

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Adoption of Rules for |) | |
| Standard Service Offer, Corporate |) | |
| Separation, Reasonable Arrangements, and |) | |
| Transmission Riders for Electric Utilities |) | Case No. 08-777-EL-ORD |
| Pursuant to Sections 4928.14, 4928.17 and |) | |
| 4905.31, Revised Code, as amended by |) | |
| Amended Substitute Senate Bill 221. |) | |

**COMMENTS
OF
THE CITY OF CINCINNATI**

Introduction

The City of Cincinnati (“Cincinnati” or “City”) respectfully submits its Comments concerning the proposed rules contained in the Public Utilities Commission of Ohio’s (“Commission” or “PUCO”) Entry of July 2, 2008.

Background

The City relies upon Duke Energy Ohio (“DE - Ohio”) to generate and deliver the electric power necessary for various city-owned and/or city-operated governmental facilities. These facilities support the health, public safety and recreation functions for the City and also include the Greater Cincinnati Water Works, a department of the City, and the Metropolitan Sewer District of Greater Cincinnati, a sewer district owned by Hamilton County, but managed and operated by the City. In addition, the vast majority of Cincinnati residents rely upon DE - Ohio for the provision of their electric services. The City was an active supporter of Amended

Substitute Senate Bill 221 (“S.B. 221”) throughout the legislative process and is now keenly interested in assisting the Commission as it promulgates its rules implementing S.B. 221.

Comments

The following comments respond to the questions posed by the Commission in its July 2, 2008 Entry.

- (a) **Should the rules on the competitive bidding process (Proposed O.A.C. §4901:1-35-03, Appendix A, Part (B)) provide for consideration of alternative products and approaches to conducting competitive bidding?**

An affordable and reliable power supply is the overarching goal of S.B. 221. Ohio Revised Code Section (“R.C.”) 4928.02(A). The Commission’s rules implementing S.B. 221 should be directed at this same goal.

Experiences in other jurisdictions, notably Maryland and Illinois, have shown that a flawed auction structure can produce unnecessarily high prices at auction. With this in mind, it is easy enough to say that alternative products and approaches to conducting competitive bidding should be considered in the context of an MRO application as a way to mitigate market risk and produce the overall lowest price for consumers. Indeed, it would be short-sighted not to evaluate a range of options and market opportunities in the review of an MRO application.

In order to ensure an alignment of R.C. 4928.02(A) and 4928.142(A), the Commission’s rules should revise Appendix A to proposed Ohio Administrative Code (“O.A.C.”) Chapter 4901:1-35 to include a requirement to provide a discussion of how the CBP reflected in the application will achieve a balance between the overall lowest price and level of risk.

Certainly, careful consideration should be given to a competitive bidding structure that seeks to minimize the risk of price volatility for consumers. If differing product offerings and

differing timeframes will provide for a lower overall price risk, then such alternatives should be part of the process for conducting the competitive bidding process.

(b) Should the Commission require consideration of the value of lost load in ensuring that customers' and the electric utility's expectations are aligned as required by Section 4928.143(B)(2)(h), Revised Code?

The City presumes that the Commission's question is asking whether and how it should evaluate the costs and benefits of lost (displaced or reduced through some incentive) load attributable to a mechanism approved under R.C. 4928.143(B)(2)(h).

Revised Code Section 4928.143(B)(2)(h) requires the Commission to "examine the reliability of the electric distribution utility's distribution system and ensure that the customers' and the electric distribution utility's expectations are aligned ****" as part of its evaluation of the overall ESP, if that plan involves provisions of an ESP related to distribution service, such as provisions regarding single-issue ratemaking, revenue decoupling, incentive ratemaking, and provisions regarding distribution infrastructure and modernization incentives.

The Commission cannot properly conduct its evaluation of any of the cited incentive mechanisms and the alignment of ratepayer and utility expectations without a careful consideration of the incentives created by the load lost as a result of such mechanisms.

The "value" of load lost manifests itself in a number of different ways, sometimes to the benefit of the consumer, as well as to the benefit of the utility. While, on the one hand, load lost can mean a reduction in revenue to the utility in a throughput or volume-based rate design, reduced load also leads to efficiencies from reduced burdens on the distribution system.

