THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ESTABLISHING THE SOLAR GENERATION FUND RIDER PURSUANT TO R.C. 3706.46.	**CASE NO. 21-447-EL-UNC**

ENTRY ON REHEARING

Entered in the Journal on September 8, 2021

I. SUMMARY

{¶ 1} The Commission denies the application for rehearing filed by the Ohio Manufacturers' Association Energy Group on August 13, 2021.

II. DISCUSSION

A. Procedural Background

{¶ 2} Am. Sub H. B. 128 (H.B. 128), which was signed into law on March 31, 2021, and became effective on June 30, 2021, required the Commission to establish a rate mechanism for the retail recovery of costs related to the solar generation fund for the period up to December 31, 2027. R.C. 3706.46

{¶ 3} With respect to the establishment or operation of the rate mechanism, the Commission was required to: (1) determine the method to allocate the revenue requirement to each electric distribution utility (EDU) based on the relative number of customers, relative quantity of kilowatt hour (kWh) sales, or some combination of these factors; (2) ensure rate increases that are (a) not to exceed ten cents per month for residential, (b) not to exceed two hundred forty-two dollars per month for industrial customers eligible to become self-assessing purchasers, and (c) avoidant of abrupt or excessive total net bill impacts for typical nonresidential customers; and, (3) provide that the charges it approves are subject to adjustment to reconcile actual collected revenues with the required annual revenues. R.C. 3706.46

{¶ 4} On July 14, 2021, the Commission established the Solar Generation Fund Rider (Rider SGF) in compliance with the H.B. 128 mandates. Among other terms, Rider SGF was

established at an annual amount of $20 million by (1) setting a monthly charge for residential customers at $0.10, and (2) recovering the remaining solar generation fund costs from non-residential customers through a dollar per kWh rate for each non-residential customer's usage up to 833,000 kWhs per month, with charges for non-residential customers eligible to become self-assessing purchasers expressly capped at $242 per month. Further, in regard to implementing the rider, we determined that (1) recoveries shall begin on a bills rendered basis beginning November 1, 2021, (2) EDUs shall begin sending recoveries to the solar generation fund by December 1, 2021, and (3) recoveries for 2021 shall be prorated such that the $20 million requirement shall be reduced by the months that were not subject to collection this calendar year.

{¶ 5} Pursuant to R.C. 4903.10, any party to a Commission proceeding may apply for rehearing with respect to matters determined by the Commission within 30 days after the Commission order is journalized.

{¶ 6} The Ohio Manufacturers' Association Energy Group (OMAEG) filed an application for rehearing on August 13, 2021, seeking the Commission's reconsideration of our decision as to five claimed assignments of error.

{¶ 7} The Dayton Power and Light Company (DP&L) filed a memorandum contra OMAEG's application for rehearing on August 23, 2021.

B. Summary of the Application for Rehearing and Memorandum Contra

{¶ 8} OMAEG asserts five assignments of error, each of which was previously addressed and rejected as part of our consideration of this matter: (1) Rider SGF was improperly established at a revenue requirement that exceeds the amount required for disbursement from the solar generation fund; (2) Rider SGF was unlawfully established on a "per account" instead of a "per customer" basis; (3) Rider SGF was improperly established with a $242 monthly cost cap to any nonresidential customers eligible to become self-assessing purchasers, instead of only industrial customers eligible to become self-assessing

customers; (4) Rider SGF unlawfully includes CAT; and (5) Rider SGF was unlawfully established without requiring tariff refund language.

{¶ 9} In its memorandum contra application for rehearing, DP&L opposed OMAEG's claimed errors in regard to whether Rider SGF (1) was lawfully established on a "per account" basis, and (2) should include CAT amounts.

C. Commission Conclusion

{¶ 10} We reject the arguments raised by OMAEG and affirm our decision from July 14, 2021.

