



PUCO may order a hearing.<sup>2</sup> The PUCO may also change, alter, or modify the unique arrangement.<sup>3</sup>

We note that OCC's recommendations are, in general, applicable not only to this particular application, but to essentially any application for programs and funding for economic development.

**A. The PUCO should identify the total costs (to utility consumers) of an application's economic development programs and ensure that Ohioans pay the least subsidy to their utility that is needed for economic development when balancing the benefit of programs with the cost to consumers.**

Under the proposed unique arrangement, the payments that Ohio Power receives from the mercantile customer for transmission service (through the recently approved Basic Transmission Cost Rider ("BTCR")) could be significantly reduced. The Applicant proposes to be treated as its own class in the BTCR for purposes of coincident peak demand allocation. If this circumstance results in increased charges to other customers, the PUCO should include these charges to be part of the delta revenues under consideration.

Also, it is proposed that the mercantile customer will serve as an interruptible resource for Ohio Power during the term of the unique arrangement. In return, the mercantile customer will receive an \$8.21/kW interruptible service credit (meaning lower charges for the mercantile customer). Under the application, Ohio Power will provide the credit regardless of whether that credit or program is available through tariff.<sup>4</sup> Again,

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<sup>2</sup> Ohio Admin. Code 4901:1-38-05(A)(2).

<sup>3</sup> See Ohio Rev. Code 4905.31; Ohio Admin. Code 4901:1-38-05(B)(4).

<sup>4</sup> Application at 30, p. 49.

Ohio Power can be expected to seek to make up the reduced revenues from other customers, including residential consumers.

These particular costs to consumers should be identified and considered (with all other “delta revenue”) as part of the PUCO’s balancing of program benefits with all of the costs (the delta revenue) to be paid by customers to their utility. As stated above, this recommendation applies to any applicant’s proposal for economic development.

**B. The PUCO should establish outcomes for reasonable arrangements where Ohioans’ funding of economic development programs is limited to a single instance per applicant (without repeat requests thereafter).**

The applicant has stated the commendable objective of wanting to avoid the need for a future unique arrangement.<sup>5</sup> In deciding applications for reasonable arrangements, the PUCO should protect consumers and facilitate future planning by mercantile customers by ruling that future ratemaking will occur without repeat funding for mercantile customers that have received prior funding.

**C. The PUCO should establish caps (limits) on what customers would be charged by their utility to subsidize economic development programs.**

The applicant has proposed caps for its programs. That proposal is much appreciated for consumer protection.

For economic development applications, the PUCO should consistently impose a cap (limit) on what consumers could be charged by their utility to subsidize the programs. The appropriate protective caps for consumers are by year and by total for all years. And the caps should include counting all the utility subsidies available to an applicant that are paid by other consumers.

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<sup>5</sup> Application at 7.

The PUCO should establish a limit on the total amount of money paid by all Ohio utility customers for all economic development riders resulting from requests to the PUCO for these discounts. The subsidies that consumers are asked to pay to electric utilities for all economic development rider should not exceed, in total, a certain low percentage of consumers' electric bills.

**D. The PUCO should identify the benefits the utility (Ohio Power) receives from the reasonable arrangement and, with that information, determine a reasonable sharing of the costs (delta revenue) between Ohio Power and its customers.**

The PUCO's early policy regarding economic development and the sharing of delta revenues dates back more than 30 years.<sup>6</sup> Under that policy, the PUCO should provide for a reasonable split of the delta revenue costs between the utility and its customers.

In the past the PUCO has held "that a 50/50 split properly recognizes that both the company and its customers benefit from the company's policy of providing economic incentive rates to certain customers to attract new business in the utility's service territory."<sup>7</sup> Furthermore, this 50/50 sharing of the delta revenue is consistent with other decisions which addressed the issue.<sup>8</sup>

The PUCO's historic policy complements the provisions in S.B. 221 that address economic development arrangements. S.B. 221 does allow a utility to seek to charge

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<sup>6</sup> See *Ohio Electric Innovative Rates Program*, page 5 of 11 (June 28, 1983). (Attachment A).

<sup>7</sup> *In the Matter of the Application of Columbus Southern Power Company for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Electric Service*, Case No. 91-418-EL-AIR. Opinion and Order at 110. (May 12, 1992).

<sup>8</sup> See *Ohio Edison Company*, Case No. 89-1001-EL-AIR, Opinion and Order at 40-41. (August 16, 1990), at 40-41 and *Cleveland Electric Illuminating Co.*, Case No. 88-170-EL-AIR, Opinion and Order at 18-19 (January 31, 1989).

other customers for “revenues foregone” as a result of an economic development arrangement.<sup>9</sup> But the PUCO’s enabling rules,<sup>10</sup> along with the permissive statutory language,<sup>11</sup> make it abundantly clear that the collection of delta revenues from other customers is a matter within the discretion of the PUCO.<sup>12</sup> Indeed, the PUCO acknowledged, in an appeal to the Ohio Supreme Court, that it can approve a unique arrangement without allowing the utility to collect any amount from other customers to pay the utility for lowering its rates to the mercantile customer.<sup>13</sup>

### III. CONCLUSION

The Ohio Consumers’ Counsel appreciates this opportunity to comment. Our recommendations are directed toward assisting the PUCO find the balance between the benefits of economic development and the costs (charges) to consumers who fund the subsidies for economic development programs.

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<sup>9</sup> R.C. 4905.31(E).

<sup>10</sup> *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code in the Form of an Electric Security Plan*, Case No. 08-935-EL-SSO.

<sup>11</sup> Under R.C. 4905.31(E) a utility is not prohibited from seeking an arrangement that includes a “financial device” that “may include a device to recover costs incurred in conjunction with any economic development and job retention program of the utility within its certified territory, including recovery of revenue foregone.” The arrangement must then be approved by the PUCO and are subject to change, alteration, or modification by the Application.

<sup>12</sup> Ohio Admin. Code 4901:1-38-08(A)(1).

<sup>13</sup> See *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company and Columbus Southern Power Company*, Supreme Ct. Case No. 09-2060, Brief of the Public Utilities at 12 (Mar. 3, 2010). “Appellant [CSP/OP] mistakenly believes that it is entitled to receive specific amounts from all customers, reasoning that money it doesn’t get from one customer it must get from another. This is not now, and never was, the law. As discussed above, R.C. 4905.31 requires no adjustment at all.”

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Comments have been served upon the below-named persons via electronic transmission this 23<sup>rd</sup> day of November, 2015.

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