

INDIVIDUAL ELECTRIC UTILITIES' RATE HISTORY AND RATE PLANS¹

February 2016²

Do Not Forget About Restructuring Regulators (Federal, Regional, State & Local)

This is the 20th year for this energy and customer-focused conference. Thanks to the hard work of the Manufacturers' Education Council ("MEC") and the energy conference planning group, this annual event is the best such conference in the Nation.

Each year, several hundred representatives of businesses, schools, local government, utilities and regulators, as well as other stakeholders, have assembled to improve our collective ability to act on opportunities and identify plus manage the risks ahead.

Before this conference started, incumbent electric utilities were inclined against participating in a customer-focused conference where real customers were in the same room with the utilities. Perhaps the greatest contribution of this conference results from the beneficial impact on a dysfunctional utility/customer relationship that was getting in the way of our collective ability to succeed based on merit. There is always room for improvement, but each year there has been continuous improvement.

When this conference started, Ohio had just adopted legislation that restructured the natural gas sector. Much of this restructuring work had been completed prior to the passage of this legislation as a result of reforms introduced by the PUCO to bring relief from natural gas supply shortages that were significantly harming Ohio. The gas restructuring legislation followed similar legislation focused on the communications sector where innovation and technology advances demanded change at the state and federal level. The effort to restructure the electricity sector loudly followed the reforms in the

¹ The law firm of McNees Wallace & Nurick LLC ("MWN") prepared this document to chronicle the evolution of Ohio's approach to the regulation of investor-owned electric utilities. It is MWN's hope that the information assembled in this report will facilitate efforts to obtain price and service quality outcomes that are customer-driven. This report and the activities we undertake on behalf of Ohio businesses are made possible thanks to the efforts of Kevin Murray, Executive Director of the Industrial Energy Users-Ohio ("IEU-Ohio"), Debbie Ryan, Vicki Leach-Payne, Karen Bowman, Renee Gannon, Joe Bowser, Matt Pritchard, Frank Darr and Scott Elisar, with able assistance from John McGough. The views expressed herein are the views of the individual contributors to this report and not the views of IEU-Ohio or any other client which has been or will be represented by MWN.

² Author's Note – Information on the status of any Public Utilities Commission of Ohio ("PUCO") case identified herein can be obtained via the PUCO's website using the menu item for the PUCO's Docketing Information System ("DIS") at <http://dis.puc.state.oh.us/> by inserting the case number in the "Case Lookup" box.

natural gas and communications sectors and implementing reforms in this sector continues to provide some very bumpy rides for the customers who were supposed to be better off as a result of the reforms.

There was and is a common origin to the reforms in the communications, natural gas and electricity sectors. In each case, courts, regulators or both looked at the state of the then-existing network industry and concluded, without objection, that the industry structure had become anticompetitive. More than anything else, efforts to restructure the then-existing industry structure were all motivated by a desire to remedy the anticompetitive industry structure.

But many of the decisions that had to be made to remedy this unhealthy condition were left to regulators who were comfortable in the company of monopolies or uncomfortable with markets that improve outcomes in ways that reduce the control of regulators. The challenges of an aging regulatory workforce and inadequate attention to needed compensation levels and skill sets have also made it hard to replenish and improve the quality of the regulatory talent pool in ways that might allow regulators to better adapt to their new role.

It has been about 45 years since Ohio was the first state in the Nation to unbundle natural gas commodity supply, transmission and distribution services and give retail customers comparable and non-discriminatory access to delivery systems, irrespective of their choice of commodity supplier. While the Ohio General Assembly has bolted new Chapters of the Ohio Revised Code onto the portfolio of older laws delegating authority and imposing duties on the PUCO, there has, in all this time, been no serious look at how this authority and these duties need to be restructured to better serve the public interest. Similar observations can be made with regard to what has happened in the natural gas and communications context. In some ways, the PUCO often finds itself serving two masters who direct the PUCO in conflicting directions.

In the many pages that follow, you will find details of what has happened in important cases dealing mostly with electricity. Here, you may notice the tension and conflict that is occurring (unnecessarily, in my view) because we have attempted to restructure the relationship between utilities or competitive suppliers and customers without giving much attention to the fact that our regulators are using an operating system or software that is obsolete and, in some cases, no longer supported. The more we continue to ignore this problem, the greater the risk that the system will fail in a public interest sense.

The rest of this report is located on the Manufacturers' Education Council's website at: www.mecseminars.com.