

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Long-Term Forecast)
Report of Ohio Power Company and) Case No. 10-501-EL-FOR
Related Matters.)

In the Matter of the Long-Term Forecast)
Report of Columbus Southern Power) Case No. 10-502-EL-FOR
Company and Related Matters.)

ENTRY

The attorney examiner finds:

- (1) On April 15, 2010, pursuant to the requirements of Rule 4901:5-1-03, Ohio Administrative Code (O.A.C.), Ohio Power Company (OP) and Columbus Southern Power Company (CSP) (jointly, AEP-Ohio or the Company)¹ filed their 2010 long-term forecast report (LTFR). The LTFR contains information on AEP-Ohio's energy demand, peak loads, and reserves, as well as a resource plan that AEP-Ohio can implement to meet anticipated demand.
- (2) On December 20, 2010, AEP-Ohio filed a supplement to its LTFR to offer supporting information concerning its intent to enter a capital leasing arrangement for a total of 49.9 megawatts (MW) of solar energy resources, known as the Turning Point project, to facilitate compliance with its solar energy benchmarks under Section 4928.64, Revised Code.
- (3) Section 4935.04(D)(3), Revised Code, requires that the Commission hold a public hearing on a company's LTFR upon the showing of good cause to the Commission.
- (4) On January 12, 2011, Staff filed a motion for a hearing in these cases.
- (5) By entry issued on January 26, 2011, the attorney examiner found that the addition of over 49 MW of solar energy

¹ By entry issued on March 7, 2012, the Commission approved and confirmed the merger of CSP into OP, effective December 31, 2011. *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376-EL-UNC.

resources was a significant addition in generating facilities sufficient to justify review of AEP-Ohio's LTFR and, therefore, granted Staff's motion for a hearing. The hearing was scheduled to commence on March 9, 2011.

- (6) The hearing was convened, as scheduled on March 9, 2011, and continued to permit Staff to complete its investigation and to allow for settlement discussions.
- (7) On November 21, 2011, AEP-Ohio and Staff filed a partial stipulation and recommendation (stipulation), which would resolve all of the issues raised in these proceedings. Pursuant to the stipulation, AEP-Ohio and Staff recommend that, based on resource planning projections submitted by the Company pursuant to Section 4928.143(B)(2)(c), Revised Code, and the provisions of Section 4928.64(B)(2), Revised Code, that require the Company to obtain alternative energy resources, including solar energy resources located in Ohio, the Commission should find that there is a need for the 49.9 MW solar facility known as the Turning Point project during the LTFR planning period as described in the stipulation.
- (8) By entry issued on February 29, 2012, the attorney examiner scheduled the hearing to reconvene on March 28, 2012.
- (9) The hearing reconvened, as scheduled, on March 28, 2012. Initial briefs were filed by the parties on April 25, 2012, and reply briefs were filed on May 4, 2012.
- (10) By entry issued on September 5, 2012, the Commission reopened the record in these proceedings, pursuant to Rule 4901-1-34(A), O.A.C., and established a briefing schedule for the limited purpose of permitting additional briefing on certain specified issues related to the need for the Turning Point project.
- (11) On October 3, 2012, the Retail Energy Supply Association (RESA) and Interstate Gas Supply, Inc. d/b/a IGS Energy (IGS) filed initial comments in response to the September 5, 2012, entry.