{¶ 11} Relative to establishing Rider SGF at an annual amount of $20 million, we disagree with OMAEG's claim that the language in R.C. 3706.46(A)(1) permits, let alone requires, our independent judgment as to the amounts required to be collected by Rider SGF. We disagree with OMAEG's claim that the word "sufficient" within the statute somehow requires us to independently determine the annual amounts required to be collected by the rider. Instead, we affirm our plain reading of the statute, which is that the rider must produce a $20 million annual revenue requirement.

{¶ 12} Relative to our determination to establish Rider SGF on a "per account" rather than "per customer" basis, we disagree with OMAEG's claimed error. As we described, we previously considered and rejected OMAEG's argued interpretation as to "customer" rate cap language in R.C. 4928.148(A)(2), which addressed the establishment of the prior LGR Rider. *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Entry (Nov. 21. 2019) at ¶27 (LGR Rider Case); Entry on Rehearing (Jan. 15, 2020) at ¶13. In its consideration of H.B. 128, which included establishing "customer" rate caps in R.C. 3706.46, the legislature was aware of our interpretation of its prior directive. Yet the legislature did not act to change the language in the manner that OMAEG claims is consistent with its

intention as to this issue. We find that the legislative action to not change the rate cap language as part of H.B. 128 demonstrates agreement with our interpretation as to this issue.

{¶ 13} Relative to whether Rider SGF was improperly established with a $242 monthly cost cap applicable to any nonresidential customers eligible to become self-assessing purchasers, instead of only industrial customers eligible to become self-assessing customers, we reject OMAEG's claimed error. As we described, the monthly cost cap applicable to all nonresidential customers is consistent with our approach in the LGR Rider Case and CAF Case[1], mitigates bill increases across nonresidential customers, and is consistent with the legislative direction to establish the rider in a manner that avoids rate shocks and unreasonable bill outcomes. Accordingly, we affirm the rate caps as we previously outlined.

{¶ 14} Relative to whether CAT amounts are properly included for recovery in Rider SGF, we again reject OMAEG's claimed error. Consistent with our analysis earlier herein, the legislature was aware of our prior statutory interpretation as to this issue, which disfavored reducing rider recoveries to account for any CAT offset, when it enacted H.B. 128. We clarify that the residential customer charge of $0.10 per month is the fixed amount required by the statute without regard to any CAT offset and is not subject to further adjustment. Subject to this clarification, we affirm that the enactment of H.B. 128 without any modification regarding CAT recoveries speaks to the legislative intent as to this issue. Accordingly, we reject OMAEG's claimed error.

{¶ 15} Relative to whether Rider SGF was lawfully established without requiring tariff refund language, we reject OMAEG's claimed error. Again, we stress that our prior rulings in the LGR Rider Case and CAF Rider Case signaled our interpretation that the Commission lacked authority to establish refund mechanisms beyond those provided in statute. LGR Rider Case at ¶31; CAF Rider Case at ¶23. Had the legislature intended for us

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1 *In the Matter of Establishing the Clean Air Fund Rider Pursuant to R.C. 3706.46*, Case No. 20-1143-EL-UNC, Entry (Aug. 26, 2020) at ¶19 (CAF Rider Case).

to take a different approach in establishing SGF Rider, it would have modified the enacting language in H.B. 128 to signal that intention - it did not. Accordingly, we affirm our interpretation that R.C. 3706.55(B) precludes the Commission from imposing any refund language beyond the reconciliation and refund provision described therein.

{¶ 16} For the reasons stated above, the Commission finds that OMAEG's application for rehearing should be denied.

III. ORDER

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That the application for rehearing filed by OMAEG on August 13, 2021, be denied. It is, further,

{¶ 19} ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record.

COMMISSIONERS:
Approving:
Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Dennis P. Deters

MLW/hac

Summary: Entry denying the application for rehearing filed by the Ohio Manufacturers' Association Energy Group on August 13, 2021 electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio