

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Update Its) Case No. 17-1156-EL-RDR
gridSMART Phase 2 Rider Rates.)

**COMMENTS ON THE PROPOSED CHARGE TO CONSUMERS FOR COSTS
ASSOCIATED WITH GRIDSMART PHASE 2
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

Ohioans pay hundreds of millions of dollars every year on projects that are supposed to modernize the electric grid and improve electric service. This case involves the annual audit of Ohio Power Company's ("AEP Ohio's") gridSMART Phase 2 rider to determine whether the charges to AEP Ohio's customers for gridSMART expenditures are reasonable and prudent.

The gridSMART Phase 2 Rider is intended as AEP Ohio's charge to customers for its on-going operations and maintenance ("O&M") expenses as well as incremental investment costs associated with the gridSMART Phase 2 program.¹ Under an earlier gridSMART Phase 1 program, AEP Ohio installed over 132,000 advanced metering infrastructure ("AMI") meters, distribution automation circuit reconfiguration technology ("DACR") on 70 circuits, and volt-var optimization ("VVO") on 17 distribution circuit

¹ See *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of its gridSMART Project and to Establish the gridSMART Phase 2 Rider*, Case No. 13-1939-EL-RDR, Opinion and Order (February 1, 2017), ¶8.

feeders.² The gridSMART Phase 2 deployment is estimated to cost approximately \$560 million and includes the installation of an additional 894,000 AMI meters over four years, DACR technology on 250 circuits, and VVO on approximately 80 circuits over six years.³

AEP Ohio filed an Application in this case on January 29, 2018 detailing its fourth quarter 2017 expenses. This application also initiated the annual prudence audit of the rider required by the Public Utilities Commission of Ohio (“PUCO”).⁴ The audit was performed by the PUCO Staff, which filed its Review and Recommendations on July 3, 2018. On August 28, 2018, the PUCO issued an Entry seeking comments on the Phase 2 rider.⁵

The Office of the Ohio Consumers’ Counsel (“OCC”) agrees with the PUCO Staff’s findings in its prudence audit. But OCC recommends that the PUCO direct the PUCO Staff to provide additional reporting. There should be additional Staff reporting on the status of the audit of the operational savings – estimated at \$200 million⁶ – that are to benefit consumers on their electric bills for the gridSMART Phase 2 program that the PUCO previously ordered.⁷ This audit is necessary to increase the \$400,000 quarterly operational savings credit that customers receive in their monthly bills. At a minimum, this report should include the scope of the audit and the specific auditor tasks, the status

² Case No. 13-1939-EL-RDR, Application (September 13, 2015), Attachment A at 2.

³ *Id.*

⁴ See Staff Review and Recommendations (July 3, 2018) at 2.

⁵ The Entry (¶8) also set a deadline of October 5, 2018 for interested persons to file a motion to intervene in this case. OCC filed its motion to intervene in this case on May 12, 2017 and was granted intervention by Finding and Order dated February 28, 2018 (¶12).

⁶ See Case No. 13-1939-EL-RDR, Opinion and Order (February 1, 2017), ¶52.

⁷ *Id.*, ¶66.

and schedule for the request for proposal (“RFP”) process, a schedule for when the audit will be performed, and the estimated date when the audit results with the actual operational savings will be publicly available. The PUCO should require the PUCO Staff to file the additional information within 30-days of issuing an order in this case (if not sooner) and in all future compliance reviews until the operational audit is completed.

II. RECOMMENDATIONS

A. The PUCO Staff’s proposed reductions of \$67,512 to the amount customers are charged through the rider appear to be reasonable and should be adopted by the PUCO.

The PUCO approved the gridSMART 2 Phase Rider on February 1, 2017 subject to a number of conditions, including the annual prudency review of the rider.⁸ After AEP Ohio filed its final quarterly update regarding gridSMART Phase 2 costs for 2017, the PUCO Staff conducted its prudency review. On July 3, 2018, the PUCO Staff filed its recommendations concerning the Phase 2 costs AEP Ohio claimed for 2017.

The PUCO Staff recommended reducing the charges customers pay through the rider by \$67,152. By far, the largest reduction to the amount customers pay is \$59,556 associated with AEP Ohio fleet services that are already being collected from customers through base rates.⁹ The remainder of the reductions include \$6,522 for meals and miscellaneous charges (such as group lunches, food and refreshments for meetings, car

⁸ Case No. 13-1939-EL-RDR, Opinion and Order, ¶37.