- (12) On October 9, 2012, AEP-Ohio filed a motion to strike the initial comments of RESA and IGS, along with a request for expedited treatment. In its motion, AEP-Ohio argues that the Commission's September 5, 2012, entry did not solicit comments from interested stakeholders, as RESA contends. AEP-Ohio asserts that, because RESA and IGS are not parties to these proceedings, they should not be permitted to file the additional briefs requested of the parties in the entry. AEP-Ohio notes that RESA and IGS did not attempt to seek intervention or leave to file comments and, even if they had done so, RESA and IGS would not meet the criteria for intervention, particularly at this late stage in the proceedings. Additionally, AEP-Ohio argues that the comments of RESA and IGS should be stricken, as they are irrelevant and outside the scope of the narrow issues identified in the September 5, 2012, entry. AEP-Ohio adds that RESA and IGS seek to introduce new evidence into the record, well after the conclusion of the evidentiary hearing, and without an opportunity for the parties to question the new evidence. Finally, AEP-Ohio requests expedited treatment of its motion, due to the risk of further prejudice to the record. AEP-Ohio notes that reply briefs must be filed by October 17, 2012, and urges the Commission to prevent the filing of potentially prejudicial reply comments by non-parties.
- (13) On October 17, 2012, RESA and IGS filed a joint memorandum contra AEP-Ohio's motion to strike. Initially, RESA and IGS note that they interpreted the Commission's September 5, 2012, entry as an open request for additional information regarding the need for the Turning Point project. RESA and IGS further note that they participated significantly in AEP-Ohio's most recent electric security plan (ESP 2) proceedings, and raised concerns with respect to the nonbypassable nature of the Company's proposed Generation Resource Rider, which would include the costs of the Turning Point project. RESA and IGS emphasize that the Commission indicated in its opinion and order in the ESP 2 proceedings that the need for the Turning Point project would be determined in AEP-

Ohio's LTFR proceedings.² Given the Commission's opinion and order in the ESP 2 proceedings and the reopening of the record in the present cases for consideration of certain issues related to the Turning Point project, RESA and IGS explain that they believed that an opportunity was extended to them to provide the additional information requested in the September 5, 2012, entry. RESA and IGS add that due process requirements will not be met, if the Commission should determine that comments will only be accepted from those stakeholders that were granted intervention in these cases before AEP-Ohio had even requested a nonbypassable charge for the Turning Point project. RESA and IGS argue that, if their comments are not considered, the Commission must either establish a comment period so that interested stakeholders may address the question of need for the Turning Point project, or address the Turning Point project in AEP-Ohio's next LTFR case.

Additionally, RESA and IGS assert that their comments are relevant and within the scope of the issues identified in the September 5, 2012, entry, and that they were not precluded from filing comments merely because they are not parties. RESA and IGS also contend that AEP-Ohio has demonstrated no prejudice and that they have not attempted to introduce new evidence into the record. Finally, RESA and IGS request that their joint memorandum contra be considered a motion to intervene or, alternatively, *amicus* comments, if the Commission should determine that only existing parties may respond to the September 5, 2012, entry.

- (14) The attorney examiner finds that AEP-Ohio's motion to strike should be denied at this time. Initially, the attorney examiner emphasizes that the Commission's September 5, 2012, entry clearly requested additional briefs from the parties to the proceedings, rather than comments from all interested stakeholders. However, the attorney examiner finds that it is appropriate to grant RESA's and IGS' request that their joint memorandum contra be considered

² In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer, Case No. 11-346-EL-SSO, et al., Opinion and Order at 23-24 (August 8, 2012).

a motion for intervention in these proceedings. The request is warranted under the unique circumstances of these LTFR proceedings and their close association with the ESP 2 proceedings, in which the Commission stated that the need for the Turning Point project would be determined as part of the LTFR proceedings.³ In light of the fact that the joint memorandum contra should be treated as a motion to intervene in these proceedings, AEP-Ohio may file a memorandum contra the motion to intervene, consistent with Rule 4901-1-12, O.A.C., and a ruling on RESA's and IGS' motion for intervention will be issued at the appropriate time.

It is, therefore,

ORDERED, That AEP-Ohio's motion to strike the comments of RESA and IGS be denied. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

JRJ/sc

³ *Id.*

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in

Case No(s). 10-0501-EL-FOR

Summary: Attorney Examiner Entry denying AEP-Ohio's motion to strike the comments of RESA and IGS. - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio