

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Approval of an Economic Development)	Case No. 18-0450-EL-AEC
Arrangement between AK Steel)	
Corporation and Duke Energy Ohio, Inc.)	

**COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

In this case, AK Steel Corporation (the "Applicant") seeks government approval of discounted electric rates from Duke Energy Ohio, Inc. (the "Utility" or "Duke"), under a proposed unique arrangement.^{1,2} Under the proposed arrangement, the Applicant would receive up to \$25.8 million in rate reductions (subsidies) over seven years.³ Duke would charge other customers to fund the discount given to the Applicant.⁴ The PUCO should note that government (the federal government) already and recently enhanced the Applicant's financial position via U.S. tariffs on steel and corporate income tax cuts.

In these types of cases, the PUCO considers whether the claimed benefits of the arrangement justify making Ohioans subsidize the mercantile customer's electric rate discount.

¹ "Unique arrangements" are also referred to as "reasonable arrangements." *See* R.C. 4905.31; Ohio Adm. Code 4901:1-38-05(A).

² Application for Expedited Approval of a Reasonable Arrangement (Mar. 15, 2018) (the "Application").

³ Application at 3 ("The total amount of rate credit received by Customer throughout the term of this Arrangement will be capped at \$25.8 million.").

⁴ Application at 3 ("Duke will be permitted to recover the costs of the interruptible rate credit contemplated herein through its Economic Competitiveness Fund Rider, or an equivalent recovery mechanism, with such recovery a fundamental term of this Arrangement.").

Because comments are due 20 days after the application is filed,⁵ which does not allow any time for discovery before comments are due,⁶ these initial comments are an opportunity to present OCC's preliminary concerns about the Application. Consistent with PUCO precedent, the PUCO should afford parties an opportunity to further develop recommendations in favor of or against the Application after these comments are submitted.⁷

II. COMMENTS

A. Burden of Proof and Standard of Review.

The Applicant bears the burden of proving that the Application for a unique arrangement should be approved.⁸ To meet that burden, the Applicant must demonstrate, at a minimum, that the proposed arrangement (i) is reasonable, and (ii) does not violate sections 4905.33 and 4905.35 of the Revised Code.⁹ In considering whether the proposed arrangement is reasonable, the PUCO should consider, among other things:

- the amount that other customers will pay to subsidize the proposed reductions in the mercantile customer's electric rates,
- the structure of the proposed discount (*e.g.*, exemption from a rider or riders, reduction in kWh or demand charges, etc.),

⁵ Ohio Adm. Code 4901:1-38-05(F) ("Affected parties may file a motion to intervene and file comments and objections to any application filed under this rule within twenty days of the date of the filing of the application.").

⁶ Ohio Adm. Code 4901-1-19(A) (20-day response time for interrogatories); Ohio Adm. Code 4901-1-20(C) (20-day response time for requests for production of documents).

⁷ See *In re Application for Establishment of a Reasonable Arrangement Between Eramet Marietta, Inc. & Columbus S. Power Co.*, Case No. 09-516-EL-AEC, Entry ¶4 (July 2, 2009). See also Ohio Adm. Code 4901:1-38-05(B)(3) (PUCO may hold a hearing in a unique arrangement case).

⁸ Ohio Admin Code 4901:1-38-05(B)(1) ("Each customer applying for a unique arrangement bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code, and shall submit to the commission and the electric utility verifiable information detailing the rationale for the arrangement.").

⁹ Ohio Adm. Code 4901:1-38-05(B)(1).

- whether there is any limit on the amount that other customers will pay to subsidize the Applicant's discount,
- a reasonable sharing of costs between the Utility and customers in funding the Applicant's discount,
- how long the Applicant's discount, which other customers subsidize, should last, and
- whether the mercantile customer is making specific and enforceable commitments to invest in Ohio for the benefit of Ohioans.

In evaluating these and other factors, the PUCO can modify the arrangement to protect consumers.¹⁰

B. In balancing the interests of the Applicant and the interests of other customers who would subsidize the Applicant's proposed rate discount, the PUCO should consider the benefits to the Applicant of other recent government actions – the Tax Cuts and Jobs Act of 2017 and the recently imposed U.S. tariffs on foreign steel.

In the PUCO's review of the Applicant's request of Ohio government for subsidies, two recent federal initiatives that improve the Applicant's financial position should be considered as reasons that more subsidies may not be needed. First, the federal Tax Cuts and Jobs Act of 2017 was passed in late 2017.¹¹ Under this tax law, large companies like the Applicant will owe federal income taxes at a lower 21 percent rate, rather than the old 35 percent rate.

Second, the federal government recently imposed a tariff on steel imports.¹² This tariff benefits domestic steel companies that compete with foreign

¹⁰ R.C. 4905.31(E).

¹¹ Pub. Law No: 115-97 (Dec. 22, 2017).

¹² See <https://www.cnn.com/2018/03/01/politics/steel-aluminum-trade-trump-chaos/index.html?iid=EL>; <http://www.nydailynews.com/news/politics/trump-tariffs-steel-aluminum-effect-15-days-article-1.3863620>.

steel producers. Indeed, domestic steel companies, including the Applicant, have applauded the tariffs. For example, following the President’s initial recommendation to impose global steel tariffs, the Applicant’s CEO issued a statement that the United States should “enact [the] steel tariff immediately”¹³

When deciding whether a rate discount—subsidized by other customers—is necessary, or when deciding how big of a discount the Applicant should receive, the PUCO should consider these recent favorable developments for the Applicant.

C. The Applicant should not be permitted to transfer its entire bill to other customers under the unique arrangement.

To protect consumers from paying unjust and unreasonable utility rates, the PUCO should require the Applicant to pay a minimum monthly bill. That is, the Applicant should not be permitted to reduce its monthly bill to \$0 as a result of the discount it receives under the unique arrangement. The PUCO came to this conclusion in 2009 when it established a policy strongly favoring such a limit: “The Commission agrees ... that, generally, unique arrangements must contain a floor, a minimum amount that the party seeking a unique arrangement should be required to pay...”¹⁴

The Application appears to contemplate that the discounts the Applicant receives under the proposed arrangement could be large enough to offset its entire transmission

¹³ See <https://www.cincinnati.com/story/opinion/contributors/2018/03/06/ak-steel-ceo-enact-steel-tariff-immediately/396893002/> (attached with Exhibit B).

¹⁴ *In re Application of Ormet Primary Aluminum Corp. for Approval of a Unique Arrangement with Ohio Power Co. & Columbus S. Power Co.*, Case No. 09-119-EL-AEC, Opinion & Order at 9 (June 15, 2009).

and distribution service bill.¹⁵ Consistent with the PUCO's conclusion in the *Ormet* case, the PUCO should establish a minimum monthly charge that the Applicant must pay.

D. The Applicant should not be permitted to “bank” rate credits (discounts in excess of its utility bill) to be used to reduce future utility bills and collected from other customers under the unique arrangement.

Not only does the Applicant suggest that it be allowed to offset its entire bill under the proposed arrangement, it proposes that if the amount of the rate credit exceeds its charges for a given month, it be permitted to “bank” the extra savings and apply them to a future month.¹⁶ The PUCO should not adopt the proposal for “banking” of rate credits.

If the Applicant could carry over rate credits from month to month, it would be reducing its distribution and transmission charges in months unrelated to the interruptible credit. The PUCO should instead find that to the extent the Applicant's rate credits in any given month would exceed its total charges, it should pay the minimum monthly charge that OCC proposes above. The Applicant should not be allowed to “bank” additional credits for future use.

E. There should be annual limits on the amount that customers pay to subsidize Applicant's proposed rate credits under the unique arrangement.

In addition to a minimum amount that the Applicant should be required to pay each month for its electric service, the PUCO should also cap the maximum amount of

¹⁵ See Application at 3 (“If the monthly interruptible credits received by Customer pursuant to this Arrangement would otherwise exceed its wires charges...”).

¹⁶ Application at 3 (“If the monthly interruptible credit received by Customer pursuant to this Arrangement would otherwise exceed its wires charges in a given month, then Customer will be permitted to “bank” the difference between the monthly interruptible credit and the monthly wires charges. Customer will then be permitted to draw upon any “banked” interruptible credit for use in offsetting future monthly wires charges during the term of this Arrangement.”).

Applicant's annual discounts, which are paid by other customers. In the *Ormet* case, the PUCO agreed: "The Commission agrees ... that, generally, unique arrangements must contain ... a ceiling, a maximum amount of delta revenue which the ratepayers should be expected to pay."¹⁷ The PUCO also recognized that other customers should not be required to fund unlimited rate discounts under mercantile customer unique arrangements: "the Commission agrees with Staff and the intervenors that the ability of ratepayers to fund the recovery of delta revenues is not unlimited."¹⁸

Here, Applicant proposes a \$4.63 million annual limit on subsidies, but only from June 1, 2021 through May 31, 2025.¹⁹ Applicant does not explain why the annual limit should apply during these years but not during the initial term of the proposed arrangement from 2018 through 2021. OCC recommends that the PUCO impose an annual cap for the entire length of any approved reasonable arrangement in this case.

F. Any compensation that the Applicant receives from participating in PJM demand response programs through a curtailment service provider should be used to reduce the subsidy that other customers pay for the Applicant's rate discount under the unique arrangement.

