**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities. | )  )  )  )  )  ) | Case No. 22-556-EL-USF |

**CONSUMER PROTECTION COMMENTS**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

Bruce Weston (0016973)

Ohio Consumers’ Counsel

Amy Botschner O’Brien (0074423)

Counsel of Record

Assistant Consumers’ Counsel

**Office of the Ohio Consumers’ Counsel**

65 East State Street, Suite 700

Columbus, Ohio 43215

Telephone [Botschner O’Brien]: (614) 466-9575

[amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)

July 6, 2022 (willing to accept service by e-mail)

**TABLE OF CONTENTS**

**PAGE**

[I. INTRODUCTION 1](#_Toc108016533)

[II. COMMENTS: FOR CONSUMER PROTECTION AND FOR   
COMPLIANCE WITH OHIO LAW, PIPP RATES SHOULD NOT   
BE HIGHER THAN SSO RATES 2](#_Toc108016534)

[III. CONCLUSION 9](#_Toc108016535)

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities. | )  )  )  )  )  ) | Case No. 22-556-EL-USF |

**CONSUMER PROTECTION COMMENTS**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# I. INTRODUCTION

The Ohio Department of Development (“ODOD”) filed a Notice of Intent (“NOI”) to inform the PUCO and others about its plans for adjusting the rates for the Universal Service Fund (“USF”) riders on electric consumer bills effective January 1, 2023.[[1]](#footnote-2) The NOI is important because it describes the methodology that ODOD will use when it calculates the USF revenue requirement and rate design for each of the electric distribution utilities.[[2]](#footnote-3)

All electric distribution utility customers, including PIPP residential consumers, pay for the Universal Service Fund through a separate charge on their electric bills. Under the Attorney Examiner’s Entry, parties have an opportunity to voice concerns and to address issues that have an impact on the cost of the USF that all customers, including residential consumers, pay prior to ODOD filing new USF rates.[[3]](#footnote-4)

The Office of the Ohio Consumers’ Counsel (“OCC”) is concerned that the structure and results of the competitive auction process used to procure electricity for supplying PIPP consumers is inconsistent with Ohio law. At a bare minimum, PIPP consumers should be charged a rate that is no higher than that charged to SSO consumers. This can be done by setting a cap for the PIPP auctions at the SSO clearing price.

# II. COMMENTS: FOR CONSUMER PROTECTION AND FOR COMPLIANCE WITH OHIO LAW, PIPP RATES SHOULD NOT BE HIGHER THAN SSO RATES

The Universal Service Fund (“USF”) rider is the statutory funding mechanism for the ODOD to administer low-income assistance programs including the electric Percentage of Income Payment Program (“PIPP”) and the Electric Partnership Program (“EPP”).[[4]](#footnote-5) PIPP functions as a special payment plan for the income-eligible consumers of Ohio electric utilities where individual electric bills are calculated as a percentage of the monthly household income rather than being billed the utility’s standard electric service tariff. Customers on the electric PIPP program currently pay five percent of their monthly income as an installment towards their electric bill.[[5]](#footnote-6) PIPP customers who heat with electricity pay ten percent of their monthly household income as an installment towards their electric bill.[[6]](#footnote-7)

Similar to all other utility customers in the state, low-income consumers are financially responsible for paying their electric bills to avoid delinquency. Under the electric PIPP program though, consumers are incentivized to make their required monthly electric PIPP payment in-full and on-time to receive additional incentives and credits towards arrearages and help avoid incurrence of additional debt. The Electric Partnership Program (also funded through the USF) is statutorily structured to provide an energy efficiency and weatherization program targeted towards high-cost and high-usage electric PIPP customers. ODOD’s NOI describes an arrangement between the ODOD and PUCO where the PUCO designs, manages, and supervises the aggregation process for PIPP customers.[[7]](#footnote-8) The costs associated with the aggregation are embedded within the administrative costs that ODOD seeks to collect from consumers in the USF.[[8]](#footnote-9)

Since 2015, Ohio law has required the aggregation of PIPP customers through a competitive auction process for the supply of electricity.[[9]](#footnote-10) Ohio law has explicit requirements for the selection of the winning competitive bid.[[10]](#footnote-11) The law requires the PIPP auction process to comply with each of the following:

(A) Be designed to provide reliable competitive retail electric service to percentage of income payment plan program customers;

(B) Reduce the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer established under sections [4928.141](about:blank), [4928.142](about:blank), and [4928.143](about:blank) of the Revised Code; and

(C) Result in the best value for persons paying the universal service rider under section [4928.52](about:blank) of the Revised Code.[[11]](#footnote-12)

Under Ohio law, the PIPP auction result should be no higher than the standard service offer (“SSO”) auction result. R.C. 4928.542(B) requires that the PIPP auction process reduce the cost of the percentage of income payment plan program relative to the SSO. PIPP auction results that are higher than the SSO auction results violate R.C. 4928.542.

