

In the Matter of the Establishing the)
Nonbypassable Recovery Mechanism for) Case No. 19-1808-EL-UNC
Net Legacy Generation Resource Costs)
Pursuant to R.C. 4928.148.)

In their Joint Application for Rehearing, the Ohio Manufacturers’ Association Energy Group (“OMAEG”) and The Kroger Co. (“Kroger”) argue that the PUCO erred by imposing a monthly cap for charges to nonresidential customers on a *per account* basis. OMAEG and Kroger, who have multiple electricity accounts, argue that the PUCO should have instead capped their monthly charges on a *per customer* basis. The Office of the Ohio Consumers’ Counsel (“OCC”) has been emphatic in this case that the PUCO should prohibit any shifting of costs from non-residential consumers to residential consumers. The PUCO’s ruling on this issue was the fair approach for residential consumers.

II. ARGUMENT

To protect consumers, the PUCO should prohibit the shifting of costs from non-residential consumers to residential consumers for subsidizing the OVEC coal plants. OMAEG and Kroger assert that the PUCO should impose the monthly cost cap for non-residential consumers on a per-customer basis.¹ The OMAEG/Kroger approach could prevent the electric utilities from collecting all their subsidies for the coal plants.² Under no circumstance should residential consumers be burdened with paying any subsidies that the utilities should have collected from non-residential customers.

As proposed by OMAEG and Kroger, if a corporation has multiple (or numerous) accounts/places of business throughout Ohio, all the accounts and places of business should be considered one customer of the electric utility. And if the PUCO were to adopt a per-customer cap as proposed by OMAEG and Kroger, then the corporate parent company would only pay \$1,500 per year despite its many accounts and places of business. This could create a very large deferral balance of uncollected subsidies. Again, the PUCO should protect residential consumers from paying the subsidies that should have been collected from nonresidential customers.

For example, if a corporation has 10 places of business in Ohio, but is only considered one customer, then that customer would pay \$1,500 instead of \$15,000. And under the rate design adopted by the PUCO, that \$13,500 difference would then be charged to other non-residential customers. But the charge to non-residential customers is

¹ OHA Comments at 3-4; OMAEG Comments at 4-6.

² OCC has historically opposed making consumers pay subsidies to the electric utilities for their OVEC coal plants, but that issue was resolved in favor of subsidies under House Bill 6.

capped at \$1,500.³ So, if non-residential customers are already being charged \$1,500, but should be charged more, the difference is accounted for in a so-called deferral account for future collection from customers.⁴ But that future collection should be assessed only to non-residential customers. The apparent risk for residential customers is that, in the future, the deferral balance becomes so large that the PUCO decides it can be charged to residential customers. In other words, the PUCO could decide to shift costs from non-residential customers to residential customers to make up the difference. In fairness to residential consumers, such a proposal (and any approach leading to the situation, such as the OMAEG/Kroger rehearing application) should be rejected.

If payments to utilities by non-residential customers are at their \$1,500 cap, but residential customers are paying below their \$1.50 cap, the PUCO should ensure that residential customers are not forced to pay more to utilities to make up what the non-residential customers have avoided paying. If the PUCO were to adopt a per-customer cap for non-residential customers, any revenue shortfall (including deferral balances) should be charged exclusively to non-residential consumers. But the OMAEG/Kroger application for rehearing increases the prospect for residential consumers to be tapped to pay more subsidies (subsidies that should be paid by non-residential consumers). And the application for rehearing lacks a statement that such a result is not intended. For these reasons, the application for rehearing is unacceptable.

³ R.C. 4928.148(A)(2); Am. Sub. H.B. 6.

⁴ *Id.*

III. CONCLUSION

For residential consumer protection, the PUCO should prevent the shifting of costs from non-residential customers to residential customers. The OMAEG and Kroger application for rehearing should be denied in any regard that could lead to residential consumers paying subsidies for OVEC coal plants that nonresidential customers should be paying.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memo Contra was served on the persons stated below via electronic transmission, this 2nd day of January 2020.

/s/ Bryce McKenney
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This foregoing document was electronically filed with the Public Utilities

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1/2/2020 4:31:32 PM

in

Case No(s). 19-1808-EL-UNC

Summary: Memorandum Memorandum Contra the Joint Application for Rehearing of Ohio Manufacturers' Association Energy Group and the Kroger Company by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of McKenney, Bryce