

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	Case No. 09-1820-EL-ATA
Illuminating Company and The Toledo)	Case No. 09-1821-EL-GRD
Edison Company for Ohio Deployment of)	Case No. 09-1822-EL-EEC
the Smart Grid Modernization Initiative)	Case No. 09-1823-EL-AAM
and Timely Recovery of Associated Costs.)	

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**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC"), pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35(A), seeks rehearing on the Finding and Order ("Order") issued by the Public Utilities Commission of Ohio ("PUCO" or "Commission") on June 30, 2010. This Commission's findings are unjust and unreasonable in the following respects:

- A. The Commission Unreasonably and Unlawfully based recovery of the SmartGrid costs on a fixed customer charge rather than allocating it on a kWh basis, requiring the lower use customers to pay a disproportionate amount of costs.
- B. The second sentence of the first full paragraph on page 10 of the Commission's Finding and Order does not make sense and the Commission should issue a nunc pro tunc, clarifying the sentence.

The reasons for granting this Application for Rehearing are set forth more fully in the attached Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

FirstEnergy filed its Application on November 18, 2009. The Application requested approval of FirstEnergy's proposed Ohio Site Deployment of FirstEnergy's Smart Grid Modernization Initiative. The Application also proposed a Peak Time Rebate Rider ("Rider PTR"). Additionally, FirstEnergy proposed to collect the costs for this program from all customers except General Service-Transmission customers through Rider AMI on a kWh use basis.

On December 30, 2009 the attorney examiner issued an entry requesting the filing of comments regarding FirstEnergy's application. Interested parties filed Initial Comments on January 15, 2010 and Reply Comments on January 20, 2010. The Commission issued its Finding and Order on June 30, 2010.

II. ARGUMENT

- A. The Commission Unreasonably and Unlawfully based recovery of the SmartGrid costs on a fixed customer charge rather than allocating it on a kWh basis, requiring the lower use customers to pay a disproportionate amount of costs.**

In its Comments, the Staff recommended:

The Rider AMI charge should be a fixed monthly charge rather than a usage sensitive charge.¹

In a letter filed on June 15, 2010, FirstEnergy agreed to revise its rider and accepted Staff's recommendation that Rider AMI be a fixed monthly charge rather than a usage sensitive charge.

Despite comments to the contrary,² the Commission found:

According to principles of cost causation, Staff's recommendation that Rider AMI be a fixed monthly charge is reasonable and is consistent with our prior orders approving the recovery of smart grid deployment costs.

Cost-causation (which OCC does not agree is accomplished through a fixed customer charge) is not the only principle the Commission considers in the allocation of costs between customer classes.³ Fairness, gradualism, conservation and other policy considerations, such as economic development are other principles that the Commission takes into consideration.⁴ The allocation that the Commission approved will place an inordinate burden on lower use, lower income customers not just between classes but also within classes. In light of the current economic climate and public policy considerations, OCC recommends that the Commission be more sensitive to lower energy users, particularly low-income and fixed income residents.

¹ Finding and Order at 7.

² OCC, Citizen Power and OPAE Reply Comments at 4-6, at 2, at 2-3 respectively.

³ See eg., *In the Matter of the Applications of Columbia Gas of Ohio, Inc. to establish a Uniform Rate for Natural Gas Service Within the Company's Northwestern Region, Lake Erie Region, Central Region, Eastern Region, and Southeastern Region*, Case No. 89-616-GA-AIR et. al., Opinion and Order at 80-82; *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(J) Ohio Administrative Code*, Case No. 10-154-EL-RDR, Finding and Order, March 24, 2010.

⁴ Id.

To offset the regressive nature of the fixed customer charge on low-use or fixed income customers, the Commission should allow FirstEnergy to collect the SmartGrid costs through a kWh charge. This approach would encourage customers to use less electricity. This result would be consistent with the General Assembly's directive to the Commission under R.C. 4905.70 and R.C. 4928.02(D), to encourage conservation efforts.

Furthermore, it is an irony when customers are paying millions of dollars for smart meters that provide customers with the opportunity to respond to price signals in order to encourage conservation and peak demand reduction, the Commission imposes charges that are anathema to those goals. To provide customers with the maximum incentive to reduce demand and conserve energy, volume-based rates should be deployed. The Commission should not succumb to a rate design that is administratively convenient while sacrificing accuracy, conservation and principles of social justice in rate setting.

B. The second sentence of the first full paragraph on page 10 of the Commission's Finding and Order does not make sense and the Commission should issue a nunc pro tunc, clarifying the sentence.

On page 10 of the Commission's Finding and Order the second sentence of the first full paragraph states:

Therefore, we will direct the Staff to ensure that the evaluations methodology compares the energy savings by customers who are not included in the alternative pricing program with the energy savings measured for customers who are not in the alternative pricing program to ensure that the lost distribution revenues do not include conservation efforts which would be implemented by customers irrespective of the smart grid deployment.

The passage indicates that the Commission is directing the Staff to compare the energy savings by customers not included in the alternative pricing program to customers who are not in the alternative pricing program. In other words, it appears that the

Commission is asking the Staff to compare energy savings to itself. Accordingly, the Commission should clarify the sentence.

III. CONCLUSION

For the reasons stated above, the Commission should grant rehearing by revising the allocation of the costs for the rider by allowing FirstEnergy to collect the rider through a kWh charge. This revision would be preferable, as it would take into consideration important policy considerations such as fairness and conservation. Additionally, the Commission should revise the second sentence in the first full paragraph on page 10 of its Finding and Order so that it will make more sense.

Respectfully submitted,

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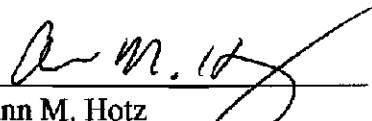


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's Application for Rehearing was served upon the persons listed below via first class U.S. Mail, postage prepaid, this 30th day of July, 2010.


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