Opinion and Order, the Federal Energy Regulatory Commission ("FERC") issued a decision that delayed the approval of the purchased power agreement ("PPA") on which the authorized RRS was based. *Electric Power Supply Association v. FirstEnergy Solutions*, FERC Docket No. EL16-34, Order Granting Complaint (Apr. 27, 2016) ("*ESPA*"). In part due to the FERC decision, FE sought rehearing of the Opinion and Order and proposed an alternative, the Modified RRS Proposal. Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Application for Rehearing (May 2, 2016). Other intervenors also sought rehearing and opposed the alternative proposal submitted by FE. In response to the applications for rehearing, the Commission granted rehearing for further consideration of the applications for rehearing. Entry on Rehearing (May 11, 2016). On June 3, 2016, the Commission established a procedural schedule for consideration of "the provisions of, and alternatives to, the Modified RRS Proposal" presented by FE in its application for rehearing. Entry at 4 (June 3, 2016).

During the rehearing, FE and Staff presented two alternatives. FE offered testimony supporting its Modified RRS Proposal. FE Ex. 197. In its prefiled testimony, FE did not propose a rate design for the Modified RRS Proposal.

In its prefiled rehearing testimony, Staff indicated that it did not support the Modified RRS Proposal, but recommended approval of the DMR Proposal. Staff Ex. 15

at 13-15. The Staff claimed that the DMR Proposal would “assist [FE] in receiving more favorable terms when accessing the capital market. Accessing the capital market, in turn, will enable [FE] to procure funds to jumpstart [its] distribution grid modernization initiatives.” *Id.* at 15. The Staff further recommended that the revenue requirement of the DMR Proposal should be set at \$131 million annually for three years. Staff Ex. 13 at 4-5.

In prefiled testimony, the Staff did not recommend a revenue allocation or rate design. On cross-examination, however, Staff testified that a hybrid allocation that would split the revenue requirement in half and allocate one portion based on demand and the other on energy would be acceptable because of the unique nature of the rider. Rehearing Tr. Vol. II at 430-31. Staff also conceded that the rate mechanism should be consistent with the State’s policy to support effectiveness of commercial and industrial customers in the global economy. *Id.* at 431. Staff did not provide any estimate of rates or bill impacts.

A witness for Ohio Energy Group (“OEG”), Stephen Baron, offered an alternative allocation of the DMR revenue requirement. Initially, he indicated that the most appropriate allocation approach for the DMR Proposal would be an allocation based upon distribution revenue because the proceeds of the rider are intended to be an incentive for increased investment in distribution modernization. OEG Ex. 4 at 2. Although he preferred a distribution revenue-based allocation, Mr. Baron testified that the Commission also should recognize that the rider was intended to provide an incentive for the parent of FE to maintain the corporate headquarters in Ohio. *Id.* at 3. Therefore, he recommended that FE “should allocate the DRM costs to rate schedules 50 percent on the basis of

distribution revenues and 50 percent on the basis of demand (4 Coincident Peak).” *Id.* In an attachment, Mr. Baron provided an allocation and rate based on his proposed allocation. In the attachment, the demand-based portion is allocated using data in the record in this case. *Id.*, Attachment n.1. The distribution revenue-based portion is allocated using the cost of service study supplied by FE in its last distribution rate case. *Id.*, Attachment n.2.

III. IF THE COMMISSION APPROVES THE MODIFIED RRS PROPOSAL, IT SHOULD SET RATES USING THE APPROACH SET OUT IN THE APPROVED STIPULATIONS

In the Stipulations, the Stipulating Parties agreed to a recovery mechanism such that the RRS for customers taking service under the GS, GP, GPU, and GT rate schedules will be based on billing demand. The Commission approved that proposal. Although FE has sought an alternative to the RRS in rehearing, neither FE nor any other party has opposed or offered any alternative to the approach that was recommended and approved previously for the RRS. If the Commission approves the Modified RRS Proposal, therefore, it should retain the currently approved approach to revenue recovery.

