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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Implementation of Section 749.10 of Amended Substitute House Bill 153.	: : :	Case No. 11-5384-AU-UNC

MOTION
OF
THE OHIO DEVELOPMENT SERVICES AGENCY
FOR
APPROVAL OF AN ALTERNATIVE REFUND METHODOLOGY

The Ohio Department of Development, which, pursuant to SB 314 effective September 28, 2012, is now known as Ohio Development Services Agency ("ODSA"), hereby moves for an order from this Commission approving an alternative to the methodology originally authorized by the Commission in its December 14, 2011 finding and order in this docket for distributing the refund resulting from the decrease in the Office of the Ohio Consumers' Counsel ("OCC") FY 2012 assessment. As more fully explained in the accompanying memorandum, this alternative methodology will provide the same benefit to customers as the methodology previously approved by the Commission, but, under the circumstances as they now exist, will better serve the interests of efficiency and economy for all concerned.

WHEREFORE, ODSA respectfully requests that its motion be granted.

Respectfully submitted,

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BEFORE
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MEMORANDUM IN SUPPRORT
OF
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THE OHIO DEVELOPMENT SERVICES AGENCY
FOR
APPROVAL OF AN ALTERNATIVE REFUND METHODOLOGY

I. BACKGROUND

By its entry in this docket of October 12, 2011, the Commission, pursuant to Section 749.10 of Amended Substitute House Bill 153, instructed the Office of the Ohio Consumers' Counsel ("OCC") to determine, for each affected company, the amount of the decrease in the OCC assessment resulting from the reduction in the OCC budget from FY 2011 to FY 2012 and to file such information in this docket. This entry also directed the Commission's staff ("Staff") to develop and submit a proposed methodology for distributing the refunds resulting from the decreases in the OCC assessments to customers of the affected companies and established a due date for comments by interested parties.

Staff submitted its proposal for distributing the funds in question (the "Staff Recommendation") on November 22, 2011. As noted in the Staff Recommendation, attempting to distribute the identified $2,856,907 decrease in the OCC assessment on a company-by-company basis via a one-credit would have little, if any, discernible impact on most customers' bills.[1] Further, as Staff pointed out, the costs associated with implementing this approach would outweigh the benefit of the credit in most instances.[2] Recognizing that the majority of Ohioans are customers of Commission-regulated electric distribution utilities ("EDUs"), Staff proposed that the distribution of the decrease in OCC assessment be accomplished by crediting the full amount of the decrease to electric ratepayers via an adjustment to the funding mechanism for the electric Percentage of Income Payment Plan ("PIPP") program administered by the Ohio Department of Development ("ODOD"), [3] which is now known as Ohio Development Services Agency ("ODSA") pursuant to SB 314, which became effective September 28, 2012.

Under the electric PIPP program, income-eligible customers can maintain their electric service by paying a fixed monthly installment based on a specified percentage of their household income. The difference between the actual cost of electricity delivered to the PIPP customer and the payments made by or on behalf of PIPP customers – referred to by ODSA as the "cost of PIPP" – is paid from the state treasury's Universal Service Fund ('USF'), which is supported by amounts collected from ratepayers via the USF riders of each Commission-regulated electric distribution utility ("EDU"). Thus, to effectuate the distribution of the OCC assessment decrease, Staff recommended that the affected companies pay the identified amount to ODOD (now ODSA) and file compliance letters in this docket. Under the Staff plan, once all the payments were collected, the Commission would issue an order in this docket and the appropriate USF docket authorizing ODOD to credit each electric companies' USF riders by the equivalent percentage of the overall PIPP obligation of each electric company and directing the electric companies to reduce their USF riders accordingly.[4]

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[1] Staff Recommendation, 2-3.
[2] Staff Recommendation, 3.
[3] *Id.*
[4] Staff Recommendation, 3-4.

In comments filed on December 1, 2011, ODOD endorsed the staff proposal as reasonable method to distribute the decrease in the OCC assessments that would benefit electric ratepayers by reducing the USF rider rates.[5] However, ODOD requested that Commission clarify the mechanics of the process and the specifics of the methodology to be employed and suggested certain refinements to the Staff proposal for distributing the OCC assessment reduction amount.[6]

As noted in its comments, ODOD did not have the statutory authority to unilaterally adjust the USF riders to effectuate the credit contemplated by the Staff Recommendation.[7] Thus, ODOD proposed that, upon notification by Staff that all compliance letters had been received, ODOD would file a supplemental application with the Commission in its then-pending annual Section 4928.52(B), Revised Code, USF rider rate adjustment case, Case No. 11-3223-EL-USF.[8] ODOD indicated that, in this supplemental application, ODOD would quantify the impact of the funds received from the affected regulated companies on the USF rider revenue requirements previously approved by the Commission in that docket through an adjustment to the revenue requirements analysis used to determine the current USF rider rates of each subject EDU. As ODOD pointed out, in addition to the cost of PIPP, the USF rider rates also cover the cost of low-income customer energy efficiency programs and consumer education programs, known as the Electric Partnership Program ("EPP").[9] The EPP costs are allocated among the EDUs based on their relative costs of PIPP. In addition, the Commission-approved USF rider revenue requirement formula also includes, *inter alia*, an allowance for undercollection that

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[5] *See* ODOD Comments, 3.
[6] *Id.*
[7] Although ODOD was responsible for the administration of the electric PIPP program and the USF, the USF rider rates themselves are subject to the jurisdiction of the Commission and can be adjusted only with Commission approval.
[8] As anticipated, the Commission issued its order in that case in mid-December directing the EDUs to adjust their respective USF rider rates, effective with the January 2012 billing cycles.
[9] *See* Section 4928.52(A), Revised Code.

would be affected by a change in the cost of PIPP. Thus, the USF rider revenue requirement analysis submitted in support of the supplemental application would also reflect the corresponding changes to these elements.

In its December 14, 2011 finding and order, the Commission approved the Staff recommendation, subject to the refinements proposed by ODOD in its comments, which the Commission specifically made part of its order in the case.[10] The order directed all affected companies to submit the OCC assessment refund payments to ODOD by February 22, 2012 and to file compliance letters in this docket confirming that payment had been made.[11] The order also established a similar process for dealing with the OCC assessment reduction for FY 2013, but those provisions were subsequently suspended by the Commission's entry of September 26, 2012, due to the fact that OCC's funding for FY 2013 had been restored by the legislature to the the FY 2012 level.

Although ODOD (now ODSA) received a large portion of the anticipated payments from the affected companies in the first part of 2012, payments have continued to come in over the ensuing months. Although it is ODSA's understanding from discussions with Staff that almost all payments have now been made, ODSA has not received confirmation from Staff that all compliance letters have been received. Because such notification was to be the trigger for the filing of the supplemental application to adjust the USF rider rates to flow the OCC assessment reduction amounts through to customers, OSDA has not made this filing. Moreover, even if ODSA were to receive notification from Staff today that it had received all the compliance letters, the timing is such that it would not be possible for ODSA to secure Commission approval of a supplemental application that would permit the USF rider rate reductions to take effect any

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10 *See* Finding and Order Dated December 14, 2011, at 6-8.
11 *See* Finding and Order Dated December 14, 2011, at 11.

earlier that the EDUs' December billing cycles. This would mean that, under the refund methodology previously approved by the Commission, the entire customer benefit would be flowed through in a single month, after which the EDUs would have to make another tariff filing to remove this increment from the USF rider rates, a measure that would not only be burdensome for all concerned, but could produce customer confusion. ODSA respectfully submits that the better course would be to account for the OCC assessment reduction amounts in the context of its annual USF rider rate adjustment application filed this date in Case No. 12-1719-EL-USF.

II. PROPOSED ALTERNATIVE REFUND METHODOLOGY

Under the USF rider rate revenue requirement methodology approved by the Commission in the Notice of Intent ("NOI") phase of Case No. 12-1719-EL-USF,[12] as in all past USF rider rate adjustment proceedings, there will be a revenue requirement component that reflects the projected year-end USF PIPP account balances of each EDU. As explained in the NOI, because the USF rider rates are calculated based on historical sales and historical PIPP enrollment patterns, the USF riders will, in actual practice, either over-recover or under-recover the target revenue requirements during the collection period. Over-recovery creates a positive year-end USF PIPP account balance for the EDU in question, thereby reducing the amount needed to meet the new annual USF rider revenue requirement target during the collection period. Conversely, where under-recovery has created a negative year-end USF PIPP account balance, there will be insufficient cash available for ODSA to make the monthly PIPP reimbursement payments due the EDU in question if the revenue requirement does not recognize the existing deficit. Thus, the amount of any positive year-end PIPP USF account balance must be deducted in determining the target revenue the adjusted USF rider is to generate, while the deficit represented by a negative

[12] *See* Case No. 12-1719-EL-USF, Opinion and Order dated September 19, 2012.

year-end PIPP USF account balance must be added to the revenue requirement. In its application in Case No. 12-1719-EL-USF, ODSA has requested that its proposed USF riders be implemented on a bills-rendered basis, effective January 1, 2013. Accordingly, the USF rider revenue requirement of each EDU will be adjusted by the amount of the company's projected December 31, 2012 USF PIPP account surplus or deficit so as to synchronize the new riders with each EDU's USF PIPP account balance as of their effective date.

ODSA proposes that, in lieu of the methodology approved in the Commission's December 14, 2011 order in this case, ODSA be authorized to allocate the total $2,856,907 OCC assessment refund amount among the EDUs based on their relative adjusted costs of PIPP and add the resulting amounts to their respective projected December 31, 2012 USF PIPP account balances in determining this element of the USF rider rate revenue requirement in Case No. 12-1719-EL-USF. This will result in the OCC assessment reduction amount being flowed through to customers over 2013 through USF rider rates established in that proceeding. Although ODDSA recognizes that the methodology previously approved by the Commission contemplated that this benefit would be flowed through to customers in 2012, this assumed that the payments to ODOD would be received by ODOD in February 2012, which did not occur. The alternative refund methodology proposed by ODSA will allow the refund to be accomplished through a single application, which will relieve ODSA of the burden of preparing two separate filings, and will also relieve the Commission of the need to issue multiple orders and the EDUs from the burden of making two separate USF rider rate adjustment tariff filings. In addition, adoption of ODSA's proposal will simplify its 2013 USF rider rate adjustment application because it will eliminate the need to restate the December 2012 data that will be used as a surrogate for the data for the corresponding month of the 2013 test period in that case.

III. CONCLUSION

For those reasons set forth above, ODSA urges the Commission to grant its motion for approval of an alternative refund mechanism and to authorize ODSA to flow through the OCC assessment reduction benefit to customers through the USF rider rate revenue requirement calculation in its application in Case No. 12-1719-EL-USF, as proposed herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, and/or by electronic mail this 7th day of November 2012.

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