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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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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. 10-725-EL-UNG

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**OHIO PARTNERS FOR AFFORDABLE ENERGY'S
REPLY TO THE COMMENTS OF
THE OFFICE OF THE CONSUMERS' COUNSEL**

Ohio Partners for Affordable Energy ("OPAE") hereby files reply comments to the comments submitted by the Office of the Ohio Consumers' Counsel ("OCC") on the notice of intent by the Ohio Department of Development ("ODOD") to adjust the Universal Service Fund ("USF") riders of Ohio jurisdictional electric distribution utilities. On May 28, 2010, ODOD filed the notice of intent to file an application to adjust USF riders. On July 16, 2010, the Public Utilities Commission of Ohio ("Commission") issued an entry stating that "any interested party wishing to file objections/comments concerning the proposed rate design methodology is directed to file the objections/comments on or before September 3, 2010." Entry at 4.

First, the substance of OCC's pleading extends beyond objections/comments to the proposed rate design methodology; OCC's comments exceed the scope defined by the Entry. OPAE notes that the comments on areas other than the rate design are not relevant to the single issue identified in the Entry.

With respect to OCC's comments on the rate design methodology, OPAE agrees with OCC that the two-block rate design is unlawful under Revised Code 4928.52(C) because the rate design causes a shift of USF costs from the industrial class to other rate classes. The shift is unlawful under R.C. 4928.52(C), which prohibits a shift among the customer classes of the costs of funding the USF. OPAE

has not supported the rate design in stipulations since 2006. For the reasons discussed below, OPAE views the rate design as unlawful.

OCC also comments that the use of the October 1999 Percentage of Income Payment Plan ("PIPP") rates for the second block of the rate design shifts costs to residential customers because the 1999 rate is lower than the rate for the current cost of PIPP. (When the rate design was originally applied in 2002, the second block did not always represent a discount for industrial customers. Subsequently, the October 1999 rate used for the second block is always lower, often much lower, than a rate that would require the lawful share of the cost of PIPP to be paid by large customers.) What OCC does not mention is the increasing size of the subsidy provided by residential customers to the industrial customers since the USF riders began in 2002. OPAE has been very concerned about the increase in cost to residential customers since the initiation of the two-block rate. For example, in 2002, for Columbus Southern Power Company ("CSP"), the cost of the rate design to residential customers was \$0.74 for the year. Case No. 01-2411-EL-UNC, Hearing Transcript filed December 26, 2001. For Ohio Power Company, the cost to residential customers was \$1.17 for the year 2002. While OPAE believed that these initial USF riders were unlawful due the cost shift, in 2002 the cost shift seemed minimal. Therefore, compromises were reached and stipulations filed that allowed the two-block rate to continue without legal challenge. The problem now for OPAE, in addition to the legal argument, is the cost of the subsidy to the industrial classes. In 2009, the annual cost to a CSP residential customer is now \$5.11 (a 691% increase over the 2002 subsidy) and the annual cost to an Ohio Power residential customer is \$6.31 (a 539% increase over the 2002 subsidy). Case No. 09-463-EL-UNC, Testimony of Donald Skaggs (November 24, 2009). Moreover, even though CSP has almost precisely the same number of industrial accounts in 2009 as it did in

2001 (121 and 120 respectively) and almost the same amount of industrial kWh in the first block of the rate design, the number of kWh in the second block has more than doubled. The same number of industrial customers used double the amount of kWh from 2002 to 2009. A roughly similar situation occurred with Ohio Power. This, plus rate increases, is serving to increase drastically the cost shift to residential customers resulting from the unlawful two-block rate design.

OPAEC is tracking these trends. However, the Commission must recognize that the numbers for the 2010 riders will not be filed until October 2010 and will be updated in November 2010. The ODOD application has not been filed and will not be finally filed until late November at the least. It is not possible to file comments on an application that has not been filed. When the cost of the 2010 two-block rate design is known at the end of November, OPAEC may find that the cost to residential ratepayers of the two-block rate design is not minimal and that the cost shift is too high. The Commission may need to eliminate the two-block rate design, not only because it is illegal, but because the facts demonstrate that it is too costly for residential customers. The Commission may wish to consider alternatives to the current USF riders, such as a statewide flat-kWh rider to be paid by all customers of all Ohio distribution utilities.

In conclusion, OCC went too far in commenting at this time on issues outside the scope of the Commission's directive and not far enough in its criticism of the two-block rate design. However, given that ODOD has only filed a notice of intent and not yet filed its application, there should be no harm in addressing, or not addressing, any issue at this time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

Colleen L. Mooney (0015668)

David C. Rinebolt

Ohio Partners for Affordable Energy

231 West Lima Street

Findlay, Ohio 45839-1793

(419) 425-8860 – Telephone

(419) 425-8862 – Facsimile

cmooney2@columbus.rr.com

drinebolt@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments was served by regular U.S. Mail upon the parties of record identified below in this case on this 9th day of September 2010.



David C. Rinebolt

SERVICE LIST

Barth Royer
Bell, Royer & Sanders
33 South Grant Avenue
Columbus, Ohio 43215-3900

William L. Wright
Attorney General's Office
Public Utilities Commission Section
180 E. Broad Street, 6th Floor
Columbus, Ohio 43215-3793

Judi L. Sobecki
Dayton Power and Light Company
1065 Woodman Drive
Dayton, Ohio 45432

Steven Nourse
American Electric Power S.C.
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215

Richard C. Reese
Office of Ohio Consumers' Counsel
10 W. Broad Street, 18th Floor
Columbus, Ohio 43215-3485

Gretchen J. Hummel
Lisa G. McAlister
Joseph M. Clark
McNees Wallace & Nurick
21 East State Street, 17th Floor
Columbus, Ohio 43215-4228

Kathy Kolich
FirstEnergy
76 S. Main Street
Akron, Ohio 44308

Elizabeth Watts
Duke Energy Ohio Inc.
139 E. Fourth Street, 25 Atrium II
P.O. Box 960
Cincinnati, Ohio 45202-0960