

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE IMPLEMENTATION  
OF RATE SCHEDULES FOR COUNTY FAIRS  
AND AGRICULTURAL SOCIETIES.

CASE No. 19-1920-EL-UNC

## FINDING AND ORDER

Entered in the Journal on January 29, 2020

### I. SUMMARY

{¶ 1} In this Finding and Order, the Commission approves the applications filed by Ohio's electric distribution utilities to implement rate schedules applicable to county fairs and agricultural societies, pursuant to Amended Substitute House Bill No. 6 of the 133rd Ohio General Assembly.

### II. DISCUSSION

#### A. *Procedural History*

{¶ 2} The 133rd Ohio General Assembly adopted Amended Substitute House Bill No. 6, effective October 22, 2019, (HB 6) that, among other things, provides that each electric distribution utility (EDU)<sup>1</sup> shall file with the Commission a rate schedule applicable to county fairs and agricultural societies. R.C. 4928.80.

{¶ 3} By Entry issued October 23, 2019, in order to solicit and appropriately review the EDUs' rate design proposals, as well as consider comments from interested stakeholders, the Commission found it necessary to open the above-captioned proceeding. The Commission instructed the EDUs to file proposed tariffs implementing new rate schedules to accommodate the new rate design for county fairs and other agricultural societies on or before November 13, 2019. The Commission also allowed for responsive comments to be filed by December 4, 2019.

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<sup>1</sup> The EDUs include Ohio Power Company, Duke Energy Ohio, Inc., Dayton Power and Light Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.

{¶ 4} On November 13, 2019, the EDUs complied with the Commission's directive, filing applications to implement the rate schedules for county fairs and agricultural societies. Ohio Power Company (AEP Ohio), Duke Energy Ohio, Inc. (Duke), and Dayton Power and Light Company (DP&L) filed revised tariff sheets on January 17, 2020, December 17, 2019, and January 27, 2020, respectively.

{¶ 5} Although no responsive comments were filed before the December 4, 2019 deadline, Four A Energy Consulting Services, LLC (FAECS) filed comments on December 6, 2019, mostly in regard to Duke's application.

{¶ 6} On January 21, 2020, Staff filed its review and recommendations regarding the applications, ultimately recommending that the Commission approve the proposed tariffs filed by the EDUs. Staff filed a supplemental review on January 28, 2020, in response to DP&L's revised filing.

**B. *Summary of Applications and Comments***

**1. DUKE**

{¶ 7} In its application, as amended, Duke states that it has eligible customers currently being served under various schedules; however, the majority of them are served under the Secondary Distribution -- Small schedule (Rate DM). Duke notes that Rate DM and its associated riders do not include any demand charges, complying with the kilowatt-hour (kWh)-only rate design contemplated by H.B. 6. Duke's proposal will open Rate DM to all eligible customers.

{¶ 8} FAECS states it is submitting comments in response to Duke's November 13, 2019 filing since the majority of customers served by FAECS are in Duke's electric service territory. Further, FAECS notes that it is only submitting comments to minimize future disputes concerning Duke's proposal and encourage alignment with R.C. 4928.80. FAECS claims that the provisions of the Rate DM rate schedule currently apply to thousands of commercial and industrial customers with an average monthly demand of less than 15 kW. As such, FAECS first recommends that the Commission impose a rate schedule specific to

county fairs and agricultural societies in Duke's service territory, as the load characteristics and service needs of these customers are far different from the other customers serviced by Rate DM. Additionally, FAECS suggests that the rate schedule not be optional for county fairs and agricultural societies. As its third point, FAECS notes that the condition that a customer must request Duke to assist in the selection of the rate schedule and may change a rate if Duke is notified in writing puts an unreasonable burden on the customer and is contrary to the intent of the Ohio General Assembly. Furthermore, FAECS claims that this condition of service is not present in any other Duke rate schedule. Also concerning to FAECS is that the proposed rate schedule requires service to be separately metered; however, FAECS notes that many non-profit organizations use existing facilities that are not separately metered. Consequently, FAECS recommends that additional language be included to allow for flexibility for non-charitable organizations. FAECS also suggests that the applicability provisions reference R.C. 4928.80 and that the rate structure be modified to a flat rate, instead of a three step declining block rate structure, in order to comply with the statutory requirements. Finally, FAECS notes that the proposed rate schedule allows customers to be billed under the provisions of Rate DS, a demand-based rate, once certain demand thresholds have been met. FAECS claims that this is not compliant with the statute and the language should be modified to ensure county fairs and agricultural societies are not subject to potential demand-based charges.

