

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.)	

**OHIO POWER COMPANY MEMORANDUM CONTRA
IEU'S MOTION TO TAKE ADMINISTRATIVE NOTICE OR IN THE
ALTERNATIVE TO REOPEN THIS PROCEEDING
OR TO SUPPLEMENT THE RECORD**

Introduction

Just as the Commission publicly noticed this case on its action agenda for decision the Industrial Energy Users-Ohio (IEU) decided to take one last stab at distracting the Commission from acting by filing a motion to add evidence to or to reopen the record. The information IEU seeks to add is purported to not be subject to dispute and new in fact and nature so much that it necessitates administrative notice or reopening of the proceeding. However, the updated data provides nothing new in relation to the evidence sponsored and discussed at hearing and the Commission should deny IEU's last second efforts to distract the Commission from acting on the settlement agreement filed by the Staff and Ohio Power Company to resolve this matter.

Argument

Ohio Power respectfully opposes IEU's attempt to supplement the record or reopen the record to reiterate arguments already asserted in cross-examination and brief. The Company points out that IEU failed to provide a witness at the actual evidentiary hearing and that IEU is simply attempting to add evidence to the record well after the close of the evidentiary hearing to overcome its lack of sponsoring any evidence at the outset or again when the Commission reopened the proceeding.

The sum and substance of the IEU motion is to provide the Commission with up to date accurate data that is beyond debate. However, the data as presented by IEU does not appear to be as accurate as IEU would have the Commission believe. In fact, a closer inspection of the applications cited in the Exhibit shows that most of the project WM nameplate ratings approved are listed with their pre-conversion DC or direct current MW nameplate ratings and not AC or alternating current MW nameplate ratings. Both the Ohio transmission and distribution systems are AC systems, so any certified project approved and listed on the basis of a DC MW nameplate rating would be subject to a 15-20% loss factor when converted to AC. The numbers presented by IEU are not as they would appear. That point was not discussed by IEU and illustrates the danger of a party filing a motion to reopen or supplement a closed evidentiary record without the opportunity for response two days before the Commission has announced it intends to act on a proposed order in the case. At a minimum the numbers and data must be subject to reasonable debate and therefore not subject to administrative notice as indicated by IEU.

There are other problems with the data asserted by IEU to prove the case it could not prove at the evidentiary hearing. The same situation exists as did at hearing that

projects in the PJM queue list and even those certified by the Commission do not always translate into “on line” service. Upon a cursory review of the list attached to IEU’s motion as Exhibit 1 some of the projects certified are not “on line” (e.g. 12-1762 and 12-1754). This same concern of not knowing if proposed projects would be built existed at the time of the hearing when counsel for IEU questioned the Staff witness. Staff indicated it was looking at the big picture and testified that it did not know what would happen not just in 2012 (as IEU is attempting to assert it knows) and also beyond, but it knew that Turning Point filled a longer term need. Staff witness Bellamy stated that “[a]ll we know is what’s actually built right now. And based on what’s built right now we run out of compliance needs in just a couple of years. Tr. at 119. The Staff did not deny that new capacity is added and will continue to be added. Based on an initial review of the 2012 data provided, the 2012 additions put the total at 67 MW of in-state (when converted to AC). There is still a "need" for additional capacity until a total (for estimation purposes) of 242 MW (AC) of in-state solar is constructed/certified (see AEP Exhibit 1, Prefiled Testimony of Direct Testimony of William Castle at 10 -this is the total MW required by 2025 based on assumptions of retail sales, capacity factors, etc.) . IEU simply seeks to add information to the record that shows what is already established – that as we stand here today: in-state solar resources are needed.

It should also be pointed out that the majority of the items on Exhibit 1 are rooftop installations. Rooftop units are not as productive as utility scale projects. Even the filings supporting the rooftop installations indicate an expectation of 10-20% less on annual generation/capacity factor as compared to a project done on a utility scale. Again

the numbers presented by IEU do not appear to provide the Commission the clear picture IEU paints. The data presented should not be added to the record.

The IEU comparison of adding evidence to the record in the recent AEP gridSMART case (PUCO Docket 12-509) is also not appropriate. The AEP Ohio gridSMART case was not a case that held a specific evidentiary hearing where all parties had the right to sponsor witnesses and conduct cross-examination. The AEP Ohio gridSMART case used a comment process and AEP Ohio submitted additional comments to present new information that was responsive to an issue raised in another party's comments. Here, the Commission not only utilized a full blown litigation process (discovery, evidentiary hearing, public hearing, written briefing) but also scheduled a round of supplemental briefs after that process. It is far too late in the process and unfair for IEU to submit new evidence. In the gridSMART case, AEP Ohio filed its supplemental comments the month following closure of the original comments cycle and more than a month prior to the Commission's decision. Here, IEU filed its additional evidence after the case was scheduled for decision on the Commission's agenda and only two days prior to the scheduled decision. Their request is untimely and unreasonable.

It is curious that this motion was filed once the case appeared on the agenda for Commission action. Even the affidavit admits that Mr. Kevin Murray did not look at the 2012 data until January 7, 2013 –coincidentally the agenda indicating a proposed order would be on the January 9, 2013 agenda was published on January 3, 2013. The data presented by IEU was gathered by December 10, 2012. IEU did not need to wait until two days before the announced Commission action was set to take place to provide this

analysis. The Commission should see this for what it is -- a last second Hail Mary filed to distract the Commission from acting as intended on January 9, 2013.

Conclusion

AEP Ohio respectfully requests the Commission to see through the latest attempt to add to this docket and deny IEU's motion to take administrative notice or reopen the proceedings.

Respectfully submitted,

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Certificate of Service

I hereby certify that a copy of the foregoing Ohio Power Company Memorandum Contra the Motion for Administrative Notice or in the Alternative to Reopen the Proceeding or in the Alternative to Supplement the Record of Industrial Energy Users- Ohio and Request for Expedited Treatment and Memorandum in Support was served upon the following parties of record this 9th day of January 2013, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

//ss//Matthew J. Satterwhite

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Summary: Memorandum Ohio Power Company's Memo Contra IEU's Motion for Administrative Notice and Alternative Relief electronically filed by Mr. Matthew J Satterwhite on behalf of Ohio Power Company