IV. IF THE COMMISSION APPROVES THE STAFF’S DMR PROPOSAL, IT SHOULD ADOPT A RATE DESIGN BASED ON COST CAUSATION AND WHICH SUPPORTS THE STATE’S EFFECTIVENESS IN THE GLOBAL ECONOMY

A. The Commission should set rates guided by cost causation principles and the State Electric Services Policy

As a matter of sound regulatory practice, the Commission looks to cost causation when approving rates. See, e.g., *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case Nos. 13-2385-EL-SSO, *et al.*, Opinion and Order at 35

(Feb. 25, 2015).¹ In particular, the Commission has recognized the “importance of aligning cost causation with cost recovery in order to further Ohio's policy goals of competition, increased energy efficiency, and encouraging distributed generation pursuant to Section 4928.02, Revised Code.” *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, Finding and Order at 19 (Aug. 21, 2013).² In addition to those policies the Commission enumerated in the *Distribution Utility Rate Structure* case, it is the policy of Ohio to “[f]acilitate the state’s effectiveness in the global economy.” R.C. 4928.02(N).

B. If the Commission authorizes a DMR Proposal, it should allocate the revenue requirement on basis of distribution revenue responsibility

Based on sound regulatory practice, the allocation of the DMR, if approved, should be based on distribution revenue for two reasons.

Initially, an allocation based on distribution revenue is consistent with cost causation. The Staff recommends the rider as a means of jump starting grid modernization. Staff Ex. 15 at 15. Because the intended purpose of the rider is to provide incentives to modernize the distribution system, basing the allocation fully on distribution revenue is a logical and reasonable approach for matching the revenue responsibility to those most likely to benefit from grid improvements. OEG Ex. 4 at 2.³

¹ See, also, R.C. 4909.151 (in fixing rates for a service under Chapter 4909, the Commission may consider the costs attributable to such a service).

² Under R.C. 4928.06, the Commission is to “ensure that the policy specified in section 4928.02 of the Revised Code is be effectuated.”

³ Mr. Baron provides the necessary record support for such an allocation in the attachment to his testimony. *Id.*, Attachment n.2 (referencing the cost of service study supplied by FE in its last rate case).

Additionally, the use of distribution revenue as an allocation method is consistent with the goal of the State Electric Services Policy to ensure the State's effectiveness in the global economy. If the Commission approves a distribution-based allocation as opposed to a generation-related allocation based on demand or energy, the Commission will avoid a shift of revenue responsibility that will increase the costs of energy intensive industries.⁴ Increasing the costs of these industries without also providing additional benefits may leave these industries less competitive. To ensure the effectiveness of the State in the global economy, therefore, the Commission must avoid unwarranted shifts in revenue responsibility.

C. If the Commission authorizes a DMR Proposal but rejects an allocation based on only distribution revenue responsibility, it should allocate half of the revenue requirement based on distribution revenue and half based on demand

If the Commission rejects an allocation based on distribution revenue, it should modify that approach by allocating a portion based on distribution revenue and a portion based on demand, as recommended by Mr. Baron.

As discussed above, the portion allocated by distribution is reasonable because the rider is designed to provide incentives to modernize the distribution system.

The allocation of the other portion based on demand recognizes "the unique nature" of the charge that also has two economic development components. The first, noted Mr. Baron, is that the Staff proposal is designed to maintain the corporate headquarters in Akron. The second, as Staff recognizes, is that the rate design should further Ohio's interest in the effectiveness of its commercial and industrial business in the

⁴ The revenue shift associated with the use of a demand-based allocation is evident in the attachment to OEG Ex. 4. The revenue shift to the Staff proposal also can be estimated from the data provided in OEG Ex. 4.

global economy. Assigning revenue responsibility based on system demand, though not as efficient as a distribution-based allocation, will better align the charge with the State's interest in maintaining its effectiveness in the global economy by preventing revenue responsibility shifts that would impair the ability of Ohio's energy intensive industries to compete.

For those same reasons, the Commission should reject the Staff's recommendation that a portion of the revenue requirement be allocated based on energy. Approving the Staff alternative would shift a substantial portion of the revenue responsibility to commercial and industrial customers, with the weight of the charge falling on energy intensive industries.⁵ This shift to Ohio's energy intensive industries would undermine their ability to compete in the global economy, an outcome inconsistent with both cost causation and the State Electric Services Policy.

V. CONCLUSION

If the Commission approves either the Modified RRS Proposal or the DMR, the Commission should approve the proposed methods for recovering the revenue requirement for the reasons discussed above.

Respectfully submitted,

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⁵ OEG Ex. 4, Attachment.

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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 *Initial Rehearing Brief of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio, to the following parties of record this 15th day of August 2016, via electronic transmission.

/s/ Frank P. Darr

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Summary: Brief Initial Rehearing Brief of Industrial Energy Users-Ohio electronically filed by Mr. Frank P Darr on behalf of Industrial Energy Users-Ohio