Further review and modifications of the PIPP supply procurement process is necessary by the ODOD and/or the PUCO to prevent unreasonably high PIPP costs and associated USF rates being passed on to all consumers. Despite the intent of Ohio law[[12]](#footnote-13) to use an auction process to reduce PIPP and USF costs, *all* of the Ohio electric distribution utilities are currently charging higher generation rates for PIPP customers than the generation rates that are charged for residential consumers served under the Standard Service Offer (“SSO”).[[13]](#footnote-14)

This issue was raised by the OCC in last year’s USF case where the auction process resulted in two Ohio EDU’s (AEP Ohio and AES Ohio) charging PIPP customers generation rates that are higher than SSO rates.[[14]](#footnote-15) Regrettably, the underlying problems with the auction process were not addressed, and this is resulting in more serious impacts on all consumers paying the USF rider this year. And if the issue is not addressed in this year’s USF, the PIPP auction rates could be even higher next year.

Higher PIPP rates as compared to the SSO rates negatively impact low-income consumers who are on PIPP because they are being held responsible for generation charges (rates) on their electric bill that exceed what other consumers are responsible for paying under the standard service offer. And the very same low-income PIPP consumers who are responsible for paying the higher PIPP generation rates must also pay the higher USF Rider rates. Additionally, when PIPP generation rates exceed the SSO generation rates, the USF Rider rates that are paid by all electric utility customers to support the PIPP program must also increase.

Despite the intent of Ohio law under R.C. 4928.54 to use an auction process to reduce USF costs, the PUCO has approved PIPP generation rates that exceed the rates that each of the Ohio electric distribution utilities charge consumers for generation under the standard service offer. The following table provides a comparison of the rates that the PUCO has authorized each EDU to charge consumers for generation services under the SSO compared to the PIPP rates that were approved for generation services.

**Table 1: EDU SSO Generation Rates Compared to PIPP Generation Rates**

|  |  |  |  |
| --- | --- | --- | --- |
| EDU | SSO Generation Rate ($/ kWh) | PIPP Generation Rate ($/ kWh) | Difference ($/ kWh) |
| Ohio Power[[15]](#footnote-16) | $0.06622 | $0.14786 | $0.08124 |
| AES Summer [[16]](#footnote-17) | $0.1091 | $0.1577 | $0.0486 |
| AES Winter | $0.9233 | $0.1334 | $0.04107 |
| Ohio Edison Summer[[17]](#footnote-18) | $0.065166 | $0.084231 | $0.019065 |
| Ohio Edison Winter | $0.056344 | $0.084231 | $0.027887 |
| Cleveland Electric Illuminating Summer[[18]](#footnote-19) | $0.06555 | $0.084231 | $0.01868 |
| Cleveland Electric Illuminating Winter | $0.056728 | $0.084231 | $0.027503 |
| Toledo Edison [[19]](#footnote-20)Summer | $0.065818 | $0.084231 | $0.018413 |
| Toledo Edison Winter | $0.056996 | $0.084231 | $0.027235 |
| Duke Summer[[20]](#footnote-21) | $0.064832 | $0.164701 | $0.099869 |
| Duke Winter | $0.064832 | $0.164701 | $0.099869 |
| Duke Winter >1000kWh | $0.040883 | $0.104622 | $0.063737 |

As shown in Table 1, the difference between the SSO generation rates and the PIPP generation rates vary between an approximate 1.8 cents per kWh increase for Toledo Edison PIPP consumers during the summer to approximately 10 cents per kWh for Duke PIPP customers. While PIPP consumers are responsible for paying 5 percent of their household income as their monthly electric bill, they remain responsible for the entire bill if all payments are not made in-full and on-time. The difference between the actual electric bill and the PIPP payment is paid by all consumers through the USF. And the burden on the USF is even greater if PIPP customers are unable to pay their electric bill. Delinquent PIPP debt can prevent consumers from being able to initiate electric services in the future or from re-enrolling on PIPP. Delinquent utility debt can harm consumer credit standings.

