Electric

Introduction and Overview

The Office of the Ohio Consumers' Counsel (OCC) had several successes in 2011 reducing charges to residential customers' electric bills.

American Electric Power (AEP) customers benefited from the return of $43 million in significantly excessive earnings and $78 million of unjustified charges related to its 2009-2011 electric security plan. AEP customers also were protected from paying an extra $93 million in base distribution charges and received an additional benefit totaling more than $50 million after the OCC reached an agreement with the utility.

Residential customers served by Duke Energy Ohio received the benefit of lower electric bills in 2012 after an agreement with the OCC and others was reached that reduced total bills by about 17.5 percent.

The OCC's work also aided FirstEnergy customers who do not have to pay $135 million in charges the utility wanted to pass on to customers for voluntarily changing regional transmission organizations.

Many other benefits also were secured in 2011 that will help consumers better manage their energy costs. Among these were the addition and expansion of energy efficiency programs for AEP and FirstEnergy.

The OCC has long supported the use of cost-effective energy efficiency programs to help customers save money on their monthly electric bills. Energy efficiency programs have proven to be valuable tools to reduce customers' need for electricity without sacrificing their comfort or lifestyle. Data from 2010 shows AEP spent $33 million and saved customers $160 million through energy efficiency. Similarly, Duke Energy Ohio spent $23 million and saved customers $112 million while Dayton Power and Light spent $12 million and saved customers $67 million.

OCC prevails at Supreme Court of Ohio, secures approximately $78 million for AEP customers

American Electric Power's (AEP) customers received about $78 million in credits after the Supreme Court of Ohio unanimously agreed with the position of the Office of the Ohio Consumers' Counsel (OCC). The Court's ruling was related to the utility's electric security plan for 2009 – 2011.

The Court in April ruled 7-0 in favor of the OCC on three issues, ruling the Public Utilities Commission of Ohio (PUCO) unlawfully allowed AEP to: charge customers retroactive rates; collect charges for the utility's claimed risk to provide default electric generation service for shopping customers; and recover carrying charges on environmental investments.

Regarding AEP's collection of retroactive rates from customers, the Court agreed with the OCC that the PUCO had unlawfully granted $63 million in "additional rates to make up for regulatory delay." Unfortunately, customers did not receive a full refund of what they paid because the laws prohibiting retroactive rates also disallow refunds, the Court said. Under current law, the Court determined a refund only would have been possible if a bond had been posted, which was not financially possible for the OCC. The Court also said the legislature would have to change the bond requirement for public agencies on PUCO matters for a refund to be possible.

The Court also accepted the positions of the OCC and Industrial Energy Users that there was no evidence AEP's $456 million in provider of last resort (POLR) charges were based on any actual costs the utility would incur.

The OCC's final success in this case was related to $330 million in carrying charges on environmental investments. The Court found the PUCO allowed AEP to collect carrying charges, contrary to Ohio law. The OCC asserted carrying charges for environmental investments AEP made prior to 2009 should not be allowed. Carrying charges include costs for a return on investments, depreciation, administrative costs, income taxes and property taxes.

The Court's ruling resulted in the case being sent back to the PUCO for further consideration of the issues of carrying charges on environmental investments and the POLR charge. The OCC advocated for the return of the charges collected and a reduction in rates of $787 million for AEP customers after the Court's ruling. Throughout the case, the OCC argued AEP failed to prove it incurred actual costs to support the POLR charges.

The PUCO, in an Oct. 3 decision, found AEP failed to support the previously approved POLR charges. That finding resulted in a benefit to all customer classes of about $78 million.

Residential customers specifically saved $28 million because of the OCC's efforts.

In 2012, the OCC filed an additional appeal at the Supreme Court of Ohio to return the remaining $367 million in POLR charges. A decision could be made by 2013.

Supreme Court of Ohio Case No. 2009-2022
PUCO Case Nos. 08-917-EL-SSO, 08-918-EL-SSO

$43 million in excessive earnings returned to AEP's Columbus Southern Power customers

Customers served by American Electric Power's (AEP) Columbus Southern Power utility had $43 million returned to them in 2011 after the Public Utilities Commission of Ohio (PUCO) found the utility earned significantly excessive profits in 2009.

