



Office of the Ohio Consumers' Counsel

February 25, 2021

Ms. Tanowa Troupe, Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, Ohio 43215

Re: *In the Matter of the Commission's Review of the amendment of the Rules in Ohio Adm. Code Chapter 4901:143 regarding Recovery of Infrastructure Development Costs*, Case No. 21-0010-GA-ORD

Dear Ms. Troupe:

On February 1, 2021, the PUCO conducted a workshop in this matter. These rules address the infrastructure development cost rules for natural gas utilities. OCC attended the workshop and made consumer protection recommendations. The Attorney Examiner requested OCC to put its recommendations in the docket. OCC provides the following consumer protection recommendations.

OCC recommends that a new rule should be added under Ohio Adm. Code Chapter 4901:1-43-04. The new rule should eliminate the 75-day auto-approval process for the annual update reports and changes to the infrastructure development rider (IDR) rates once the IDR has been approved. Ohio law does not appear to require an auto-approval process for the natural gas utility's annual reporting and/or for the utility's requests to modify the IDR charges to consumers. The PUCO should allow additional time for interested parties to conduct discovery.

OCC raised another concern with regard to Rule 4901:1-43-04(E)(2) which requires a Motion to Intervene and Comments on an annual report to be filed within 45 days of its filing. If the 75-day auto-approval process is not modified as OCC recommends, then the rule should be modified to require utilities to provide substantive responses to an intervenor interrogatory within seven (7) days of receipt of the interrogatory.

OCC further recommends that the minimum content for annual reports filed under Rule 4901:1-43-04(B) be enhanced. The modified rule should require the annual reports to include: 1) Identification of all projects included in the annual report and the IDR rate proposed in the annual report plus a summary of the information provided pursuant to Rule 4901:1-43-03(A) in the economic development plan application for each project; 2) A requirement for updating information that was unknown and/or waived in the economic development plan application for each economic development project; and 3) A report on the utility's audit of actual economic development project job creation/retention.

Finally, OCC recommends adding a requirement that utilities with infrastructure development riders must within two (2) years after completion of an economic development project confirm with the beneficiary who requested the economic development project that the number of jobs created and/or retained identified in accordance with Rules 4901:1-13-03(A)(3)(b) and (c) as resulting from the economic development project actually materialized. The utility should charge the economic development beneficiary a prorated amount for all jobs short of the claimed number and credit the amount to the infrastructure development rider rate set in the next annual report. The PUCO's rules should have some kind of claw back provision, similar to the provision found in the electric rules which allow the PUCO to consider claw back (4901:1-38-09(B)). This is appropriate since other customers are subsidizing the economic development project costs based on the understanding that the project will create/retain jobs and provide additional community benefits.

Ms. Tanowa Troupe, Secretary
February 25, 2021
Page Two

OCC appreciates the opportunity to present its recommendations to the PUCO on these important consumer issues and reserves the right to make additional recommendations as this Rules Review case proceeds.

Sincerely,

/s/ Amy Botschner O'Brien
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Assistant Consumers' Counsel

Copy to: Parties of Record

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Summary: Correspondence Consumer Protections by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Patricia J Mallarnee on behalf of Office of the Ohio Consumers' Counsel