The following table provides an example of the difference in what the monthly generation costs will be for consumers who are served on the utility SSO compared to generation costs for PIPP customers. In addition, this table shows how the difference in costs can be paid by all consumers through the USF.

**Table 2: Example of the Increase in USF Costs Based on Higher Than SSO PIPP Rates** (Individual PIPP Consumer Assuming 850kWh Summer Usage)

|  |  |  |  |
| --- | --- | --- | --- |
| EDU (Summer) | SSO Generation Cost for Non-PIPP Consumers | Generation Costs for PIPP Consumers | Additional Costs that all Consumers can pay through the USF |
| AEP Ohio | $56.29 | $125.68 | $69.39 |
| AES Ohio | $92.74 | $134.05 | $41.31 |
| Ohio Edison | $55.39 | $71.60 | $16.21 |
| CEI | $55.87 | $71.60 | $15.73 |
| TE | $55.05 | $71.60 | $16.55 |
| Duke | $55.11 | $140.00 | $84.89 |

Table 2 shows that the monthly impact on the USF when PIPP customers are charged more than the SSO for generation services.[[21]](#footnote-22) For example, an AEP Ohio SSO residential consumer using 850 kWh will be charged $56.29 for the generation portion of their electric bill. Yet a low-income customer on the PIPP payment plan using the same amount of electricity will be charged $125.68 in generation costs! While it is true that PIPP customers pay 5 percent of their monthly household income as their electric payment, the difference of $69.39 is an additional cost to the USF above and beyond what the charges would have been had the PIPP customer been served under the SSO rates. Considering that AEP Ohio has over 90,000 PIPP customers, this can be a substantial increase in the cost of PIPP that ODOD will need to reflect in the rate case application to be filed later this year. Substantial increases in the USF rates for AES Ohio and Duke Energy Ohio are also likely.

Ohio law requires that PIPP rates be reduced as compared to the applicable SSO rate.[[22]](#footnote-23) And Ohio law requires non-discriminatory and reasonably priced retail electric service.[[23]](#footnote-24) Charging PIPP customers generation costs that are over twice the rate[[24]](#footnote-25) charged to non-PIPP SSO customers could potentially be discriminatory and result in unreasonably priced retail electric service. At a bare minimum PIPP customers need to be charged no more than SSO customers. This can be done by setting a cap for the PIPP auctions at the SSO clearing price. To reduce the cost of PIPP relative to the otherwise applicable standard service offer, as Ohio law requires,[[25]](#footnote-26) OCC recommends that on a going-forward basis[[26]](#footnote-27) a cap should be set for the PIPP auctions at the SSO clearing price.

Significant increases in the USF rates this coming year can be attributed to the higher than SSO PIPP rates. However, there are other options that may be available to ODOD to help mitigate the projected USF rate increases. These options include but are not limited to:

* Determine if the amount of Home Energy Assistance Program (HEAP) and/or other available grant funding can be increased to help lower the electric PIPP customer costs;
* Determine the impact of scaling back the amount collected under the USF for the Electric Partnership Program (“EPP”)[[27]](#footnote-28) based on other available weatherization and energy efficiency funds; and
* Determine if low-income program administrative costs that are funded under the USF can be streamlined and lowered based on the availability of other state or federal grant funds.[[28]](#footnote-29)

# III. CONCLUSION

ODOD and the PUCO now have had several years’ experience with the PIPP auction and its results. This year is another occasion where the PIPP rates developed through the auction have been higher than the Standard Service Offer. OCC respectfully requests that the ODOD and the PUCO adopt OCC’s recommendations so that PIPP customers are not paying higher electric distribution rates than the standard service offer that residential consumers pay, and to mitigate the USF costs on all residential consumers.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Amy Botschner O’Brien*

Amy Botschner O’Brien (0074423)

Counsel of Record

Assistant Consumers’ Counsel

**Office of the Ohio Consumers’ Counsel**

65 East State Street, Suite 700

Columbus, Ohio 43215

Telephone [Botschner O’Brien]: (614) 466-9575

[amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)

(willing to accept service by e-mail)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Consumer Protection Comments was served on the persons stated below via electronic transmission, this 6th day of July 2022.