The Applicant proposes that in addition to any discounts it receives under the proposed unique arrangement, it be permitted to retain any compensation it receives from PJM from participating in PJM demand response programs through a curtailment service provider.²⁰ The PUCO should rule that any such compensation be used as an offset to the delta revenues that other customers must pay to subsidize the Applicant's rate discount in this case.

¹⁷ *Ormet*, Case No. 09-119-EL-AEC, Opinion & Order at 9 (July 15, 2009).

¹⁸ *Id.*

¹⁹ Application at 3.

²⁰ *Id.*

G. The PUCO should consider whether the Applicant's proposed seven-year term is fair for the consumers paying the subsidy to the Utility.

The Applicant asks that its proposed discount be in effect for seven years, from no later than June 1, 2018 through May 31, 2025.²¹ Applicant asserts that this term is “designed to coincide with the end of Duke’s pending ESP proposal in Case No. 17-1263-EL-SSO.”²²

First, Duke’s pending ESP proposal in Case No. 17-1263-EL-SSO ends May 31, 2024, not 2025.²³ So to the extent Applicant intends to have its reasonable arrangement coincide with Duke’s proposed ESP, it does not accomplish that goal.

Second, seven years is a long time for customers to pay a subsidy of this magnitude. In considering the aggregate impact of these types of arrangements on customers of a utility, the PUCO should minimize the impact on customers who subsidize electricity discounts. Customer funding should be a limited, short-term solution to help maintain or grow a mercantile customer's business while providing economic benefits (jobs and investment) to Ohio and Ohioans.²⁴ Seven years of customers subsidizing the Applicant is not limited, short term support.

²¹ Application at 3.

²² Application at 2.

²³ *In re Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Serv. Offer*, Case No. 17-1263-EL-SSO, Application at 1 (June 1, 2017) (“Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) approve its proposed ESP for the period between June 1, 2018, and May 31, 2024.”).

²⁴ *See, e.g., In re Application of Ormet for Approval of a Unique Arrangement with Ohio Power Co. & Columbus S. Power Co.*, Case No. 09-119-EL-AEC, Entry ¶ 5 (Oct. 17, 2012) (recognizing that an economic development arrangement should reduce over time and eventually eliminate the mercantile customer's dependency on delta revenue).

H. Under a unique arrangement, the mercantile customer should make specific commitments to job growth and capital investment that benefit other utility customers.

In the Application, the Applicant cites various statistics related to its steel sales, payroll, employee counts, tax revenues generated, fringe benefits, and spending to demonstrate its impact on the Ohio economy.²⁵ But Applicant does not commit to making any capital improvements in its facilities, and it does not commit to increasing or even maintaining its current employee count. Indeed, although Applicant refers to its proposal as an “economic development arrangement,” it does not commit to any economic development at all.

This contrasts with recent requests by other mercantile customers who, in exchange for rate discounts subsidized by other customers, committed to make capital improvements and to retain or increase employee counts. For example, in a recent case involving Presrite Corporation, the mercantile customer committed to make capital improvements in plant facilities in a specified dollar amount, and agreed to make best efforts to add a specified number of new employees.²⁶ In another recent case involving Acero Junction Inc., the mercantile customer committed to invest a minimum of \$60 million in its facility and committed to a minimum employee count.²⁷ And in Acero’s

²⁵ Application at 1.

²⁶ *In re Application for Establishment of a Reasonable Arrangement between Presrite Corporation & the Cleveland Elec. Illuminating Co.*, Case No. 17-1981-EL-AEC, Opinion & Order (Mar. 14, 2018). The specific capital improvement amount and employee increase are deemed confidential in that case, so the numbers have not been provided here.

²⁷ *In re Joint Application for Approval of an Economic Development Arrangement between Ohio Power Co. & Acero Junction Inc.*, Case No. 17-2132-EL-AEC, Joint Stipulation & Recommendation (Feb. 16, 2018).

case, the amount of the customer's rate discount would be reduced if it did not meet those targets.²⁸

The PUCO should require the Applicant to make specific commitments to investment in its business and to retaining and increasing its Ohio employee headcount. If other customers are to subsidize the Applicant's rate discount in the name of economic development, then the Applicant should be required to make a firm commitment to continue and increase its investment in Ohio's economy.

I. The Utility benefits from the unique arrangement, so customers and Duke should equally share responsibility for the costs of providing the discount to the mercantile customer.

