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. 10-725-EL-UNC

RESPONSE OF
THE OHIO DEPARTMENT OF DEVELOPMENT
TO COMMENTS OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

Pursuant to the stipulation approved by the Commission in Case No. 09-463-EL-UNC, the Ohio Department of Development ("Development") initiated the above-captioned proceeding on May 28, 2010 with the filing of its Notice of Intent ("NOI") describing revenue requirement and rate design methodologies Development proposes to utilize in preparing its 2010 Universal Service Fund ("USF") rider rate adjustment application. On September 3, 2010, in accordance with the procedural schedule established by the attorney examiner's July 16, 2010 entry in this docket, the Office of the Ohio Consumers' Counsel ("OCC") filed a motion to intervene in this proceeding, and included comments relating to certain aspects of the Notice of Intent. No other party filed objections or comments. Development hereby submits its response to the OCC comments in accordance with the procedural schedule set out in the July 16, 2010 entry.

USF Rider Rate Design:

As its first comment, OCC raises its familiar objection to the two-block rate design that has been consistently approved by the Commission in every prior USF rider rate adjustment

proceeding, again claiming that this rate design violates the Section 4928.52(C) prohibition against shifting the cost of low-income customer assistance programs among customer classes.[1] Development continues to believe that this rate design methodology provides for a reasonable contribution by all customer classes to the USF revenue requirement and does not run afoul of Section 4928.52(C), Revised Code.

Impact of New Electric PIPP Plus Rules:

The new electric PIPP Plus rules that will take effect on November 1, 2010, will, among other things, change the percentage of income on which PIPP customer payments are based, provide that PIPP installment payments be made year round, and create additional incentives for PIPP customers to make timely monthly payments on a continuous basis.[2] Although Development acknowledged in the NOI that it anticipates that these measures will ultimately reduce the cost of PIPP from what it otherwise would have been, Development noted in the NOI that there was no basis upon which to forecast the impact these rule changes will have on the level of PIPP customer payments during the 2011 collection period.[3] Thus, Development did not propose an adjustment to the test-period cost of PIPP to recognize the effect of the new rules.[4]

In its comments, OCC suggests that Development's failure to propose an adjustment to the test-period cost of PIPP to recognize the impact of these rule changes on total PIPP customer payments during the 2011 collection period is inconsistent with Development's proposal to adjust the test-period cost of PIPP to recognize the impact of the projected increase in PIPP enrollment

[1] OCC Comments, 4-5.
[2] *See* New Rule 122:5-3-04, Ohio Administrative Code.
[3] NOI, 3-4.
[4] NOI, 4.

during the 2011 collection period.[5] OCC takes the position that if the Development declines to project the decrease in the cost of PIPP resulting from the adoption of the new PIPP Plus rules, it should not be permitted to make an upward adjustment to the cost of PIPP based on its projection of the increase in PIPP enrollment.[6] Several points bear mention.

First, the proposed adjustment for the projected increase in PIPP enrollment – an adjustment the Commission approved in Case No. 09-463-EL-UNC – is based on historical data. As in Case No. 09-463-EL-UNC, the actual annual average PIPP enrollment for each EDU for the most recent five years will be trended to determine the next number in the series, and the 2011 PIPP enrollment will be forecast based on that number.[7] However, as surely must be obvious, there is no historical data that can be used to forecast the impact of the new rules will have on PIPP customer payments before those rules are in place. Although the hope is that these rule changes will ultimately reduce the cost of PIPP from what it otherwise would have been, there is no way to project the effect of these rule changes on the cost of PIPP during the 2011 collection period. Indeed, OCC offers no suggestion as to how such a forecast could be performed. Plainly, there is no logical link between the adjustment for the projected post-test period increase in PIPP enrollment previously approved by the Commission and an adjustment to the cost of PIPP based on pure speculation as to the impact of the new rules on the future level of PIPP customer payments.

Second, OCC's complaint that Development "declines to make such a projection even though the new rules will have been in effect during the entire twelve months of the 2011

[5] OCC Comments, 5-7.
[6] OCC Comments, 7.
[7] *See* Direct Testimony of Donald A. Skaggs, ODOD Exhibit 3, at 9-10, Case No. 09-463-EL-UNC.

collection period"[8] does nothing to advance the inquiry. The point is, of course, that Commission must set the USF rider rates that will apply in 2011 before 2011 begins. OCC has not suggested a methodology that would permit Development to forecast the 2011 PIPP customer payments under the new rules with any degree of certainty. As noted above, Development does not believe it reasonable or prudent to base the USF rider revenue requirement calculation on a forecast of PIPP customer payment performance under the new rules that would necessarily be based entirely on speculation.

