

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Alternative Energy Rider)
& Auction Cost Recovery Rider for Ohio) Case No. 15-1052-EL-RDR
Power Company.)

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

I. INTRODUCTION

In this case, Ohio Power Company (“AEP”) seeks to update its charges to customers under the Alternative Energy Rider and Auction Cost Recovery Rider (“ACRR”). The ACRR is a bypassable rider, which means that AEP only charges the rider to customers who pay for AEP’s competitively bid standard service offer (“SSO”).

The Staff of the Public Utilities Commission of Ohio (“PUCO Staff”) audited the ACRR for the period June 2015 through July 2016 and determined that part of the amount AEP charged its SSO customers through the ACRR was inappropriate. The PUCO Staff determined that AEP inappropriately charged customers through the ACRR for assessments that fund the operations of the Public Utilities Commission of Ohio (“PUCO”) and the Office of the Ohio Consumers’ Counsel (“OCC”).¹ The PUCO Staff asserted that charging SSO customers for these assessments resulted in an inappropriate revenue increase for AEP.² The PUCO Staff noted that “AEP agreed to remove the PUCO and OCC assessment fees from the . . . ACRR rider” and recommended that the

¹ Staff Review and Recommendation (Feb. 27, 2017) at 2; *See also* R.C. 4911.18, 4905.10 (Utilities fund the operations of the PUCO and the OCC through assessments).

² *Id.*

PUCO “direct AEP to return to customers the PUCO and OCC assessment fees collected through the gross-up factor.”³

Because the PUCO’s orders apply to all regulated utility customers, and because OCC represents all residential customers (both shopping and SSO customers), the costs of the PUCO and OCC assessments should be paid by all of AEP’s distribution customers. The PUCO should adopt the PUCO Staff’s recommendation and direct AEP to return to customers the amount AEP charged them through the ACRR for the PUCO and OCC assessments.

II. RECOMMENDATIONS

On February 27, 2018, the PUCO Staff filed its Review and Recommendations regarding the PUCO Staff’s first annual audit of the ACRR, for the period June 2015 through July 2016. The PUCO Staff noted that AEP applied a 100.435% gross up factor to the ACRR, which included a commercial activities tax of 0.26%, a PUCO assessment fee of 0.14%, and an OCC assessment fee of 0.033%.⁴ The PUCO Staff noted that AEP had collected the PUCO and OCC assessment fees through the ACRR, despite the PUCO’s determination that these costs should not be used to fund a revenue increase for AEP.⁵ Specifically, in Case No. 13-2385-EL-SSO, PUCO Staff witness McCarter testified that “the inclusion of a revenue increase for assessments related to the PUCO and OCC is inappropriate.”⁶ Thereafter, the PUCO held that “AEP’s SSO pricing

³ *Id.* at 3.

⁴ *Id.* at 2-3.

⁵ See *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, Opinion and Order (Feb. 25, 2015) at 34.

⁶ *Id.*; *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, Prefiled Testimony of Doris McCarter (May 20, 2015) at 4.

proposal, including establishment of the . . . ACRR . . . should be approved, *subject to Staff's recommendations.*”⁷

Therefore, in its Staff Review and Recommendations in this case, the PUCO Staff recommended that the PUCO “direct AEP to return to customers the PUCO and OCC assessment fees collected through the [ACRR] gross-up factor.”⁸ OCC agrees with the PUCO Staff. AEP should not be permitted to double-charge consumers for PUCO and OCC assessment fees through both base distribution rates and the ACRR. Any PUCO and OCC assessment fees charged by AEP through the ACRR should be returned to customers.

On May 25, 2015, Interstate Gas Supply, Inc. (“IGS”) filed comments in this case.⁹ IGS argued that eliminating AEP’s recovery of the PUCO and OCC assessments through the ACRR would violate state policy and artificially depress AEP’s SSO rates for retail electricity. IGS’s argument is misguided.

The principles of cost-causation have long required that customers who benefit from a service should pay for that service.¹⁰ In this case, all of Ohio’s regulated utility customers benefit from proper regulatory oversight and representation provided by the PUCO and OCC. Therefore, all customers should contribute to paying the assessments that fund the operations of the PUCO and OCC. These costs should be allocated across

⁷ *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, Opinion and Order (Feb. 25, 2015) at 34 (emphasis added).

⁸ *Staff Review and Recommendations* at 3.

⁹ OCC opposes IGS’s untimely intervention and has respectfully requested that IGS’s intervention be denied and its comments struck. But until such a ruling occurs, OCC will address IGS’s arguments.

¹⁰ *See In re Ohio Power Co.*, Case No. 11-346-EL-SSO *et al.*, Opinion and Order (Aug. 8, 2012)(PUCO determined the PIRR was incurred by Ohio Power customers and according to cost-causation principles the PIRR should be recovered by Ohio Power customers.); *In the Matter of the Application of Ohio Power*, Case No. 14-1158-EL-ATA, Opinion and Order (Apr. 27, 2016)(The PUCO held that “the principle of cost-causation is an important regulatory principle that requires the electric utility to recover costs from the customers who cause the cost to be incurred on the electric utility”).

AEP's entire distribution customer base, not just the SSO customers who pay the ACRR. This may result in lowering AEP's standard offer rate for retail electric service, which is a good thing for those customers. This is appropriate and benefits customers.

Additionally, the PUCO should ensure that changing the manner in which AEP collects the assessments does not change the amount of the assessments. Thus, the PUCO should reject IGS's comments and adopt the PUCO Staff's recommendation to return to customers any amount that AEP charged SSO customers through the ACRR to pay the assessments during the audit period.

III. CONCLUSION

The PUCO should adopt the PUCO Staff's recommendation and direct AEP to return to customers the amount it charged SSO customers through the ACRR for the PUCO and OCC assessments. The PUCO should ensure that changing the manner in which AEP collects the assessments does not change the amount of the assessments. Finally, the PUCO should reject the comments of IGS and determine that the PUCO and OCC assessments should be collected from all of AEP's distribution customers, not just SSO customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic service, this 8th day of June 2018.

/s/ Zachary E. Woltz

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Summary: Comments Reply Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Woltz, Zachary E.