The PUCO long ago recognized that it is good policy for customers and the utility to share the costs of mercantile customers' utility rate discounts.²⁹ Cost-sharing is also consistent with the law governing these types of mercantile customer arrangements. Under the law, an arrangement "*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 as a result of any such program."³⁰ This permissive statutory language means that the PUCO has the authority to determine whether the utility should be authorized to collect costs from customers, and if so, how much. Indeed, the PUCO has recognized that it can deny the collection of costs from customers for the utility altogether: "[The utility] mistakenly believes that it is entitled to receive specific amounts from all customers, reasoning that

²⁸ *Id.*

²⁹ See Ohio Electric Innovative Rates Program at 5 (June 28, 1983), attached hereto as Exhibit A.

³⁰ R.C. 4905.31(E) (emphasis added).

money it doesn't get from one customer it must get from another. This is not now, and never was, the law. ... R.C. 4905.31 requires no adjustment at all."³¹

It makes sense for the Utility to share the costs because the Utility benefits in these types of arrangements. As the PUCO previously stated: "The Commission believes 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 retain load, encourage expansion, or attract new development in the company's service territory."³² The PUCO Staff has similarly recommended a 50/50 split in the past.³³

Given these benefits to the Utility, it should not pass all costs resulting from this arrangement on to its customers but instead should share those costs. The PUCO should conclude that a 50/50 split of the delta revenue is more equitable than asking consumers to pay 100% of the delta revenue.

III. CONCLUSION

In cases like this, where mercantile customers seek discounts that are ultimately subsidized by other customers, the PUCO should determine if the unique arrangement constitutes economic development and if so, balance the benefits of economic development with the costs to consumers who fund that development. The PUCO should

³¹ See *In re Application of Ormet Primary Aluminum Corp. for Approval of a Unique Arrangement with Ohio Power Co. & Columbus S. Power Co.*, Ohio Supreme Court Case No. 2009-2060, Brief of the Public Utilities Commission of Ohio at 12 (Mar. 3, 2010).

³² *In re Application of Ohio Edison Co. for Authority to Change Certain of its Filed Schedules Fixing Rates & Charges for Elec. Serv.*, Case No. 89-1001-EL-AIR, Opinion & Order at 40-41 (Aug. 16, 1990). See also *In re Application of Columbus S. Power Co. for Authority to Amend its Filed Tariffs to Increase the Rates & Charges for Elec. Serv.*, Case No. 91-418-EL-AIR, Opinion & Order at 48 (May 12, 1992).

³³ *In re Application of the Cincinnati Gas & Elec. Co. for an Increase in its Rates for Gas Serv. to all Jurisdictional Customers*, Case No. 95-656-GA-AIR, Opinion & Order at 28 (Dec. 12, 1996) ("For economic development contracts in electric cases, the staff has traditionally recommended a 50/50 sharing of identified delta revenues between the company and customers.").

adopt the proposals in these comments to support economic development that is balanced with consumer protection.

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 4th day of April 2018.

/s/ Christopher Healey

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PUBLIC INFORMATION 3-14-94

POLICY PRECEDENT FILE

ATTACHMENT II

TITLE Ohio Electric Innovative Rates Program Page 1 of 11Ohio Economic Recovery Initiatives Approved by J. U. Morrow, U. R. PappElectric Rate Incentives Date Effective 6 / 24 / 93

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Advisory Treatment</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCO Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

1.0

STAFF TREATMENT1.1 Current Staff Treatment

The Staff policy is to recommend Commission approval of reasonable utility proposals as short-term electric rate economic recovery incentives. Approved incentives are of two types:

- Individualized service and rate agreements between a utility and a customer, pursuant to Section 4906.31, Ohio Revised Code (Reasonable Arrangements Allowed; Variable Rate), and
- Modifications to tariff rate schedule provisions, providing for waiver of minimal bills pursuant to Section 4906.15 Ohio Revised Code (Application for Tariff Approval, Not for An Increase in Rates).

Staff recommended rate incentives apply to customers with the following characteristics:

- New customers and corresponding new load, which otherwise would not have occurred, resulting in marginal revenue, not otherwise received, or
- Existing customers with load which otherwise would not have occurred, resulting in marginal revenue, not otherwise received, or
- Maintenance of existing customers and load which otherwise would be lost.

1.2 Alternative Approaches - Not Current Treatment

Alternative treatment of the unrecovered cost of service, resulting from sales attrition, is to allocate it among all classes of customer rates.

1.3 Rationale

The Electric Economic Recovery Rate Program is designed only to recapture sales attrition, incrementally improve efficiency of use of existing facilities and thereby contribute to the maintenance of all customer class rate levels.