## **2. AEP OHIO**

{¶ 9} In its application, as amended, AEP Ohio notes that two rates are currently applied to county fairs on a demand basis: a base distribution rate and the Energy Efficiency/Peak Demand Reduction Rider (EE/PDR Rider). In response to the Commission's October 23, 2019 Entry, AEP Ohio is proposing a new rate schedule titled Schedule County Fairs and Agricultural Societies. According to AEP Ohio, the new schedule will be applicable to all eligible customers served under current Secondary and Primary voltage schedules. As proposed, the rate schedule will include a flat monthly customer charge in addition to a kWh-basis component. Specifically, AEP Ohio notes that, after carefully reviewing possible rate designs, AEP Ohio determined that its tariff should reflect

a per kWh charge that is 40 percent of the revenue neutral revenue requirement. In addition, AEP Ohio states that its EE/PDR Rider will be modified to charge eligible customers a per bill charge equal to the current General Service 1 customers' per bill charge, instead of a demand-based charge. AEP Ohio is also requesting that the Commission grant them the accounting authority to defer the regulatory asset and deferral related to the revenue loss associated with customer migration to the proposed schedule.

**3. OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY**

{¶ 10} In their application, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) are proposing a new rider titled County Fairs and Agricultural Societies (Rider CFA). FirstEnergy states that eligible customers are currently served under FirstEnergy's distribution Rate GS (General Service-Secondary) and Rate GP (General Service-Primary). FirstEnergy explains that the customers will continue to take service under these schedules, but will be subject to the new proposed rider, which will provide a credit for all otherwise applicable demand-related rates and riders, effectively resulting in a kWh rate, consistent with H.B. 6. FirstEnergy further notes that Rider CFA includes language which states that any revenue loss associated with customer migration will be recovered through the Delta Revenue Recovery Rider (Rider DRR) or its successor.

**4. DP&L**

{¶ 11} In its application, as amended, DP&L notes that its tariffs are based on voltage levels of service, causing eligible customers to currently be served under its Primary Service or Secondary Service base distribution schedules, both of which contain demand-based components. DP&L proposes to add a provision to each of these schedules, as well as any rider that contains demand charges, which currently only includes the Transmission Cost Recovery Rider – Nonbypassable and its Rate Stabilization Charge Rider.<sup>2</sup> DP&L notes that

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<sup>2</sup> While DP&L asserted in its original November 13, 2019 application that its Distribution Modernization Rider would also include a demand component for secondary and primary voltage service, that rider was subsequently eliminated at the Commission's direction. *In re Dayton Power and Light Co.*, Case Nos. 16-

the proposed provision will replace demand charges with an average kWh charge. Additionally, DP&L states that it will track revenue loss resulting from customer migration and seek recovery in the future.

**C. *Staff Review and Recommendation***

{¶ 12} After reviewing of the EDUs' proposed tariffs, Staff believes that the proposed modifications and additions to their current tariffs comply with the Commission's Entry by implementing rate schedules that provide county fairs and agricultural societies with a rate design that either incorporates a fixed monthly service fee or an energy charge on a kWh basis. According to Staff, the EDUs have proposed various methods for the recovery of reduced revenues that may result from customers migrating to the proposed rates, including deferring the lost revenue for recovery in the future or recovering through economic development riders. Staff recommends that the reduced revenues, not otherwise recovered in a specific rider as proposed by each EDU, should be considered for recovery in each of the EDUs' economic development cost recovery riders. Finally, Staff suggests that the Commission direct the EDUs to notify their customers about the new rates and tariff schedules. Thus, Staff ultimately recommends that the applications be approved.

**D. *Commission Conclusion***

{¶ 13} Upon review of the applications, the submitted comments, and Staff's review and recommendation, the Commission finds that the proposed tariffs, as later amended by AEP Ohio, DP&L, and Duke, do not appear to be unjust or unreasonable and are consistent with the statutory requirements of R.C. 4928.80. Furthermore, pursuant to R.C. 4928.80(C), we agree with Staff that reduced revenues resulting from customer migration to the proposed rates, not otherwise recovered in a specific rider as proposed by each EDU, should be considered for recovery through the EDU's economic development cost recovery riders.

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395-EL-SSO, et al., Supplemental Opinion and Order (Nov. 21, 2019). DP&L acknowledges this rider was eliminated and no longer applicable in its supplemental filing.

Additionally, the Commission also agrees that affected customers should be notified of the resulting tariff changes discussed herein.