The return was only a fraction of the up to $156 million the Office of the Ohio Consumers' Counsel (OCC) and the Ohio Energy Group recommended the company should have returned to customers. The OCC recommended all of Columbus Southern Power's profits above 11.58 percent be considered excessive. The utility posted earnings of more than 20 percent in 2009, making it the most profitable electric utility company in the United States.

Part of the refund was used to pay $16 million in deferred fuel costs, while the remainder was returned to customers in the form of bill credits. The average residential customer received a bill credit of $1.34 per month in 2011.

Ohio law requires that an electric utility show the PUCO that each year of its electric security plan their earnings are not significantly excessive when measured against the earnings of comparable public companies. This significantly excessive earnings test is an important protection for customers against paying excessive rates (a detailed analysis of the OCC's advocacy in this case can be found in the OCC's 2010 Annual Report).

Case Nos. 10-1261-EL-UNC, 10-656-EL-UNC, 10-1265-EL-UNC

OCC helps achieve zero base distribution increase for AEP customers

The advocacy of the Office of the Ohio Consumers' Counsel (OCC) and others protected American Electric Power (AEP) residential customers from paying an increase in base distribution rates after an agreement was signed in November.

The agreement eliminated AEP's proposal to increase base distribution rates by $93 million and provided an additional benefit of more than $50 million to residential customers from January 2012 through May 2015. The agreement also provided $1 million annually through May 2015 to help low-income families pay their electricity bills, and saved customers $124.4 million by allowing AEP to begin collecting deferred costs one year earlier than was previously approved by the Public Utilities Commission of Ohio (PUCO) and lowering the carrying charge rate. AEP's original proposal to change the way it charges residential customers was dropped under the agreement.

Also approved was a three-year pilot program, proposed by the OCC and supported by others, that will protect customers from AEP earning too much distribution revenue related to

Customer choice in electricity gains momentum in 2011

Options for residential customers to choose their electric generation service provider became more of a reality in 2011.

Third-party competitors in each of Ohio's four investor-owned electric utilities' territories were able to offer customers cheaper alternatives. In some instances, customers were offered savings of 18 percent off the utility's price to compare.

The price to compare is the amount a competitive supplier would have to beat in order for a customer to save on an electric bill. This includes the cost of electric generation, transmission and some miscellaneous charges. It does not include distribution costs, which customers continue to pay to their utility company even if they choose a competitive supplier.

As a result of increased competition in electric generation service, the Office of the Ohio Consumers' Counsel (OCC) created a useful fact sheet that allowed residential consumers to compare their electric options among competitive suppliers in their territory.

The "Comparing Your Electric Choices" fact sheet quickly became a popular informational resource consumers downloaded from the OCC's website, www.pickocc.org, after it was introduced May 12.

By the end of 2011, electric choice-related information, including the OCC's choice chart, "Electric Choice 101" and "Consumer Protections in Electric Choice" fact sheets, were the website's second-most popular topic next to the OCC's natural gas choice fact sheets consumers have long relied upon to make informed decisions about choosing their natural gas supplier.

As electric competition continues to grow, the OCC's information serves as a valuable tool consumers can use to know what options are available and how to make the best choice for themselves and their families.

state-mandated energy efficiency programs. The utility will be fairly compensated for distribution revenues it would lose because of energy efficiency.

The pilot program is designed to unlink AEP's distribution revenues and profits from its electricity sales. Customers will be protected by a 3 percent cap for any annual increases attributed to lost distribution revenue, but any decreases leading to customer credits have no cap. The pilot program also removes the lost revenue barrier so customers can benefit from all cost-effective energy efficiency programs available.

The PUCO approved the agreement among the OCC, AEP and other parties in December. The outcome of this case may be subject to change based on further events in 2012.

Case Nos. 11-351-EL-AIR, 11-352-EL-AIR, 11-353-EL-ATA, 11-354-EL-ATA, 11-356-EL-AAM, 11-358-EL-AAM

OCC, Duke and others reach agreement that lowers costs for customers in 2012

The Office of the Ohio Consumers' Counsel (OCC) reached an agreement with Duke Energy Ohio and others in 2011 that lowered the electricity costs for residential customers by 17.5 percent in 2012.

The agreement on Duke's electric security plan established multiple competitive auctions to price electric generation service from January 2012 to May 2015. The OCC has long supported competitive auctions to help lower the price of electricity for customers.

The Public Utilities Commission of Ohio (PUCO) approved the agreement Nov. 22.

In addition to the competitive auctions, the plan included new non-bypassable charges, supported economic development, provided help to low-income customers for weatherization and continued the residential renewable energy credit program.

The agreement approved by the PUCO is different than the plan Duke Energy originally proposed in June. In that plan, Duke sought to price electricity for 10 years and included several elements, such as developing a charge that would allow the utility to collect electricity delivery costs without the same level of regulatory scrutiny traditionally given to such charges.

Earlier in 2011, Duke proposed a market rate option that was rejected by the PUCO in February. The PUCO ruled the plan did not follow state law that requires a gradual transition in its generation costs from its current rate structure to the market.

Case Nos. 11-3549-EL-SSO, 11-3550-EL-ATA, 11-3551-EL-UNC, 10-2586-EL-SSO

OCC objects to AEP settlement; PUCO modifies

Rates for American Electric Power's (AEP) residential customers were allowed to increase after the Public Utilities Commission of Ohio (PUCO) approved a modified settlement in December 2011 for the utility's January 2012 through May 2016 electric security plan. The Office of the Ohio Consumers' Counsel (OCC) and others recommended rejection of AEP's settlement because it unfairly increases rates to residential customers.

The OCC urged the PUCO to protect residential customers by, among other things, rejecting base generation rate increases that were excessive and over-allocated to residential customers, and by denying AEP the ability to charge customers for distribution system investments that also were included in its distribution rate increase request. The OCC also recommended the PUCO deny AEP's proposed distribution investment charge, which accelerates the collection of an average $100 million per year, because it did not benefit consumers and AEP did not prove the charge was necessary.

The PUCO's December decision, which denied in part the settlement, was followed by a February 2012 decision in which the PUCO rejected the settlement in its entirety and set rates at their 2011 level.

Case Nos. 11-346-EL-SSO, 11-348-EL-SSO, 10-2376-EL-UNC, 11-349-EL-AAM, 11-350-EL-AAM, 10-343-EL-ATA, 10-344-EL-ATA, 10-2929-EL-UNC, 11-4920-EL-RDR, 11-4921-EL-RDR

Some FirstEnergy all-electric discounts to be phased out

FirstEnergy customers who heat their homes with electricity will see generation credits they have received in the past phased out by 2018. The Public Utilities Commission of Ohio (PUCO) ordered the gradual removal of the discounts in May 2011 – about 17 months after unusually high electric bills caused rate shock for these customers and prompted state officials, including the Office of the Ohio Consumers' Counsel (OCC), to intervene.

Beginning in the fall of 2013, the generation credit (Rider RGC) will be phased out in six equal reductions through 2018. Two other credits, for distribution service and economic development (Riders EDR and RDC), will continue for all-electric customers and be unaffected by the PUCO's May 2011 order.

In addition to the gradual removal of the generation credit, it only will apply to customer's bills from Oct. 31 to March 31. The credits for distribution service and economic development will be in effect for the entire winter heating season, from Sept. 1 to May 31.

Monthly Residential Electric Heating Credits in 2012

Cleveland Electric Illuminating

- Rider EDR: 1.9 cents for usage above 500 kWh
- Rider RDC: 1.7 cents for usage above 500 kWh
- Rider RGC: 4.2 cents for all usage*

Ohio Edison

- Rider EDR: 1.9 cents for usage above 500 kWh
- Rider RDC: 1.77 cents for usage above 500 kWh
- Rider RGC: 3.9 cents for usage above 1,250 kWh*

Toledo Edison

- Rider EDR: 1.9 cents for usage above 500 kWh
- Rider RDC: 1.76 cents for usage above 500 kWh
- Rider RGC:1.8 cents for all kWh above 2,000*

* This credit will be phased out by 2018 in equal decreases over six years.

The OCC advocated for permanently maintaining each of the credits for all-electric customers. The OCC proposed that credits for distribution service and economic development remain unchanged and that a mechanism be created for the generation credit so customers would keep discounts at percentage levels consistent with their past discounts.