POLICY PRESENT FILE

TITLE Ohio Electric Innovative Rates Program Page 2 of 11Ohio Economic Recovery Initiatives Approved by J. D. Warrick, P. E. 1983Electric Rate Incentives Date Effective 9 / 28 / 83

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Applied Treatment</u>
1.1 Current	2.1 Statute	3.1 Mechanisms
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCU Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

Significant attrition of electric, industrial and commercial sectors sales occurred from 1979 through 1983. Such sales attrition significantly reduced revenue coverage of the enhanced cost of service, reduced the efficiency of existing facilities used and reduced load factor by three percent. Based on the short run definition, sales and load attrition results in less efficient use of facilities, currently included in established rates. Such revenue attrition requires that the unrecovered cost of service and the less efficient use of existing facilities be allocated to other customer class rates.

1.4 History of Program

Industrial and commercial customer sales and load statistics for the period 1979 through 1983 showed significant sales attrition and revenue erosion. On June 20, 1983, the Commission solicited electric utility comments and proposals to spur short-term industrial production opportunities. On June 28, pursuant to the Commission Chairman's solicitation, the Commission, Staff and utility representatives met at the Commission offices and exchanged economic development incentives. The result is the current Commission and Staff electric economic recovery rate program. The attachments document this program's evolution.

PUBLIC PRESENT FILE

TITLE Ohio Electric Innovative Rates Program Page 3 of 11Ohio Economic Recovery Initiatives Approved by J. U. Worrers, Jr., M.D.Electric Rate Incentives Date Effective 6 / 28 / 85

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Regulatory Treatment</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches -	2.2 PUC Rule	3.2 Adjustments
Not Current Treatment	2.3 Commission Orders	3.3 Staff Report
1.3 Rationale	2.4 Appellate Decisions	Language
1.4 Background		

2.0LEGAL AUTHORITY2.1 Statute

Applicable Sections: 4905.31 O.R.C., 4905.10 O.R.C.

Section 4905.31 O.R.C. specifies that a public utility may enter into any reasonable arrangement with its customers providing for any financial service that may be practicable or advantageous to the parties interested. No such arrangement is lawful unless it is filed with and approved by the PUC and under the supervision and regulation of the Commission. The Ohio Electric Innovative Rates Program, with the authority of 4905.31, is not violative of O.R.C. 4905.10, which prohibits a public utility from furnishing free service or service for less than actual cost.

Section 4905.10, O.R.C., requires a public utility desirous of modifying any existing rates to file a written application with the PUC according to the specifications under that and other applicable statutes.

2.2 PUC Rule - None Specifically Applicable2.3 Commission Orders

The Opinion & Order issued by the Commission for the consolidated cases 83-1542-L-ATA/83-1543-M-ATA, comments on 4905.31 O.R.C. as follows:

"Thus ... arrangements must be reviewed and approved by the Commission before it becomes effective so as to ensure that it is just and reasonable and to ensure that it will not adversely affect the balance of the company's customers."

The Commission also recognized that "so long as the company does not provide this service at a loss, it is better off with some revenue than it is with no revenue, the situation which would obtain if a given customer was not on the system at all. In general, the balance of the company's customers benefit from this maximization of revenues, for it tends to forestall the company's next general rate application."

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 4 of 11

Ohio Economic Recovery Initiatives Approved by J. B. Burrows, D. E. Hagg

Electric Rate Incentives Date Effective 6 / 24 / 83

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Applied Treatment</u>
1.1 Current	2.1 Statute	3.1 Rationing
1.2 Alternative Approaches - Not Current Treatment	2.2 Public Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

Although the Commission denied CEI's request to amend its filed schedules for electric service and steam service in this case, it did so because:

1. CEI wished to provide electric and steam service to certain customers without regard to cost of service considerations in order to be competitive with other energy sources (possibly causing the existing customers to subsidize this service).
2. CEI wished to use its own discretion for each individual case, violative of O.R.C. §9005.31 and 4905.11.

2.4 Appellate Decisions - None Specifically Applicable

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 5 of 11

Ohio Economic Recovery Initiative Approved by J. B. Barrows, R. R. Papp

Electric Rate Incentives Date Effective 6 / 88 / 93

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Appellate Treatment</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCO Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

3.0 APPELLATE TREATMENT

3.1 Methodology

Staff determines reasonable incentive rate proposals based on a combination of the following criteria:

- The term of the rate initiative is short-term; i.e. five years.
- The short run marginal revenue derived from application of the rate incentive is greater than the short run marginal cost of providing the service.
- The rate incentive applies primarily to increases in usage and load from that which occurred on a historical, or base level.
- Incremental usage and load occurs in combination with increased short-term customer production, and corresponding increases employment and local economic activity.
- The proposing utility reasonably satisfies utility specific regulatory reporting requirements for identifying and quantifying the short-term effects of the specific proposed initiative.
- The application of a rate incentive does not discriminate against other customers and does not adversely effect other customer services and rates.
- The rate initiative, terms and conditions of the proposal are understandable and is administratively convenient to apply.