⁹ Staff Review and Recommendation at 3.

washes, gift cards, and other miscellaneous transactions),¹⁰ \$623 for two charges for Ohio Use Tax that were incorrectly included,¹¹ and \$451 for employee memberships.¹²

In a July 24, 2018 reply to the PUCO Staff's recommendations, AEP Ohio disagreed with most of the PUCO Staff's conclusions. AEP Ohio claims that \$300.80 of the \$451 disallowed for employee memberships was included in the reduction made to meals and miscellaneous charges.¹³ Thus, AEP Ohio would have only \$150 removed from employee memberships. AEP Ohio also disagreed with \$2,454 in employee meals that was disallowed.¹⁴ AEP Ohio claims that "there are times when meals and other miscellaneous expenses are reasonably incurred directly in conjunction with conducting business."¹⁵ AEP Ohio also claims that fleet services for gridSMART are not included in base rates.¹⁶ AEP Ohio does agree that \$22.56 of the incorrectly included use taxes should be removed from the rider charges that consumers pay.¹⁷ But AEP Ohio claims that the remaining \$600 was already removed in January 2018 in the normal course of business. Thus, AEP Ohio disagrees with this reduction to the rider charges.

Based on its own review of the charges, OCC agrees with the PUCO Staff's recommendations. It is unreasonable to expect customers to foot the bill for meals and miscellaneous expenses for AEP Ohio employees. It is particularly unreasonable given

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 2.

¹³ AEP Ohio Reply at 1.

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.* at 3.

the many AEP Ohio customers who lack sufficient access to food on a daily basis.¹⁸ In addition, the PUCO Staff has the responsibility to prevent customers from paying multiple times for the same service in base rates and through the 31 different riders that can persist on AEP Ohio customer bills.¹⁹ AEP Ohio's base distribution rates were established through a settlement in Case No. 11-351-EL-AIR.²⁰ Contrary to AEP Ohio's assertion, the settlement document in that case does not exclude fleet service expenses from other expenses that were included in base rates.²¹ Each of the adjustments proposed by the PUCO Staff appears to be reasonable and should be adopted by the PUCO.

B. The PUCO Staff should provide an update on the audit that will review the operational savings that are credited to customers quarterly.

The PUCO Staff's Review and Recommendations in this case did not mention the status of the PUCO-ordered RFP process that will result in the operational audit of gridSMART Phase 2. This audit is necessary to determine the actual amount of the operational savings credit customers are supposed to receive each quarter from gridSMART Phase 2.

Currently, a \$400,000 operational savings credit is reflected as an offset in the quarterly gridSMART Phase 2 revenue requirement.²² The operational savings are

¹⁸ <https://www.dispatch.com/news/20180126/one-third-of-families-experience-food-insecurity-double-previous-estimates>

¹⁹ Ohio Power Company Tariff, P.U.C.O. NO 20, 13th Revised Sheet No. 104-1, Applicable Riders (May 8, 2018).

²⁰ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger Is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Case No. 11-351-EL-AIR, Opinion and Order (December 14, 2011).

²¹ Case No. 11-351-EL-AIR, Joint Stipulation and Recommendation (November 23, 2011).

²² Case No. 13-1939-EL-RDR, Opinion and Order, ¶34.

intended to reflect cost reductions in meter reading and lower operating costs that AEP Ohio is benefiting from due to the gridSMART deployment. The \$400,000 quarterly operational savings credit was merely a placeholder number. It does not incorporate the additional actual savings – estimated at \$200 million²³ – that must be passed on to customers associated with the gridSMART Phase 2 deployment. The \$400,000 per quarter cost savings credit will continue until an operational audit is performed, when actual cost savings can be more accurately quantified.²⁴ The quarterly credit will then be updated to reflect actual operational savings, which should lower the gridSMART Phase 2 rider costs and the charge to customers.

In approving the gridSMART Phase 2 rider, the PUCO expressed a sense of urgency in ordering that the operational audit be conducted timely so that customers could benefit from the actual operational savings over the four-year deployment of the AMI meters.²⁵ The PUCO directed the PUCO Staff to immediately begin the RFP process.²⁶ The PUCO directed AEP Ohio to file quarterly status updates and recommendations regarding the progress of implementation and development of the operational savings credit.²⁷ Yet a full 20 months after the PUCO approved the gridSMART Phase 2 rider, there is still no meaningful status report or a timeline for when the operational audit will be conducted. According to recent reports, approximately 364,000 AMI meters have been installed by AEP Ohio – more than a third of the 894,000

²³ *See id.*, ¶52.

²⁴ *Id.*, ¶34.

²⁵ *Id.*, ¶66.

²⁶ *Id.*

²⁷ *Id.*

meters to be installed in Phase 2.²⁸ Yet the operational savings benefit of these meters that customers should be receiving in the form of lower gridSMART Phase 2 rider costs are being delayed without justification.

AEP Ohio confirmed in its Application that the RFP process for the operational audit has not been initiated.²⁹ AEP Ohio has also filed quarterly updates on gridSMART Phase 2 operational savings in Case No. 18-192-EL-UNC. The updates state only that AEP Ohio continues to provide the \$400,000 quarterly credit to customers. The most recent filing states that AEP Ohio will “provide additional updates on the RFP process and audit timeline when those processes are initiated.”³⁰

Neither the PUCO Staff nor AEP Ohio are providing meaningful information to the PUCO and the public regarding the status for completing the operational audit. Delays in implementing the operational audit contradict the PUCO’s specific directive to the PUCO Staff in the order approving gridSMART Phase 2 deployment. And even more importantly, this delay is resulting in customers being unfairly denied savings that they should be receiving as AEP Ohio deploys its gridSMART program.

The PUCO should direct the PUCO Staff to release the RFP for the operational audit of the gridSMART Phase 2 program as the PUCO previously ordered. The RFP should be released no later than 30 days after the order in this case.

²⁸ October 4, 2018 Presentation to the AEP Ohio Collaborative.

²⁹ Application at 2.

³⁰ *In the Matter of gridSMART Phase 2 Rider Operational Savings Status Update*, Case No. 18-192-EL-UNC, Correspondence (July 27, 2018).

C. To protect consumers, the tariff should state that the collections made through the rider are subject to refund, as the PUCO previously ordered in this case on February 28, 2018.

In response to AEP Ohio’s quarterly update filing in January 2018, OCC filed comments to bring to the PUCO’s attention a ruling by the Supreme Court of Ohio (“Court”).³¹ OCC noted that the Court had ruled that quarterly tariff updates that went into effect automatically were considered to be approved by the PUCO.³² Under the Court’s ruling, the “filed rate doctrine” prevented any refunds from such rates unless the tariffs specified that the rates were collected subject to refund.³³

Because of the Court’s decision – and in recognition of the PUCO’s proceeding concerning refunds due to changes in federal tax laws – the PUCO ordered that the gridSMART Phase 2 rider be collected subject to refund.³⁴ The PUCO approved the following language for the rider’s tariff: “This Rider is subject to reconciliation, including, but not limited to, refunds to customers, based upon the impact to the carrying charge rate recovered through this Rider of changes in Federal corporate income taxes due to the Tax Cuts and Jobs Act of 2017 or based upon the results of audits ordered by the Commission in accordance with the February 1, 2017 Opinion and Order in Case No. 13-1939-EL-RDR.”³⁵

³¹ OCC Comments (February 5, 2018).

³² *See id.* at 2 citing *In re Rev. of Alternative Energy Rider Contained in Tariffs of Ohio Edison Co.*, Slip Opinion No. 2018-Ohio-229.

³³ *Id.* at 3.

³⁴ Order (February 28, 2018), ¶11.

³⁵ *See* Revised PUCO No. 20 tariff – Compliance tariffs (February 28, 2018).

The PUCO should ensure that this consumer protection remains in the rider's tariff. To protect consumers, the PUCO should require that the Phase 2 rider tariff include the refund language the PUCO approved in the February 28 Order in this case.

III. CONCLUSION

The PUCO Staff appropriately recommended removing \$67,152 in improper expenses from the charges customers pay through the gridSMART Phase 2 rider. But the PUCO Staff did not provide an update on the Phase 2 operational audit that should save customers millions of dollars. AEP Ohio is currently reaping the benefits from gridSMART Phase 2 operational savings that rightfully belong to consumers. That is unfair. The PUCO should rectify this situation by requiring the PUCO Staff to issue the operations audit RFP within 30 days after the order in this case is issued (if not sooner). The operations audit should proceed without delay so that consumers can start receiving the full operational savings from gridSMART Phase 2 deployment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served on the persons stated below via electronic transmission this 12th day of October 2018.

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Summary: Comments Comments on the Proposed Charge to Consumers for Costs Associated with GRIDSMART Phase 2 by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.