Other results of this case included:

- As long as the generation credit is available, it will stay with the home (current and future residents) if electricity remains the primary source of energy to heat the home;
- FirstEnergy will be allowed to collect the revenue shortfall as a result of the generation credit from residential customers. This includes costs deferred since March 2010; and
- The PUCO ruled that FirstEnergy did not use unfair or deceptive marketing tactics to entice residential customers or home builders to commit to electric heating.

The OCC advocated that FirstEnergy should be prohibited from charging customers for any deferred costs resulting from credits given to all-electric customers.

The OCC also advocated that the all-electric case was similar to a reasonable arrangement often available to Ohio businesses that receive discounts based on the large amounts of electricity they use. Since FirstEnergy buys its electricity on the market and all-electric customers use a significant amount of electricity, the OCC argued the credits should remain because it is cheaper for FirstEnergy to serve those customers, and the utility can buy electricity at a lower price to benefit all customers.

Throughout its advocacy, the OCC remained in close contact with legislators and all-electric customers, specifically the Citizens for Keeping the All-Electric Promise, a group of residents affected by the issue. The OCC staff also helped thousands of individual consumers who contacted its call center, and heard directly from public officials and consumers during legislative meetings, public meetings and local public hearings during 2010.

Case No. 10-176-EL-ATA

OCC, other advocates request power plant refund after 5-year deadline passes

The Office of the Ohio Consumers' Counsel (OCC) and other consumer advocates requested the Public Utilities Commission of Ohio (PUCO) begin the refund process of $23.7 million, plus interest, to customers in connection with a power plant proposed, but never completed by American Electric Power (AEP). The request was based on a PUCO requirement that refunds to customers would begin if AEP did not begin construction on the plant within five years of June 2006.

AEP was allowed to charge customers for preconstruction and research costs of an integrated gasification combined-cycle power plant (IGCC) that it never built. Customers paid the costs over 12 months, ending June 2007.

After appeal, the Supreme Court of Ohio in 2008 required the PUCO to re-evaluate its 2006 order that allowed AEP to charge customers for the IGCC plant. To date, the PUCO has not revisited its decision.

The PUCO also did not address the advocates' request to begin the refund process in 2011.

In 2005, Columbus Southern Power and Ohio Power filed an application seeking approval to construct a 629-megawatt IGCC power plant in Meigs County. Even as cost estimates for the power plant continued to increase, the PUCO approved collections from customers for the initial stage of the project. The costs of a similar IGCC power plant being constructed in Indiana are expected to total about $2.9 billion.

Case No. 05-376-EL-UNC

OCC proposals result in 50% reduction of storm costs

Duke Energy Ohio customers were saved from paying $14.4 million in storm-related costs because of a number of recommendations made by the Office of the Ohio Consumers' Counsel (OCC). The Public Utilities Commission of Ohio in January disallowed about half of Duke's $28.5 million request.

The OCC had advocated for a $23.3 million reduction to Duke's request after the utility included inappropriate labor expenses, and said its operating and maintenance costs should have been collected over a longer period of time. Additionally, the OCC was able to get Duke to lower its original request by $850,000 for costs that should have not been allowed in the case. In total, the OCC's advocacy saved consumers more than $15.2 million in this case (a detailed analysis of the OCC's advocacy in this case can be found in the OCC's 2010 Annual Report).

Case No. 09-1946-EL-RDR

Federal Cases

OCC shields Duke customers from paying hundreds of millions of dollars in RTO deal

Duke Energy Ohio customers received several benefits related to the utility's switch in regional transmission organizations (RTOs) after an agreement was reached among the Office of the Ohio Consumers' Counsel (OCC), Duke, the Ohio Energy Group and the staff of the Public Utilities Commission of Ohio (PUCO) in April.

The agreement allowed Duke to move forward with its business decision to switch from the Midwest ISO to PJM Interconnection beginning January 2012, in exchange for several consumer protections. The OCC's advocacy provided significant contributions that protected customers from several costs associated with the switch. Customers will not:

- Pay for the first $121 million in costs allocated to the Duke territory for PJM transmission projects;
- Pay fees for Duke to integrate into PJM Interconnection, fees to leave the Midwest ISO, or any internal costs accrued by Duke related to the switch; and
- Be harmed by any costs charged to Duke regarding long-term transmission rights.