3.2 Adjustments

Appropriate treatment of the Economic Recovery Rate contract customers will require modification of traditional cost of service methodology and rate treatment. In order that all customers receive benefits and that no customers be adversely affected, it is necessary to distinctly identify the special contract customers as a separate rate class. The creation of a separate customer class will assure equitable treatment for all ratepayers.

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 6 of 11

Ohio Economic Recovery Initiatives Approved by J. D. Porcari, D. R. Reed
Electric Rate Incentives Data Effective 6 / 28 / 82

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Applied Treatment</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCB Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

Special attention is directed towards treatment of the revenue difference between that actually recovered under the Economic Recovery Rate and what would have been recovered had the sales been made at the applicable standard rate. This difference is the "Delta Revenue".

If not recovered, this "Delta Revenue" would constitute a shortfall, or deficiency, in the utility's proposed or Commission authorized revenue. There are a number of methods by which the deficiency could be recovered.

Staff recommends that the Economic Recovery Rate Program contract revenue deficiency be recovered on a shared or "split" basis; a portion to be recovered by the general customers and the remainder contributed by the utility. In the Staff's opinion, it is equitable that both the benefits and the costs of economic recovery be distributed to both customers and the company. The short run marginal sales in revenue from the Economic Recovery Rate Program contracts are a benefit to both the general ratepayers and the utility. The additional sales and revenue help to utilize the system more efficiently, provide increased coverage of fixed costs, incrementally improve the utility's operating income and result in a lesser cost of service by reducing the level of capacity which otherwise would be allocated to all customer classes.

The following chart is a hypothetical example to show the magnitude of revenue and deficiency under the Economic Recovery Rate Program contracts compared to the otherwise applicable tariffed rate revenue.

ECONOMIC RECOVERY RATE PROGRAM CONTRACT COMPARISONS*

	<u>Average Tariffed Rates</u>	<u>Average Contract Rates</u>	<u>Contract Revenue Deficiency</u>
Revenue	\$ 600	\$ 600	\$ 000
Rate Base	\$1,800	\$1,800	N.A.
Operating Income	\$ 130	\$ 30	\$ 100
Rate of Return	13.3%	3.3%	100%

* This example is not reflective of any tax effects.

POLICY PRECEDENT FILE

Ohio Electric Innovative Rates Program Page 7 of 11

Ohio Economic Recovery Initiatives Approved by J. O. Morrow, C. E. Watt

Electric Rate Incentives Date Effective 6 / 26 / 83

1.0 Staff Treatment	2.0 Legal Authority	3.0 Applied Treatment
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCO Rule	3.2 Adjustments
1.3 Rationals	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

The Economic Recovery Rate Program contracts earned a 3.8% rate of return compared with the tariffed schedule rates (13.8%), resulting in a revenue deficiency of \$100 in the form of operating income. The operating income deficiency should be distributed among the individual class rates and the utility as a contribution to the economic recovery effort. Staff recommends that half of the deficiency be borne by the utility as its contribution and half of the revenue deficiency be distributed to customers in accordance with the Staff recommended interclass revenue distribution. The following chart shows a hypothetical example of the manner in which the Economic Recovery Rate Program contract revenue deficiency should be recovered.

ECONOMIC RECOVERY RATE PROGRAM DEFICIENCY RECOVERY

	<u>Residential</u>	<u>General Service</u>	<u>Other</u>	<u>Utility</u>	<u>Total</u>
Revenue	\$ 4,000	\$3,000	\$3,000	N.A.	\$10,000
Percent Revenue	40%	30%	30%	N.A.	100%
Economic Recovery Rate Program Contributions	\$ 20.00	\$15.00	\$15.00	\$50.00	\$ 100

3.3 Staff Report Language

The Economic Recovery Rate Program is designed such that each contract is evaluated separately. The individual utilities are providing information on a contract by contract basis. The review process by the Staff is evolutionary. The following is an excerpt from a recent Staff Report. This information must be looked upon as specifically tailored to this Edison Company and its contract customers. Subsequent Staff Report language may be modified to appropriately address existing circumstances.

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 0 of 11Ohio Economic Recovery Initiatives Approved by J. W. HARRIS, D. H. PUGHElectric Rate Incentives Date effective 5 / 28 / 83

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Appellate Treatment</u>
1.1 Current	2.1 Statute	3.1 Jurisdiction
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCO Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

Ohio Electric Innovative Rate Program - Ohio Edison Company
Case No. 84-1369-EL-AIX

On September 25, 1983, Staff issued its document entitled "Ohio Electric Innovative Rate Programs". The document represents an effort on the part of the Commission to separate the topics of rate levels from rate design in order to better understand utility pricing policies, philosophies and related operations. The study was prepared by the Staff and representatives of the state's investor-owned electric utilities. The participants met regularly over the course of fifteen months during 1980 and 1981 with the intention of elaborating on specific rate design objectives and activities which are conducted to support and encourage innovations. The resulting report was directed at initiating a better structure for identifying innovative rate opportunities.

