

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the	)	
Ohio Development Services Agency for	)	
an Order Approving Adjustments to the	)	Case No. 21-659-EL-USF
Universal Service Fund Riders of	)	
Jurisdictional Ohio Electric Distribution	)	
Utilities.	)	

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**CONSUMER PROTECTION COMMENTS  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The Universal Service Fund provides financial assistance to Ohio's at-risk consumers to help them stay connected to their essential electric service. The Fund essentially finances the low-income Percentage of Income Payment Plan ("PIPP"). The assistance enabled by the Fund is paid for through charges to all Ohio electric consumers, and not paid by utilities. Additionally, the PIPP auction process results in the basis for the electric generation charges that at-risk consumers pay in the PIPP program.

OCC is concerned that the current electric generation charges to PIPP consumers by AEP and AES, which are based on the PIPP electric auctions, are unlawfully high. This result seems to be the second time that PIPP charges to AEP and AES consumers have been unlawfully high since the 2015 statute, R.C. 4928.542(B). At-risk consumers should not be charged unlawfully high rates under the PIPP program. And Ohio consumers who pay for the Universal Service Fund should not be charged unlawfully high rates (riders) that are escalated as a result of unlawfully higher electric rates being charged to (and unpaid by) PIPP consumers.

The present AEP and AES charges are above the prices resulting from similar auctions used by those electric utilities for their standard service offers. Those results – where generation

charges to PIPP consumers are higher than charges to the utilities' standard offer consumers – are not allowed by R.C. 4928.542(B). That 2015 law requires “Reduc[ing] the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer....” The PUCO and Ohio Development Services Agency (“ODSA”) should ensure that future universal-service-fund auctions result in charges to consumers that are reduced relative to the results of standard-offer auctions.

On June 1<sup>st</sup>, the ODSA filed to inform the PUCO and others about its plans for adjusting the riders for the Universal Service Fund (“USF”) that consumers will pay for electric bills effective January 1, 2022.<sup>1</sup> In a June 16th Entry, the PUCO gave stakeholders an opportunity to comment on ODSA’s proposals.

In the following Comments, the Office of the Ohio Consumers’ Counsel (“OCC”) recommends that the PUCO implement the 2015 statute to ensure reducing charges to PIPP consumers below the electric standard offer auction results. One approach for consumer protection would be to set a ceiling for the Universal-Service-Fund auctions at the standard-offer clearing price so that PIPP consumers cannot be assessed a higher unlawful charge.

## **II. THE PUCO AND ODSA SHOULD FOLLOW THE LAW AND “REDUCE” ELECTRIC CHARGES TO PIPP CONSUMERS RELATIVE TO CHARGES RESULTING FROM STANDARD-OFFER AUCTIONS.**

The Universal Service Fund rider is the statutory funding mechanism for the ODSA to administer low-income assistance programs including the electric Percentage of Income Payment Program and the Electric Partnership Program (“EPP”).<sup>2</sup> PIPP is a special payment plan for the

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<sup>1</sup> *Id.* at 3.

<sup>2</sup> R.C. 4928.51 and R.C. 4928.52.

protection of at-risk Ohioans. Income-eligible consumers can have their electric bills calculated as a percentage of the monthly household income rather than being billed the utility's standard electric service charges. Customers on the electric PIPP program currently pay six percent of their monthly income as an electric bill.<sup>3</sup> PIPP customers who heat with electricity pay ten percent of their monthly household income as an electric bill.

Under the electric PIPP program, consumers who pay their electric PIPP bill in-full and on-time receive additional incentives and credits to help them avoid incurring additional debt. The Electric Partnership Program is statutorily structured to provide an energy efficiency and weatherization program targeted towards high-cost and high usage electric PIPP customers.<sup>4</sup>

In its filing, ODSA describes an arrangement between the ODSA and PUCO where the PUCO designs, manages, and supervises the aggregation process for PIPP customers.<sup>5</sup> The costs associated with the aggregation are embedded within the administrative costs that ODSA seeks to collect from consumers in the USF.<sup>6</sup>

Since 2015, Ohio law has required the aggregation of PIPP customers through a competitive auction process for the supply of electricity.<sup>7</sup> The legislature has mandated explicit requirements for the selection of the winning competitive bid.<sup>8</sup> The law (R.C. 4928.542) requires the PIPP auction process to comply with each of the following:

(A) Be designed to provide reliable competitive retail electric service to percentage of income payment plan program customers;

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<sup>3</sup> Ohio Administrative Code 122:5-3-04(A).

<sup>4</sup> R.C. 4928.55.

<sup>5</sup> ODSA NOI at 10.

