

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company for Authority to)
Establish a Standard Service Offer) Case No. 23-23-EL-SSO
Pursuant to Section 4928.143, Revised)
Code, in the Form of an Electric Security)
Plan)

In the Matter of the Application of Energy)
Ohio Power Company for Approval of) Case No. 23-24-EL-AAM
Certain Accounting Authority)

**TESTIMONY RECOMMENDING MODIFICATION OF THE STIPULATION
OF
ROBERT B. FORTNEY**

On Behalf of
Office of the Ohio Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215

September 20, 2023

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1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4 ***A1.*** My name is Robert B. Fortney. My business address is 65 East State Street, Suite
5 700, Columbus, Ohio 43215. I am a Rate Design and Cost of Service Analyst for
6 the Office of the Ohio Consumers' Counsel ("OCC"), employed through Sterling
7 Staffing Services.

8

9 ***Q2. WHAT ARE YOUR RESPONSIBILITIES AS RATE DESIGN AND COST OF***
10 ***SERVICE ANALYST?***

11

12 ***A2.*** I am responsible for investigating utility applications regarding rate and tariff
13 activities such as tariff language, cost of service studies, revenue distribution, cost
14 allocation, and rate design that impact the residential consumers of Ohio. My
15 primary focus is to make recommendations to protect residential consumers from
16 unreasonable and unjustified utility rate increases and unfair regulatory practices.

17

18 ***Q3. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.***

19 ***A3.*** I earned a Bachelor of Science degree in Business Administration from Ball State
20 University in Muncie, Indiana in 1971. I earned a Master of Business
21 Administration degree from the University of Dayton in 1979.

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1 **Q4. PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE AS IT**
2 **RELATES TO UTILITY REGULATION.**

3
4 **A4.** From July 1985 to August 2012, I was employed by the Public Utilities
5 Commission of Ohio ("PUCO"). During that time, I held a number of positions
6 (e.g., Rate Analyst, Rate Analyst Supervisor, Public Utilities Administrator) in
7 various divisions and departments that focused on utility applications regarding
8 rates and tariff issues. In August 2012, I retired from the PUCO as a Public
9 Utilities Administrator, Chief of the Rates and Tariffs Division, which focused on
10 utility rates and tariff matters. The role of that division was to investigate and
11 analyze the rate- and tariff-related filings and applications of the electric, gas, and
12 water utilities regulated by the PUCO and to make Staff recommendations to the
13 PUCO regarding those filings. I joined the OCC in December of 2015 as a Rate
14 Design and Cost of Service Analyst.

15
16 **Q5. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE**
17 **PUCO?**

18
19 **A5.** Yes. When I worked at the PUCO, I testified on numerous occasions to advocate
20 to the PUCO the positions of the PUCO Staff. Over the course of my career at the
21 PUCO, I often recommended to the PUCO cost allocation methodologies needed
22 to develop a reasonable distribution of utility revenues. I also was responsible for
23 recommending reasonable rate designs needed to recover the revenue
24 requirement, by class of service and in total.

1 In addition, I have submitted testimony for OCC in several proceedings since
2 joining its staff.

3

4 **II. PURPOSE OF TESTIMONY**

5

6 ***Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***
7 ***PROCEEDING?***

8

9 ***A6.*** The purpose of my testimony is to explain and support OCC's position and
10 recommendations protecting residential consumers as it relates to the Joint
11 Stipulation and Recommendation filed in these proceedings on September 6,
12 2023.¹

13

14 ***Q7. WHAT SPECIFIC PROVISION IN THE SETTLEMENT WILL YOU BE***
15 ***ADDRESSING?***

16

17 ***A7.*** I will be addressing provision G. IRP Tariffs 16. The current IRP-L demand credit
18 of \$9/Kw month will be reduced to \$8/Kw month on the effective date of the new
19 ESP then to \$7/Kw month in the second year of the ESP, and \$6/Kw month in the
20 third and fourth years of the ESP. There will be an IRP-L minimum demand
21 credit of 70% of the PJM Base Residual Auction price during the entire ESP
22 term.²

¹ Joint Stipulation and Recommendation, filed on September 6, 2023 in Case No. 23-23-EL-SSO, et al.

² Joint Stipulation, p. 15.

Q8. WHAT DID THE APPLICATION PROPOSE REGARDING THE IRP-L DEMAND CREDITS?