Staff finds that the individual electric utility submissions to the Innovative Rate Program are beneficial to the Staff and Commission. Utility statements of rate design philosophy, policies, objectives and corresponding implementation activities provide an additional basis for better evaluating specific utility rates and rate schedule proposals. In the Staff's opinion, utility rationale of this nature should be relatively consistent with respect to desired longer term achievements and may add elements of integrity and credibility to rate proposals beyond that which may exist in case specific applications. Such a presentation by the utility may help to minimize the resources required by the Staff and Commission to evaluate rate proposals. And, Staff finds that the Innovative Rate Document could provide a basis for establishing an additional level of utility accountability, particularly with respect to authorized innovations.

Continued emphasis should be placed on promoting economic efficiencies. This can be achieved by promoting the use of the product (electricity) which will create increases in revenues and lessen the need for continual rate increase requests. It must be stressed that the goal is to more efficiently utilize existing facilities rather than creating a worse situation whereby additional facilities will need to be built to overcome a deteriorating system load factor.

Staff recommended in Case No. 83-1130-EL-AIX that within forty-five days subsequent to the issuance of the Commission's Opinion and Order, the Applicant submit to the Staff a document updating and revising the contents of its

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 3 of 31Ohio Economic Recovery Initiatives Approved by J. D. Harrison, D. R. MannElectric Rate Incentives Date Effective 6 / 29 / 88

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Applied Treatment</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCB Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

Electric Innovative Rate Program. Applicant submitted the requested information after the filing of the above case, in the format requested. Applicant also appropriately filed the up-date to incorporate any additions or revisions which included the Special Arrangements for Economic Development Program (SAED).

The SAED Program incorporates limited term billing demand discounts, as an incentive to new industrial customers to locate in Applicant's service area, and also encourages existing customers to expand their operations. In both instances exist the possibility for new or retained jobs in addition to increased revenue from sales.

Applicant has filed with the Commission, on a case by case basis, applications for Special Arrangements for Economic Development approval. Applicant is actively encouraging industrial load growth by this program to better utilize the capital investment in plant facilities and to add jobs in its service territory.

Staff believes that Applicant, prudently, is attempting to better its financial position and also the economic well-being of its customers by offering programs that will encourage the recovery of revenue from investment in plant, thereby bringing stability to its service area.

Staff finds that in each SAED filing, Applicant represented to the Commission that the approval would not operate to the detriment of any of its customers. In the instant case, Applicant did not consider the annualized impact of the loads of the customers (SAED) coming on line nor did Applicant introduce the revenue effect experienced by Applicant through the demand discount incentive. Staff has found in its investigation that, to date, the SAED customers coming on Applicant's system represent a load addition of less than 2/10 of 1% related to total system load.

In answer to Staff's Data Request, Applicant stated that "all demand and peak data in the [instant] case has been projected without regard to these programs". Applicant will propose a methodology to adjust for and appropriately split benefits when they experience a significant impact.

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 10 of 11Ohio Economic Recovery Initiatives Approved By J. W. Barrett, R. K. MayElectric Rate Incentives Date Effective 6 / 26 / 88

<u>1.0 STAFF TREATMENT</u>	<u>2.0 Legal Authority</u>	<u>3.0 APPLICANT TREATMENT</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 PUCO Rule	3.2 Adjustments
1.3 Rationale	2.3 Commission Orders	3.3 Staff Report
1.4 Background	2.4 Appellate Decisions	Language

Staff recommends that, within 60 days subsequent to the issuance of the Commission's Opinion and Order, the Commission order Applicant to submit to the Staff a report demonstrating the following:

- (1) All probable benefits, direct and indirect, to each specific customer class.
- (2) All possible detriments, direct and indirect, to each specific customer class.
- (3) A case study of an actual SAEB customer, measuring and detailing, with specificity, the revenue and expense differences between the regular rate and SAEB rate and the effect it has on the following:
 - (a) Applicant's corporate structure
 - (i) Financial
 - (ii) Production and reserve balances
 - (iii) Transmission and distribution system
 - (b) Inter class effect
 - (c) Intra class effect
 - (d) Jurisdictional service area economic impact study demonstrating the effect on, but not limited to, the following:
 - (i) Company revenue and expense
 - (ii) Property tax base
 - (iii) New jobs
 - (iv) New housing starts

