

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

FILE

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. 08-658-EL-UNC

PUCO

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**OBJECTIONS AND COMMENTS REGARDING
THE OHIO DEPARTMENT OF DEVELOPMENT'S
APPLICATION
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in this case, hereby files objections and comments as invited by the Entry¹ of the Public Utilities Commission of Ohio ("Commission" or "PUCO"), with regard to the Ohio Department of Development's ("ODOD") Notice of Intent to File an Application ("NOI" or "Notice").² ODOD filed the Notice with regard to the process for, among other things, collecting from Ohio customers via their electric utility bills the costs of programs to assist low-income customers. Specifically, the costs are collected from customers via the universal service fund ("USF") rider that appears on bills from electric distribution utilities ("EDU's") and that provides the funding for the electric percentage of income

¹ The PUCO issued the Entry on July 8, 2008.

² ODOD filed the Notice on June 2, 2008.

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payment plan, the consumer education plan and the low-income customer energy efficiency programs.

OCC is the state representative of all of Ohio's residential electric customers who are affected by the issues in this case. OCC is an intervener in this case.

The Notice was filed by ODOD pursuant to the PUCO's approval of a stipulation in Case No. 04-1616-EL-UNC, in which a process for such ODOD filings was arranged.³

The parties established this process in the stipulation because:

The Signatory Parties recognize that this two-month interval [the time between the filing of the actual USF rates, October 31 of each year and the Commission's decision, January 1 of each year] may not be sufficient in the event that a party to the proceeding objects to the application and wishes to litigate the issue(s) raised in its objection.⁴

Furthermore the stipulation provides:

To afford an objecting party the opportunity to pursue any issue it may wish to raise, while avoiding imposing an unnecessary burden on ODOD, the Signatory Parties agree to and propose the following process.⁵

The process provides:

The Notice of Intent shall specify the methodology ODOD intends to employ in calculating the USF rider revenue requirement and in designing the USF rider rates, and may also include such other matters as ODOD deems appropriate. Upon the filing of the Notice of Intent, the Commission will open the 2005 USF rider adjustment application docket and will establish a schedule for the filing of objections or comments, responses to the objections or comments, and, if a hearing is requested, a schedule for discovery, the filing of testimony, and the commencement of the hearing. The Commission will use its best efforts to issue its decision with respect to the issues raised not later than September 30, 2005.

³ 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. 04-1616-EL-UNC, Opinion and Order (December 8, 2004).

⁴ Id., Stipulation (December 1, 2004) ¶ 10.

⁵ Id.

OCC reserves the right to amend and/or supplement its objections in the event that the ODOD changes, modifies, or withdraws its position, at any time prior to the closing of the record, on any issue contained in the NOI or on any new positions ODOD develops during the case that were not contained in the NOI. OCC also reserves the right to file expert testimony, produce fact witnesses and introduce additional evidence on changes, modifications, or withdrawal of ODOD's positions as stated in its NOI or on new positions not articulated in the NOI. OCC also submits that the lack of an objection in this pleading to any aspect of the ODOD NOI does not preclude OCC from cross-examination or introduction of evidence or argument in regard to issues on which the ODOD changes, modifies, or withdraws its position on any issue contained in its NOI or on any new position not included in the Application.

II. OBJECTIONS AND COMMENTS RELATING TO ODOD'S NOTICE OF INTENT

A. The Proposed Two-Block Rate Design Is Unlawful

OCC objects to the two-block rate design ODOD incorporated into its NOI because the two-block rate design causes a shift of USF costs from the industrial class to the residential class. This shift is not lawful under R.C. 4928.52(C). R.C. 4928.52(C) states that after the enactment of S.B. 3 the Commission is prohibited from a "shift among the customer classes of electric distribution utilities the costs of funding * * *" the USF programs.