<sup>6</sup> *Id.*

<sup>7</sup> R.C. 4928.54.

(B) Reduce the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer established under sections 4928.141, 4928.142, and 4928.143 of the Revised Code;

(C) Result in the best value for persons paying the universal service rider under section 4928.52 of the Revised Code.<sup>9</sup>

Thus, under Ohio law, the PIPP auction result should be that PIPP consumers pay their percentage of generation charges based on auction rates that are reduced lower than the SSO auction rates. But both the AEP and the AES generation rates used as a basis for charging PIPP consumers are currently higher than the generation rates for residential consumers served under the SSO. That results in unlawfully high charges to PIPP consumers.

R.C. 4928.542 was enacted in the 2015 budget bill, H.B. 64. The Ohio Legislative Service Commission Bill Analysis of H.B. 64 addressed the changes to the method of procuring electric service under the PIPP program established in Ohio law. According to LSC, the bill's goal was to reduce PIPP costs by requiring a winning bid to reduce the cost of the PIPP program relative to the otherwise applicable standard service offer established under Ohio law.<sup>10</sup> Ohio law now has explicit requirements for the selection of the winning competitive bid.<sup>11</sup>

Here are charts to show the AES and AEP charges at issue. According to the AES/DP&L tariffs,<sup>12</sup> the following rates apply for non-PIPP (standard offer) residential consumers and for PIPP consumers.

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<sup>9</sup> *Id.*

<sup>10</sup> *Ohio Legislative Service Commission Bill Analysis*, H.B. 64 (131<sup>st</sup> G.A.) at 466.

<sup>11</sup> R.C. 4928.542.

<sup>12</sup> *In the Matter of the Application of the Dayton Power and Light Company d/b/a AES Ohio to Modify its Standard Offer Rate (SOR)*, PUCO Electric Tariff No. 17, Case No. 21-0357-EL-RDR, Twenty-Second Revised Sheet, No. G10, Effective June 1, 2021.

	<u>Non-PIPP</u>	<u>PIPP</u>	<u>Difference</u>
Residential All kWh	\$0.0480511	\$0.0517713	\$0.00337202 <sup>13</sup>
Residential Heating	<u>Non-PIPP</u>	<u>PIPP</u>	<u>Difference</u>
All kWh (Summer)	\$0.0480511	\$0.0517713	\$0.0037202
All kWh (Winter)	\$0.0412832	\$0.0444746	\$0.0031914

According to the AEP Ohio tariff,<sup>14</sup> the following rates apply for non-PIPP (standard offer) residential consumers and for PIPP consumers.

Residential	<u>Non-PIPP</u>	<u>PIPP</u>	<u>Difference</u>
Generation Energy Rider per kWh	\$0.0314	\$0.03215	\$0.00075 <sup>15</sup>
Generation Capacity Rider per kWh	\$0.01717	\$0.01717	

Ohio law requires that PIPP rates be reduced as compared to the applicable SSO rate.<sup>16</sup> Yet in the five years since the PIPP auctions were initiated, the DP&L and AEP Ohio PIPP rates were higher than the SSO rates in two of the five years.<sup>17</sup> That result is a violation of R.C. 4928.542. A solution can be accomplished by setting a ceiling for future PIPP auctions at the SSO clearing price. The PUCO should also address providing a remedy for any electric utility charges to any consumers that were unlawfully high, including for PIPP consumers and for consumers who paid the rider for the Universal Service Fund.

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<sup>13</sup> The additional USF costs for serving a PIPP customer who uses an average 850kWh per month is \$2.86 per month and \$34.39 annually.

<sup>14</sup> *In the Matter of the Application of the Generation Energy and Generation Capacity Riders of Ohio Power Company*, Case No. 21-558-EL-RDR, AEP Ohio P.U.C.O. No. 20, 6<sup>th</sup> Revised Sheet No. 467-1 and 9<sup>th</sup> Revised Sheet 468-1, Effective June 1, 2021.

<sup>15</sup> The additional USF costs for serving a PIPP customer using 850 kWh per month is \$0.64 per month and \$7.68 annually.

<sup>16</sup> R.C. 4929.542(B).

<sup>17</sup> 2021 and 2018.

### III. CONCLUSION

The PUCO should adopt the consumer protections in OCC's Comments. Those protections should include compliance with the intentions of the legislature in R.C. 4928.542 that the results of PIPP electric generation auctions be reduced relative to standard-offer auctions. Those protections should extend to PIPP consumers and to consumers who pay for the funding of the PIPP program and other consumer assistance programs.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 6th day of July 2021.

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

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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