POLICY PRECEDENT FILE

TITLE Ohio Electric Innovative Rates Program Page 11 of 11Ohio Economic Recovery Initiative Approved by J. D. Barron, D. E. NeaseElectric Rate Incentives Date Effective 6 / 20 / 81

<u>1.0 Staff Treatment</u>	<u>2.0 Legal Authority</u>	<u>3.0 Applied Programs</u>
1.1 Current	2.1 Statute	3.1 Methodology
1.2 Alternative Approaches - Not Current Treatment	2.2 RUC Rule	3.2 Adjustments
1.3 Rationals	2.3 Commission Orders	3.3 Staff Report Language
1.4 Background	2.4 Appellate Decisions	

(v) Support systems (i.e., new commercial development)

(vi) Other

- (4) Case studies of various load levels (i.e., 20kW, 40kW, 60kW, 80kW) employing the average load factor for the 45-Large Customer Class, and, where appropriate, using the data developed in No. 3 above as a model.
- (5) Specifically detail the criteria upon which Applicant will determine if the revenue and expense effect is significant enough to apply a methodology of treatment.
- (6) Applicant's methodology(ies) for treatment of the revenue and expense effect, caused by the program, in future rates cases.

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AK Steel CEO: Enact steel tariff immediately

Roger Newport, Opinion contributor

Published 10:46 a.m. ET March 6, 2018 | Updated 11:00 a.m. ET March 6, 2018



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We support President Trump for his bold recommendation that a global tariff on steel is necessary to defend our national security and combat the flood of imports that have been eroding America's steel industry over several decades.

Conventional trade methods haven't worked to address global overcapacity and foreign dumping. Unfortunately, we've seen that when you put a tariff on steel coming from one country, such as China, producers simply go around the law by routing the product through countries such as Vietnam.

This trend is shown by the historically high level of imports we have faced. Last year, foreign steel imports increased by 15 percent over the previous year and captured 27 percent of the U.S. market share. Yet about one-fourth of domestic steel capacity is not being utilized today.



AK Steel headquarters in West Chester Township (Photo: Provided/AK Steel)

This is why we support the Trump administration's recommendations that the Section 232 remedy must be broad-based and global as proposed – and needs to be enacted immediately. While there has been some progress on the trade front in recent years, it has been extraordinarily slow and ineffective and has come at high cost to the steel industry.

Some claim that the proposed 232 action will dramatically increase the cost of consumer goods – that is simply unfounded. During consideration of a similar action on steel in 2002, the U.S. International Trade Commission found that the action had no discernible economy-wide effects.

Exhibit B

Consider consumer costs. In automobiles, for example, software actually accounts for a much larger share of a vehicle cost than steel. The average price of an automobile in 2017 was about \$36,000. With an average of one ton of steel per vehicle, priced at \$1,000 per ton, a 25 percent tariff would raise the price of the car a fraction of one percent.

You've likely also heard the hype that this will lead to a trade war and foreign countries will retaliate. But we have been in a trade war in steel and other industries for over a decade – while we may win a few battles, we are losing the trade war. In fact, the electrical steel market conditions show why the Trump administration's actions are necessary.

When it comes to electrical steel, AK Steel is the sole remaining domestic supplier of this critical material for the electrical grid. The electrical steel market has been volatile, with dumped and subsidized foreign imports nearly doubling in 2017 versus 2016.

Electrical steel is a critical component of electrical transformers that are vital to our nation's electric grid.

Almost a decade ago, AK Steel exported electrical steel to China because China did not have the ability to produce it. China then brought an illegal trade action against us and other producers. By the time that illegal action by China was overturned by the World Trade Organization, China had developed massive electrical steel capacity and was flooding markets around the world. This excess electrical steel capacity created by China resulted in a surge of low-priced imports into the U.S., and the only other U.S. producer of electrical steel exited the business.



Union workers at AK Steel ratify new collective bargaining agreement that runs through March 2018. (Photo: Provided)

For years, certain countries have targeted U.S. industries with unfair trade practices and policies – at a great cost to American jobs. Many other countries already impose trade restrictions on U.S. steel exports, prohibiting us from even entering their markets. While the steel industry is being injured today, if the U.S. does not stand up for our domestic industries, it will be other American industries tomorrow.

We should defend affected industries and aggressively use and enforce our trade laws, such as the Section 232 provisions. We support the Trump administration's work to do this.

Roger Newport is chief executive officer of AK Steel, headquartered in West Chester.

Exhibit B



AK Steel CEO Roger
Newport (Photo: Provided)

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Summary: Comments Comments by The Office of the Ohio Consumers' Counsel
electronically filed by Ms. Jamie Williams on behalf of Healey, Christopher Mr.