OCC objects that the second block of the rate (containing a lower rate than the first block of the rate) will apply to all monthly consumption above 833,000 kWh. The effect from this rate structure is that residential consumers will pay the revenue lost from the reduced rate to the high-use customers in the second block. OCC objects that, for

each EDU, the rate per kWh for the second block may be set at the PIPP charge in effect in October 1999⁶. OCC objects that, in cases where the second block is set at the October 1999 PIPP charge, the rate for the first block rate (that residential customers pay) will be set at the level necessary to produce the remainder of the EDU's annual USF rider revenue requirement. PIPP riders in effect as of October 1999 did not use the declining block rate methodology; therefore the rate for all kWh was uniform. The use of the declining block methodology shifts costs to residential customers in the form of higher rates and is therefore unlawful. The USF rider rate should be set using a single rate that does not shift costs to residential customers.

B. The Expenditure For "Indirect Costs" For The Administration Of The Electric Partnership Program Must Be Clarified

On June 5, 2008, ODOD filed Exhibit A to its NOI which outlines the projected costs for the Electric Partnership Program ("EPP") for 2009. The EPP is funded through the USF and is designed to improve the electric efficiency of low-income households who participate in PIPP (Percentage of Income Payment Plan) by performing in-home audits and installing appropriate electric base load and thermal energy efficiency measures. Specifically, page 2 of the exhibit shows a Budget FY 2009 amount for "Indirect Cost" in the amount of \$616,080, which is what ODOD proposes to collect from customers. This amount far exceeds the costs for this item in fiscal years 2006-2008. There is no explanation or justification provided for the increase. Further, there is no explanation or breakdown of these indirect costs. ODOD should provide a thorough breakdown and justification for the proposed increase of the indirect costs in its upcoming Application in this case, for review by parties and the PUCO.

⁶ NOI at 12.

C. Consultant Costs

On page 3 of Exhibit A, in referring to the objective of the EPP to reduce electrical consumption of the targeted low-income population, ODOD states it has "recently engaged an outside consultant to assist it" in efforts to assure the cost-effectiveness of the program." The consultant is not identified nor is the expense category identified for the payment of the consultant nor is there detail on the purpose of the consultant. ODOD should supplement its NOI with the name of the consultant, the nature of the review being conducted by the consultant, the expense category from the EPP expenditure table on page 2 of the Appendix to the NOI utilized to compensate the consultant, and the amount of the contract entered into with the consultant including the amount that ODOD will seek to collect from customers. In addition, the NOI should be supplemented to provide a process for, among other things, the parties to the case to review any analysis or reports prepared by the consultant. Otherwise, OCC reserves further comment on any concern or support for ODOD's project, pending the supplying of the appropriate information from ODOD.

III. CONCLUSION

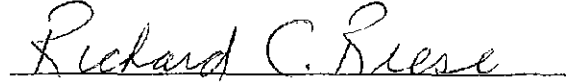
OCC Objects to the shifting of USF costs from the industrial class to the residential class resulting from the Application's two-block rate design. This cost shifting is impermissible under R.C. 4928.52(C). In addition, ODOD requests collection of more than \$600,000 in "indirect costs" that remain unexplained. ODOD should supplement its NOI with a complete explanation of these costs in its next application. Further, ODOD should identify the name and purpose of the consultant it has engaged,

any costs associated with engaging the consultant, and the specific public benefits and insights expected to be gained from the consultant's work.

The USF rider is an important source of funds for low-income consumers in Ohio that are paid by all customers. It is important that the requested funds be based upon reasonable and identifiable costs that are sufficient to assist in administering the EPP.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in cursive script that reads "Richard C. Reese". The signature is written in dark ink and is positioned above a horizontal line.

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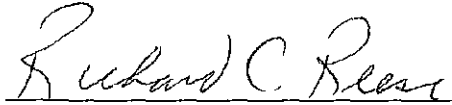
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Objections and Comments to the Ohio Department of Development's Application* was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 18th day of July, 2008.



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