Duke also committed to take legal action that could lower transmission costs it could still be responsible for in the Midwest ISO. Customers also will see benefits in electric choices after Duke agreed not to increase wholesale capacity charges between January 2012 and May 2016 for competitive electric suppliers.

The PUCO approved the agreement in May, and Duke completed its transition to PJM Interconnection in 2011.

Case Nos. 11-2641-EL-RDR, 11-2642-EL-RDR

OCC saves FirstEnergy customers from paying $135 million in unfair costs

The Office of the Ohio Consumers' Counsel (OCC) protected FirstEnergy's residential customers from paying more than $135 million in costs related to the utility's request to change regional transmission organizations (RTOs).

In a May 31 decision, the Federal Energy Regulatory Commission (FERC) accepted the arguments of the OCC and others that FirstEnergy's transmission company, American Transmission Systems, Inc. (ATSI), could not charge customers for costs related to its business decision to move from the Midwest ISO to PJM Interconnection.

The OCC was the only state agency to advocate that the FERC hold ATSI responsible for the costs of the switch, based on ATSI not proving FirstEnergy's customers would see any benefits.

The FERC decision required ATSI to remove several charges related to the switch. These included charges related to the decision to leave the Midwest ISO, charges for the costs to integrate into PJM Interconnection, and charges for the costs of transmission projects in the Midwest ISO that were approved for construction before FirstEnergy switched to PJM. The majority of the charges would have been recovered over 30 years and could have reached up to $614 million because of financing charges.

A FirstEnergy settlement of its electric security plan, which the OCC opposed, would have permitted the utility to increase charges to customers associated with the RTO switch. The OCC argued customers should not be responsible for charges permitted by the settlement that were a direct result of FirstEnergy's business decision to switch RTOs.

FERC Case No. ER11-2814

Resource Planning

OCC advocates for smart grid privacy consumer protections

As utilities in Ohio continue the development of smart grid projects to improve service and increase options for consumers, the collection of consumer information is a matter of growing concern. In 2011, the Office of the Ohio Consumers' Counsel (OCC) offered several recommendations regarding smart grid privacy and data access after the Public Utilities Commission of Ohio (PUCO) sought input about these issues.

Smart grid technologies can increase the amount of energy usage information transmitted among customers, utilities and third parties in an effort to allow for customers to use energy smarter and save money. This information is collected in such a way that it may reveal details about the number of household members, whether they are at home or away, socioeconomic information, and more. Such detailed and personal consumer information requires the development of significant privacy protections for consumers, the OCC said.

In its comments, the OCC offered several privacy protection and data access recommendations for the PUCO to consider in any rules it makes to protect consumers. Among the OCC's recommendations, the following issues should be examined:

- What information is necessary and appropriate to be disclosed and how;
- How increased energy usage data will be collected, controlled, managed, and distributed, and who can obtain access to it;
- The ability of consumers, particularly at-risk, vulnerable populations, to understand, manage and control the privacy of their energy usage information; and
- Government/law enforcement surveillance and the protection of consumers' right to privacy.

To better understand how to address these issues, the OCC suggested that formal proceedings be held, standards be created in a rulemaking, working groups be used to discuss, analyze and propose solutions to privacy and data access issues, and the PUCO should hold public workshops for interested consumers.

At the national level, the OCC helped draft a resolution for the National Association of State Utility Consumer Advocates (NASUCA) urging state and federal officials to adopt laws and regulations that require electric utilities to protect the privacy rights of their residential consumers. The resolution was adopted by the 44-member organization in November, and authorized the NASUCA executive committee to adopt specific positions and take action to protect consumer privacy.

The OCC's advocacy on smart grid privacy included the coordination of policy positions to support NASUCA in comments filed in 2010 at the U.S. Department of Energy. The Energy Department requested comments and information from utility stakeholders regarding current and potential practices in smart grid privacy and data access.

PUCO Case No. 11-277-GE-UNC
Federal Register 75 FR 26203

OCC helps develop renewable energy programs for AEP customers

Two programs were introduced for American Electric Power (AEP) residential customers in 2011 that will help them make renewable energy projects more affordable.