How the Commission conducts that evaluation will also depend on the way in which the load is lost, or more specifically, who is responsible for and, consequently, entitled to receive the economic benefits from the lost load. Certainly, if the ESP contains a program that will require

the utility to expend resources that will also reduce its revenues through rates, some accommodation is necessary to align the utility's interests with that of ratepayers. The consideration of load lost through that same mechanism may, in fact, mitigate the mis-alignment of interest through any number of channels. In addition to the reduced operational costs mentioned above, there is also the issue of "freed-up" generation that the utility will be able to deploy elsewhere. It appears likely that each ESP will require the determination of the market "opportunity cost" of generation that the Commission may also use to place a value on load lost.

- (c) **Should the Commission by rule invite an electric utility to identify in an ESP specific long-term objectives (e.g., objectives related to the implementation of state policies or meeting standards contained in S.B. 221), together with milestones and metrics for measuring progress? If so, are there specific topics which should be addressed?**

Any ESP should be designed to further the policies set forth in R.C. 4928.02. An ESP application should discuss how that plan furthers those stated policies. The question of whether the ESP application adequately fosters state policy should then be an issue open to discussion in hearings and in the Commission's final evaluation of the plan application. To the extent that the plan application does include specific features designed to address long term reliability or quality issues, along with cost recovery mechanisms, then specific milestones and metrics by which the Commission and the parties can evaluate the progress of those plan features become necessary, if not essential.

- (d) **With respect to an energy efficiency schedule based on a reduction in electricity consumption (Proposed O.A.C. §4901:1-38-04 (B)), how should the rules define the baseline level of customer energy consumption from which a reduction would be measured?**

In the context that this question is posed—proposed O.A.C. Rule 4901:1-38-04(B)—the measurement will be applied to a customer-specific project, and then added to the utility's targets

pursuant to R.C. 4928.66. At the customer-specific level, the reductions in load available from a specific efficiency measure should be readily calculable with a reasonable degree of certainty from an engineering standpoint. By using this value, the Commission avoids the inherent risk of “noise” from a simple measurement of consumption from some baseline point to a post-implementation point.

Of course, by using the project-specific value to measure the reduction in consumption, the importance of the information provided to the utility becomes critical. The Commission staff must be able to audit any particular customer application and see that the calculated reduction is reasonable and that the necessary follow-up documentation has been provided to ascertain that the project was, in fact, implemented as proposed in the load reduction calculation.

(e) Should special arrangements provided for in Chapter 4901:1-38 be applicable only to customers of an electric utility providing service pursuant to an electric security plan?

Revised Code Section 4905.31, as amended by S.B. 221, contains no limitation of the special arrangements set forth in proposed Chapter 38 to ESPs. See, R.C. 4905.31(E).

Accordingly, even if the Commission were to limit the reach of proposed Chapter 38 to customers under an ESP, customers and utilities under an MRO would still be able to seek relief pursuant to R.C. 4905.31. From this perspective, it would not make much sense to limit the reach of proposed Chapter 38.

(f) Should there be a cap on the level of incentives for special arrangements authorized pursuant to Chapter 4901:1-38?

On the one hand, it seems obvious that the utilities cannot be given a blank check for special arrangements with ratepayer money. On the other hand, the authority provided by amended R.C. 4905.31 is an essential tool to maintain the health of Ohio’s economy. The City believes that the interests of ratepayers require that some reasonable cap be placed on the level of

incentives available within a utility's service territory. The authority of the Commission to waive that cap, or to approve a unique arrangement separate and apart from the cap amount should then be made available in circumstances where a specific incentive is needed to achieve the essential development purposes set forth in the law, but would otherwise not fit within the cap.

Conclusion

Cincinnati appreciates the opportunity to provide comments on the proposed rules, and looks forward to providing further assistance to the Commission in the reply phase of this comment period.

Respectfully submitted on behalf of
THE CITY OF CINCINNATI



Thomas J. O'Brien
Sally W. Bloomfield
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
Telephone: (614) 227-2368; 227-2335
Facsimile: (614) 227-2390
e-mail: tobrien@bricker.com
sbloomfield@bricker.com

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Summary: Comments of The City of Cincinnati electronically filed by Teresa Orahood on behalf of City of Cincinnati