*/s/ Amy Botschner O’Brien*

Amy Botschner O’Brien

Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

**SERVICE LIST**

|  |  |
| --- | --- |
| [kyle.kern@ohioAGO.gov](about:blank)  [steven.beeler@ohioAGO.gov](about:blank)  [mkurtz@BKLlawfirm.com](about:blank)  [kboehm@BKLlawfirm.com](about:blank)  [jkylercohn@BKLlawfirm.com](about:blank)  Attorney Examiner:  [greta.see@puco.ohio.gov](mailto:greta.see@puco.ohio.gov) | [dstinson@bricker.com](about:blank)  [mpritchard@mcneeslaw.com](about:blank)  [bmckenney@mcneeslaw.com](about:blank) |

1. *In the Matter of the Notice of Intent of the Ohio Department of Development to File an Application for Adjustments to the Universal Service Fund Riders*, Case No. 22-556-EL-USF (May 27, 2022). [↑](#footnote-ref-2)
2. *Id*. at 3. [↑](#footnote-ref-3)
3. Attorney Examiner Entry, Case No. 22-556-EL-USF (June 6, 2022). [↑](#footnote-ref-4)
4. R.C. 4928.51 and R.C. 4928.52. [↑](#footnote-ref-5)
5. Ohio Administrative Code 122:5-3-04(A). [↑](#footnote-ref-6)
6. *Id*. [↑](#footnote-ref-7)
7. ODSA NOI at 10. [↑](#footnote-ref-8)
8. *Id*. [↑](#footnote-ref-9)
9. R.C. 4928.54. [↑](#footnote-ref-10)
10. R.C. 4928.542. [↑](#footnote-ref-11)
11. *Id.* [↑](#footnote-ref-12)
12. R.C. 4928.54 and R.C. 4928.542. [↑](#footnote-ref-13)
13. *See infra* notes 15-20. [↑](#footnote-ref-14)
14. *In the Matter of the Application of the Ohio Development Services Agency for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 21-659-EL-USF, Consumer Protection Comments by Office of the Ohio Consumers’ Counsel (July 6, 2021). [↑](#footnote-ref-15)
15. Ohio Power Tariff, Generation Capacity Rider and Generation Energy Rider, Sheet(s) 450 and 451. [↑](#footnote-ref-16)
16. AES Ohio Tariff, Generation Standard Offer, Sheet G-10. [↑](#footnote-ref-17)
17. Ohio Edison Tariff, Generation Services Rider, Sheet 114. [↑](#footnote-ref-18)
18. Cleveland Electric Illuminating Tariff, Generation Services Rider, Sheet 114. [↑](#footnote-ref-19)
19. Toledo Edison Tariff, Generation Service Rider, Sheet 114. [↑](#footnote-ref-20)
20. Duke Tariff, Retail Capacity Rider and Retail Energy Rider, Sheet(s) 111 and 112. [↑](#footnote-ref-21)
21. OCC has pending discovery with each of the EDUs to better quantify the impact on the USF based on annual load and numbers of PIPP customers. [↑](#footnote-ref-22)
22. R.C. 4929.542(B). [↑](#footnote-ref-23)
23. R.C. 4928.02(A). [↑](#footnote-ref-24)
24. Such is the case for AEP Ohio and Duke PIPP customers. [↑](#footnote-ref-25)
25. R.C. 4928.542(B). [↑](#footnote-ref-26)
26. Since the SSO and PIPP rates have already been approved by the PUCO, OCC is recommending at this time that the changes in the auction process be made prior to the PUCO approving future SSO rates. [↑](#footnote-ref-27)
27. *See* the NOI on page 5. [↑](#footnote-ref-28)
28. *See* the Amended Application in Case 21-659-EL-USF that reflects administrative costs of approximately $4.7 million. *Also see* the 2021-2022 HEAP State Plan that reflects 10 percent of the HEAP grant being allocated for administrative and planning costs. <https://development.ohio.gov/static/individual/energyassistance/2021-2022-HEAP-State-Plan.pdf>. [↑](#footnote-ref-29)