Finally, as explained in the NOI, to the extent the new PIPP Plus rules do lead to a reduction in the cost of PIPP during the collection period, ratepayers will be made whole through the December 31, 2011 USF PIPP account balance adjustment that will be performed as a part of next year's USF rider rate adjustment case.[9] This true-up mechanism fully protects ratepayers without subjecting Development to the risk that the USF could be left with insufficient funds to support the PIPP program during 2011 as a result of a purely speculative projection of the impact the new rules will have on overall PIPP customer payments during the collection period. This OCC proposal should be rejected.

Duke Audit Costs:

For reasons explained in detail in the NOI, Development has elected not to proceed with a second round of audits of the PIPP-related accounting and reporting practices of the jurisdictional electric distribution utilities in 2011, and, accordingly, did not propose that an allowance for audit costs be included in the USF rider revenue requirement in this case.[10] In the context of that discussion, Development noted that several open issues still remain as a result of

[8] OCC Comments, 6.
[9] NOI, 4-5.
[10] NOI, 10-13.

the audit of Duke Energy Ohio ("Duke") conducted in connection with the 2008 USF rider rate adjustment case, and that an allowance for the cost of a follow-up Duke audit had been was included in the Duke USF rider revenue requirement in Case No. 09-463-EL-UNC.[11]

In its comments, OCC contends that, because no follow-up audit has been conducted to date, amounts collected through the Duke USF rider in 2010 for the cost of such an audit, plus interest, should be deducted from the Duke USF rider revenue requirement in this case.[12] Otherwise, according to OCC, Duke ratepayers will have funded an audit that was not undertaken.[13] This OCC proposal is totally without merit.

First, discussions between Development and Duke regarding the open audit issues are still ongoing. Thus, at this juncture, it is still possible that a follow-up audit will be performed. Second, as explained in the NOI, interest earned on the USF is not available to Development.[14] Therefore, there are no amounts available to Development to support an interest refund. Finally, and most importantly, if no follow-up audit is ultimately performed, ratepayers will be made whole by virtue of the December 31, 2010 balance adjustment component of the USF revenue requirement formula. In other words, if no payments are made in 2010 for a Duke follow-up audit, the Duke USF rider revenue requirement established in this case will be offset by the amounts Duke ratepayers have contributed for the cost of a follow-up audit. Accordingly, this OCC proposal must also be rejected.

Duke Underpayment:

As OCC correctly points out in its comments, one of the remaining open issues from the Duke audit conducted in connection with the 2008 USF rider rate adjustment case is whether

[11] NOI, 12, n. 11.
[12] OCC Comments, 8.
[13] *Id.*
[14] NOI, 13-14.

Duke has properly allocated PIPP customer payments between the electric and gas PIPP programs over the period since Development assumed administrative responsibility for the electric PIPP program.[15] From Development's perspective, this is, indeed, a very significant issue because of the burden the misallocation of PIPP customer payments places on the USF. However, rather than awaiting a resolution of this matter, whether ultimately achieved through negotiations or through litigation before the Commission, OCC suggests that Development should address this issue by simply limiting its 2011 reimbursements to Duke to 2010 levels, with any difference to be trued up once the matter is finally resolved. Development believes that this proposal is inconsistent with any notion of due process and that the measure suggested by OCC is not legally permissible. The matters raised by the Duke audit remain before the Commission as part of the 2008 USF rider rate adjustment case, and any necessary remedy should and will ultimately be effectuated in that docket, Therefore, this proposal should also be rejected.

Conservation Incentives:

As its final comment, OCC recommends that the Commission schedule an informational workshop for the purpose of a stakeholder discussion of ideas for promoting conservation and conservation incentives for the PIPP program. As evidenced by its Electric Partnership Program ("EPP"), Development supports measures to reduce electric consumption by PIPP customers. However, this case is not the appropriate vehicle for addressing issues of this nature, nor is it clear that this Commission is the appropriate forum in which to raise such issues. Section 4928.55 and 4928.56, Revised Code, charge Development with the responsibility for establishing energy efficiency and weatherization programs for low-income electric customers and the related

[15] OCC Comments, 8-12.

customer education efforts. The NOI phase of this case is about the revenue requirement and rate design methodology to be employed by Development in preparing its 2010 USF rider rate adjustment application. Thus, there is no basis for linking OCC's stated intention to request a workshop pursuant to Rule 4901-1-37, Ohio Administrative Code, to this docket.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Intent has been served upon the following parties by first class mail, postage prepaid, and by electronic mail this 10th day of September 2010.

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Summary: Response Response of The Ohio Department of Development to Comments of the Office of the Ohio Consumers' Counsel electronically filed by Mr. Barth E. Royer on behalf of Ohio Department of Development