A8. The Legacy Customers IRP (“IRP-L”) for the two existing Legacy Customers for up to 200 MW of interruptible capacity will continue through the end of ESP term (May 8 31, 2030). The Company proposes a reduction in the \$/kW credit associated with the IRP-L over the ESP term. The proposal is to gradually step down the credit from \$9 per kW to \$4 per kW or a reduction of a \$1 per kW per year effective June 1st each year starting June 1, 2025, through the ESP V term. If at any time the IRP-L credit drops below the IRP-E credit, the IRP-L credit will be equal to the IRP-E credit.³

III. DISCUSSION OF THE ISSUES

Q9. WHAT IS THE OCC'S POSITION REGARDING THE IRP DEMAND CREDITS?

A9. The phase-down in the Settlement does not go far enough nor fast enough. OCC recommends the credits be reduced by \$1.25 per year such that the Year 1 credit is \$7.75, the year 2 credit is \$6.50, the year 3 credit is \$5.25, and the year 4 credit is \$4.00.

Q10. WHY IS \$4.00 KW DAY A REASONABLE CREDIT?

A10. The \$4.00 KW Month is representative of the Market Clearing Price for capacity in the AEP zone as established by PJM in its Base Residual Auction plus the

³ Testimony of Jaime L. Mayhan, January 6, 2023, p. 19, Case No. 23-23-EL-SSO, et al.

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1 unquantifiable benefits of reliability and economic benefits that the interruptible
2 credits provide.⁴ The “price” for interruptible service should reflect the market
3 price for a very comparable product (capacity in the AEP zone) as closely as
4 possible, for consumer benefit.

5

6 ***Q11. WHAT IS THE PUCO’S THREE-PART TEST FOR EVALUATING***
7 ***STIPULATIONS?***

8

9 ***A11.*** In considering the reasonableness of a stipulation, the PUCO uses the following
10 criteria: (1) Is the stipulation the product of serious bargaining among capable,
11 knowledgeable parties? (2) Does the stipulation, as a package, benefit ratepayers
12 and the public interest? (3) Does the stipulation violate any important regulatory
13 principles or practices?

14

15 ***Q12. DO YOU HAVE AN OPINION ON WHETHER THE SECOND AND THIRD***
16 ***PRONGS WERE MET?***

17

18 ***A12.*** The interruptible credits in the Settlement are simply too high. This is confirmed
19 by the fact that they are substantially higher than a very comparable product
20 (capacity in the AEP zone). Such high credits, paid for by consumers, do not
21 benefit consumers and the public interest.

22

23 Further, a regulatory principle and practice of regulation is that rates should, to
24 the extent possible, reflect costs. Regarding interruptible credits, we have a very

⁴ The PUCO has previously found that the IRP programs have reliability and economic benefits. *See generally*, Case No. 16-1852-EL-SSO, Opinion and Order (April 25, 2018) at 57, 58.

1 close market price proxy to represent the costs of those credits – the Market
2 Clearing Price for capacity in the AEP zone as established by the PJM Base
3 Residual Auction. The PUCO should use that price when establishing the
4 interruptible service credit. Additionally, charging consumers such a large amount
5 for interruptible service above and beyond a comparable, market-based price does
6 not result in just and reasonable rates to consumers in violation of Ohio law.⁵
7 Accordingly, the interruptible service credit violates important regulatory
8 principles and practices.

9

10 **IV. RECOMMENDATIONS**

11

12 ***Q13. SO, WHAT IS YOUR RECOMMENDATION?***

13 ***A13.*** To protect consumers, the Settlement should be modified as I describe above.

14

15 **V. CONCLUSION**

16

17 ***Q14. DOES THIS CONCLUDE YOUR TESTIMONY?***

18 ***A14.*** Yes. However, I reserve the right to incorporate new information that may
19 subsequently become available. I also reserve the right to supplement my
20 testimony in the event that AEP, the PUCO Staff or other parties submit new or
21 corrected information in connection with this proceeding.

⁵ R.C. 4905.22.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Testimony Recommending Modification of the Stipulation of Robert B. Fortney on Behalf of the Office of the Ohio Consumers' Counsel was served on the persons stated below via electronic transmission, this 20th day of September 2023.

/s/ William J. Michael

William J. Michael

Assistant Consumers' Counsel

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Summary: Testimony Testimony Recommending Modification of the Stipulation of Robert B. Fortney on Behalf of the Office of the Ohio Consumers' Counsel electronically filed by Ms. Alana M. Noward on behalf of Michael, William J..