BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of Aligning Electric Distribution Utility Rate Structure with Ohio's Public Policies to Promote Competition, Energy Efficiency, and Distributed Generation. | ) ) ) ) ) | Case No. 10-3126-EL-UNC |

SECOND ENTRY ON REHEARING

The Commission finds:

(1) By entry issued December 29, 2010, the Commission solicited comments to aid the Commission in considering whether modifications to Ohio's electric utilities' rate structures would better align utility performance with Ohio's desired public policy outcomes, including competition, increased energy efficiency, and encouraging distributed generation pursuant to R.C. 4928.02.

(2) Thereafter, by Finding and Order issued August 21, 2013 (Order), the Commission summarized the comments received and made a finding that the rate structure that may best accomplish the desired public policy outcomes may be straight fixed variable (SFV) rate design. The Commission also found that the appropriate time to implement such a design would be on an individual basis during each electric utility's rate case. Finally, the Commission encouraged electric utilities to file their next base rate case utilizing the SFV rate design and directed Staff to include an alternative rate design including SFV principles in its Staff Report for any base rate case filed that does not utilize an SFV rate design.

(3) R.C. 4903.10 indicates that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by filing an application within 30 days after the entry of the order upon the journal of the Commission. Under Ohio Adm.Code 4901-1-35(B), any party may file a memorandum contra within ten days after the filing of an application for rehearing.

(4) On September 20, 2013, applications for rehearing were filed by Ohio Consumers' Counsel, Ohio Partners for Affordable Energy, and Ohio Poverty Law Center (collectively, Citizen Groups); Natural Resources Defense Council, Sierra Club, and the Ohio Environmental Council (collectively, Environmental Groups); and, the Environmental Law and Policy Center (ELPC). With its application for rehearing, ELPC contemporaneously filed a motion for leave to file an application for rehearing, requesting leave to file for rehearing.

(5) By entry issued October 16, 2013, the Commission granted the applications for rehearing filed by the Citizen Groups, Environmental Groups, and ELPC for further consideration of the matters specified in the applications for rehearing.

(6) In their application for rehearing, the Citizen Groups argue that the Order was unjust, unreasonable, and unlawful because it was contrary to R.C. 4903.09 and court precedent in failing to adequately explain why the Commission found that an SFV rate design must be included by electric utilities in their next base rate cases or be a component of the Staff's report and because the Order lacks support in the record in violation of R.C. 4903.09.

More specifically, the Citizen Groups argue that the Commission's explanation of its preference for SFV did not provide a basis for its decision. The Citizen Groups point out that Commission stated its decision was based on comments filed in this proceeding as well as the experience of SFV in the natural gas industry but that the comments were overwhelmingly opposed to SFV for electric utilities and commenters also pointed out ways in which electric and natural gas operations are different. The Citizen Groups continue that the Order lacks record support because comments in the record discussed differences between the natural gas and electric industries, requested evaluation of rate design issues on a case-by-case basis, and the Order cites nothing specific that supports "its determination to implement SFV."

Next, the Citizen Groups argue that the Commission modified de facto the Commission's standard filing requirements without proper administrative procedure by ordering that an SFV rate design must be included in utilities' next base rate cases. More specifically, the Citizen Groups argue that the entry initiating this proceeding did not provide notice to parties that comments filed would be the only opportunity for input regarding inclusion of an SFV rate design in electric utility rate cases, and, consequently, was inadequate to properly inform parties of the nature of the proceeding.

The Commission finds that the Citizen Groups' application for rehearing should be denied. In the Order, the Commission explained that, consistent with our experience with natural gas utilities, SFV rate design should produce more stable bills for customers, make bills easier to understand while producing a more accurate price signal, and assure a more equitable allocation of distribution system costs. Order at 19-20. We note that various commenters cited differences between the electric and gas industries. Order at 4-6. However, we were not persuaded that those differences were dispositive in our determination.

Further, although the Citizen Groups have cited to various comments asserting that evaluation of rate design issues should occur on a case-by-case basis in support of their application for rehearing, the Commission specifically acknowledged these comments and agreed that any implementation of SFV should only take place during each electric utility's distribution rate case. Order at 20. In such distribution rate cases, parties will have the opportunity to raise any issues relevant to implementing SFV rates. Finally, we reject the Citizen Groups' claim that the Commission has modified the standard filing requirements for rate cases. Although the Commission encouraged electric utilities to include SFV rate design in their next distribution rate case, we did not require it or impose any additional filing requirements.

(7) In their application for rehearing, the Environmental Groups argue that the Order was unreasonable and/or unlawful

because it is premature and does not allow the decoupling pilot programs currently in operation by Duke and AEP Ohio to be considered and evaluated, thereby denying interested parties the opportunity to evaluate the results in administrative proceedings; it undermines the policies of R.C. 4928.02 by diminishing the potential energy efficiency incentives to customers and discouraging distributed generation; and it fails to adequately explain its preference for an SFV rate structure for electric distribution utilities.

More specifically, the Environmental Groups argue that the Commission was unreasonable in ordering information to be filed in the docket regarding Duke Energy Ohio and Ohio Power decoupling pilots, and then failing to consider that information about those pilots in the Order or to provide other parties with an opportunity to comment on the information. Additionally, the Environmental Groups argue that the Commission should not have "selected" SFV because the SFV rate design sends the wrong price signal to customers and reduces the value of EDU energy efficiency programs. Finally, the Environmental Groups contend that the Order violated R.C. 4903.09, which requires that, in opinions filed by the Commission in contested cases "* * * a complete record of all proceedings shall be made, including a transcript of all testimony and of all exhibits, and the commission shall file, with the records of such cases, findings of fact and written opinions setting forth the reasons prompting the decisions arrived at, based upon said findings of fact[,]" because the Order provided an inadequate basis for endorsing SFV.

As we stated above, the Commission determined that implementation of SFV rates should be addressed in each electric utility's next distribution rate case. Order at 20. In these cases, parties will have a full and fair opportunity to present any relevant testimony concerning implementation of SFV rate design, including, but not limited to, testimony regarding alternatives to SFV rate design. Accordingly, relevant, admissible data collected during the pilot programs may be presented by any party in the distribution rate case in support of its arguments regarding SFV rate design. Likewise, parties may present relevant, admissible evidence

regarding the price signals sent to consumers by SFV rate design or any other alternative rate design proposed by such parties. Finally, the Commission finds that the Order thoroughly discussed all comments submitted by interested persons in this proceeding and fully set forth the reasons for the Commission's conclusions regarding SFV rate design. Order at 2-16, 19-20. Accordingly, the Commission finds that the Environmental Groups' application for rehearing should be denied.

(8) In its application for rehearing, ELPC argues that the Order is unreasonable because it is inconsistent with the stated policy goals of encouraging energy efficiency and distributed generation, and because the Commission did not adequately consider stakeholder comments or explain its decision. More specifically, ELPC contends that SFV does not support the desired public policy outcome because it sends customers the wrong price signal, and reduces utilities' incentives to reduce their costs. ELPC also contends that several commenters pointed out cost-shifting problems associated with SFV, but that the Commission did not address these comments in the Order.

The Commission finds that ELPC's application for rehearing should be denied. This proceeding was opened for the sole purpose of the Commission soliciting comments to aid in assessing how to align Ohio's electric utility rate structure with public policy goals. As such, the Commission defined the scope of the proceeding. Further, we specified in the entry initiating this docket that the Commission would "at a later date, * * * *consider* and specify additional opportunities for input." Entry (December 29, 2010) at 5 (emphasis added). Accordingly, the Commission determined that the most appropriate proceeding for additional opportunities for input would be in each electric utility's next distribution rate case, where implementation of SFV rate design should be considered. Order at 14-16, 20. Nothing in the Order precludes any party from commenting on or presenting evidence regarding a specific rate design that is proposed as part of a utility's distribution rate case by the utility, Staff or any other party.

It is, therefore,

ORDERED, That the applications for rehearing filed by the Citizen Groups, Environmental Groups, and ELPC are denied. It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Steven D. Lesser

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DEC 04 2013

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Secretary