The Office of the Ohio Consumers' Counsel (OCC) was instrumental in the development of the programs that will provide financial support for residential customers and help AEP add to its requirements to meet the state's renewable energy benchmarks.

One program will pay customers who own solar or wind energy for the renewable energy credits (REC) created by the electricity they generate. The other will provide customers who want to install solar or wind energy with an upfront payment for agreeing to assign the credits created from the project to AEP. The programs were initially approved for two years.

The renewable energy credit purchase program for existing renewable energy owners will allow customers to sell whole RECs (1,000 kilowatt-hours per REC) to AEP for 15 years. The upfront renewable energy incentive program is available for new wind and solar energy projects. AEP has agreed to make available $5 million in incentives for residential customers of Columbus Southern Power and Ohio Power to invest in renewable energy.

Case Nos. 09-1871-EL-ACP, 09-1872-EL-ACP, 09-1873-EL-ACP, 09-1874-EL-ACP

OCC helps improve AEP efficiency programs

American Electric Power (AEP) customers are expected to save $880 million on their electric bills by implementing energy efficiency measures between 2012 and 2014. In November, the Office of the Ohio Consumers' Counsel (OCC) reached an agreement with AEP, the staff of the Public Utilities Commission of Ohio (PUCO) and others to extend existing energy efficiency programs, and start new ones that will benefit consumers.

These energy efficiency measures were developed through an extensive collaborative process among the OCC, AEP and other stakeholders.

The existing energy efficiency programs were improved to provide additional incentives to customers and increase energy savings. The improvements include:

- Energy Efficient Products: The program will be expanded to include incentives for LED and specialty compact fluorescent light bulbs, rebates for efficient clothes washers, televisions, dishwashers and more, and discounts for high-efficiency electric space heaters and water heaters;
- Appliance Recycling: The program also will provide incentives for recycling room air conditioners in addition to old refrigerators and freezers; and
- In-home Energy Audit: The audit program is planned to be jointly delivered with Columbia Gas of Ohio at a cost of $50. Customers who complete the audit will be offered incentives for cost-effective improvements.

The new program will become available for residential customers in 2012 and is designed to encourage residential customers to take actions to save energy and use electricity more efficiently. The program will encourage customers to apply relevant conservation and efficiency measures, such as adjusting thermostats, unplugging appliances, and turning off unnecessary lights, among others, to increase energy efficiency.

Energy efficiency programs have proven to be an effective means to save energy and help consumers control their energy costs. In 2010, for example, AEP spent $33 million on energy efficiency programs that saved consumers $160 million. The cost of saved energy, estimated to be 1.6 cents per kilowatt-hour for the duration of the plan, is considerably cheaper than the higher costs of building and operating any type of power plant.

Case Nos. 11-5568-EL-POR, 11-5569-EL-POR

FirstEnergy energy efficiency programs approved

Energy efficiency programs were approved by the Public Utilities Commission of Ohio (PUCO) for FirstEnergy's residential customers in 2011. Seven programs were made available to residential customers, including a controversial energy efficient light bulb program. The Office of the Ohio Consumers' Counsel (OCC) supported a majority of the efficiency programs approved but was against several costs included in the lighting program.

The OCC's advocacy, with others, was able to remove hundreds of thousands of dollars in storage fees resulting from FirstEnergy's original compact fluorescent light bulb program, but several other types of costs the OCC opposed were allowed by the PUCO. FirstEnergy originally introduced the lighting program in 2009 and put it on hold after customers objected to being given light bulbs they did not ask to receive.

The OCC recommended about $1 million in marketing costs, personnel costs and management fees be denied, asserting FirstEnergy could not prove the costs were reasonable or provided benefits to customers.

The light bulb program was altered to be completely voluntary. It is now one of seven energy efficiency programs intended to help customers save on their electric bills. The other voluntary programs included: an online energy audit, appliance turn-in, home energy audit, rebates for energy efficient products, direct load control and efficient new homes.

Case Nos. 09-1942-EL-EEC, 09-1943-EL-EEC, 09-1944-EL-EEC, 09-1947-EL-POR, 09-1948-EL-POR, 09-1949-EL-POR