{¶ 14} To the extent EDUs have requested clarification as to what entities will be eligible under the proposed rate schedules, we agree with the suggestions of Duke and AEP Ohio. Specifically, Duke notes in its proposed tariff that the rate schedule is only applicable to “county fairs and agricultural societies as defined by Ohio Administrative Code 901-5.”<sup>3</sup> Similarly, AEP Ohio suggests that the Commission clarify that the use of “county fairs and agricultural societies,” as used in H.B. 6, encompasses the Ohio Agricultural Society’s list of county and independent fairs, excluding the Ohio State Fair, as produced on <https://agri.ohio.gov/wps/portal/gov/oda/divisions/amusement-ride-safety-and-fairs/resources>. After review, the Commission finds that these two proposals, in fact, result in the same eligible customer list, the outcome of which we believe is consistent with R.C. 4928.80.

{¶ 15} Despite being untimely filed, the Commission notes that no party will be prejudiced by the Commission’s consideration of the comments submitted by FAECS. As such, the Commission will briefly address its concerns. Notably, we first recognize the fact that FAECS’ comments were submitted in response to Duke’s November 13, 2019 filing, and it chose not to submit any additional filings when Duke amended its proposed tariff on December 17, 2019. As such, some of its concerns are now moot. However, we will note that this proceeding was opened to address the requirement of H.B. 6 to implement rate schedules for county fairs and agricultural societies. As such, to the extent the comments raised refer to non-profit organizations taking service under Rate DM, we find that those comments are wholly irrelevant to this proceeding. Additionally, H.B. 6 did not require a flat monthly fee, as claimed by FAECS. Instead, EDUs were given the choice to propose a rate schedule that incorporated a fixed monthly service fee or an energy charge on a kWh

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<sup>3</sup> We quickly note that “agricultural society” is defined in Ohio Adm.Code 901-5 as “a county agricultural society or an independent agricultural society which is organized and operates under the laws of the state of Ohio.” “County agricultural societies” and “independent agricultural societies” are specifically defined in R.C. 1711.01 and 1711.02, respectively.

basis, both of which eliminate demand-based charges. R.C. 4928.80(A). The applications under the Commission's review comply with those directives. Furthermore, FAECS' second and third points should also be rejected as this practice is consistent with Commission precedent when a customer may qualify for two or more alternative rate schedules. *In re the Complaint of White Plastics Co., Inc. v. Columbus & S. Ohio Elec. Co.*, Case No. 83-650-EL-CSS, Opinion and Order (Sept. 25, 1984); *In re the Complaint of PCC Airfoils, LLC v. The Cleveland Elec. Illum. Co.*, Case No. 16-2213-EL-CSS, Opinion and Order (June 28, 2018); *In re I. Schumann & Company, LLC v. The Cleveland Elec. Illum. Co.*, Case No. 17-473-EL-CSS, Opinion and Order (Oct. 3, 2018). We continue to believe that the decision to switch to an alternative applicable rate schedule should ultimately fall on the customer, after careful deliberation with its utility. Furthermore, the statute does not prescribe that the rate schedules filed with the Commission in this proceeding be mandatory for county fairs and agricultural societies. It remains their choice to switch to an alternative rate schedule, if they believe doing so would be advantageous to them.

{¶ 16} As a final matter, given that the Commission has determined that the applications do not appear to be unjust or unreasonable, we do not find a hearing to be necessary in this proceeding. Accordingly, the Commission authorizes the EDUs to file revised final tariffs to implement the rate schedules for county fairs and agricultural societies, to be effective no earlier than February 1, 2020, on a services rendered basis.

### III. ORDER

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That the EDUs' applications to implement rate schedules for county fairs and agricultural societies be approved, to the extent set forth in this Finding and Order. It is, further,

{¶ 19} ORDERED, That the EDUs be authorized to file tariffs, in final form, consistent with this Finding and Order. The EDUs shall file one copy in this case docket and one copy in their respective TRF dockets. It is, further,

{¶ 20} ORDERED, That the effective date of the new tariffs shall be a date not earlier than February 1, 2020 and the date upon which the final tariffs are filed with the Commission. It is, further,

{¶ 21} ORDERED, That the EDUs shall individually contact and notify all affected customers of the changes to the tariffs within 30 days of the effective date of the tariffs. It is, further,

{¶ 22} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 23} ORDERED, That this Finding and Order be served upon the EDUs, The Ohio State University State Extension Office, the Ohio Department of Agriculture, the Ohio Fair Managers Association, the Ohio Farm Bureau Federation, and FAECS.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Dennis P. Deters

MJA/mef



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