

**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. 13-2385-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,	)	
In the Form of an Electric Security Plan.	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 13-2386-EL-AAM
Accounting Authority.	)	

---

**POST-HEARING BRIEF OF  
THE ENERGY PROFESSIONALS OF OHIO**

---

Kevin R Schmidt (0086722)  
*Counsel for the Energy Professionals of Ohio*  
88 East Broad Street, Suite 1770  
Columbus, OH 43215  
(614) 507-1050  
[schmidt@sppgrp.com](mailto:schmidt@sppgrp.com)

## **I. Introduction**

The Energy Professionals of Ohio (EPO) files its post-hearing brief in this proceeding. As discussed below, the Commission should reject Rider Power Purchased Agreement (Rider PPA) because it serves as a subsidy to AEP-Ohio affiliated generating assets rather than a market hedge for customers, the market for generation service in Ohio has already developed multiple products for customers who wish to avoid market volatility and therefore a regulatory hedge forced upon customers is unnecessary, Rider PPA actually exposes customers to market volatility who have independently sought to avoid such risk. Finally, if the Commission were to approve Rider PPA it should only be open OVEC assets and not future PPAs.

## **2. Rider PPA is a Subsidy, Not a Hedge**

AEP-Ohio claims that Rider PPA will provide a hedge against market volatility and stabilize customer rates.<sup>1</sup> As explained by witness Vegas, Rider PPA “takes the net effect of selling that energy and capacity from OVEC into the market and it provides it to customers in the form of a financial hedge.”<sup>2</sup> Upon further questioning, Mr. Vegas agreed that Rider PPA would provide assurances to AEP Ohio of recovery of any costs that were not fully recovered in the market.<sup>3</sup> Put another way, Rider PPA ensures that AEP Ohio will fully recovery their respective costs of operating the OVEC assets even if those costs are more expensive than market pricing. Customers only benefit if OVEC’s costs are below market. While benefits to customers are can only be expected when market prices are higher than OVEC’s operating costs, something no one can predict, AEP Ohio can expect to always have its share of OVEC’s costs covered by ratepayers under the Rider PPA proposal. Guaranteed cost recovery is a subsidy that may

---

<sup>1</sup> AEP Ohio Exhibit 2 at 13, lines 7-8.

<sup>2</sup> Tr. I Page 29

<sup>3</sup> *Id.* at 29-30

allow OVEC to underbid the market knowing that, at a minimum, ratepayers will always cover its costs. Finally, as witness Vega made clear in cross-examination, the Commission has no ability to review the prudence of OVEC's costs – it may only file a complaint with FERC if it believes a cost was not prudent.<sup>4</sup>

### **3. The Market Has Already Addressed Volatility**

While AEP repeatedly contends that Rider PPA is designed to stabilize customer rates,<sup>5</sup> this type of one-size-fits-all approach is unnecessary. The market in Ohio already provides customers, all the way from residential to the largest industrial, with fixed price contracts that remove volatility for the customer. In fact, a quick perusal of the PUCO's Apples to Apples comparison chart for residential customers in AEP-Ohio's service territory found at least one-dozen products<sup>6</sup> for customers that offer fixed price contracts for a term of at least twenty-four months. Customers should be allowed to select the product that addresses their needs and ability to manage volatility.

### **4. Rider PPA Inserts Volatility Into Customer's Bills**

As proposed, Rider PPA would only be updated on an annual basis<sup>7</sup> and would be the net result of OVEC's operating costs as compared to the value of its output in the market. As such, Rider PPA is a reflection of market volatility. Many customers who have already signed fixed price contracts have insulated themselves against market volatility via their power contract. Requiring those customers to now pay, or receive a credit, via Rider PPA subverts their desire

---

<sup>4</sup> Tr. I pages 32-33.

<sup>5</sup> Among others already mentioned, Witness Allen again asserts this claim in his written testimony. AEP Ohio Exhibit 7, page 8.

<sup>6</sup>

<http://www.energychoice.ohio.gov/ApplesToApplesComparison.aspx?Category=Electric&TerritoryId=2&RateCode=1>

<sup>7</sup> AEP Ohio Exhibit 7, page 11.

to insulate themselves from the market. The Commission should not approve a mechanism that inserts market volatility into customers' bills when the customers' have expressly made the decision to insulate themselves against such.

## **5. Should the Commission Approve Rider PPA, It Should be Limited to Only OVEC**

Rider PPA protects AEP Ohio from any risk of under-recovering its share of costs in OVEC without any ability of the Commission to review the prudence of such costs. When considering if Rider PPA should be open to future PPA's, while OVEC may present a unique circumstance, AEP GenCo's assets do not. Witness Vega noted that AEP-Ohio has only considered assets "that we have a familiarity with which would be owned by the AEP GenCo, formerly owned by AEP Ohio, and not any other assets outside of that."<sup>8</sup> While the desire to ensure all affiliates under a corporate umbrella obtain preferential treatment is rational, it runs counter to Ohio law and policy, which gives the Commission no authority over generation costs<sup>9</sup>. Because the Commission has no authority over generation costs it would not be prudent to leave open a rider that would allow non-regulated generating assets the ability to receive guaranteed recovery of costs at the expense of Ohio ratepayers.

## **6. Conclusion**

The PUCO should reject AEP Ohio's request for Rider PPA because its purported goals are not achieved by its operation and the market has already developed measures that allow customers to choose how to best insulate themselves from market volatility. Should Rider PPA be approved, it should be expressly limited to AEP-Ohio's interest in OVEC's plants. Ohio is

---

<sup>8</sup> Tr. I, Page 26.

<sup>9</sup> The aforementioned direct testimony of AEP-Ohio witness Vega (Tr. I, pages 32-33) and staff witness Choueiki (Tr. XII, pages 2880-2881) seem to agree that the Commission has no authority at all over the costs of generation.

no longer in the business of providing power plants with a cost-plus guarantee as Rider PPA allows.

Respectfully Submitted,

*/s/ Kevin Schmidt*

Kevin R Schmidt (0086722)

*Counsel for the Energy Professionals of Ohio*

88 East Broad Street, Suite 1770

Columbus, OH 43215

(614) 507-1050

[schmidt@sppgrp.com](mailto:schmidt@sppgrp.com)

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this motion to intervene out of time has been served by electronic service to the parties identified below this 23<sup>rd</sup> day of July, 2014.

*/s/ Kevin Schmidt*

Kevin Schmidt

[Sarah.parrot@puc.state.oh.us](mailto:Sarah.parrot@puc.state.oh.us)  
[Campbell@whitt-sturtevant.com](mailto:Campbell@whitt-sturtevant.com)  
[barthroyer@aol.com](mailto:barthroyer@aol.com)  
[cloucas@ohiopartners.com](mailto:cloucas@ohiopartners.com)  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)  
[dconway@porterwright.com](mailto:dconway@porterwright.com)  
[dboehm@bkllawfirm.com](mailto:dboehm@bkllawfirm.com)  
[dwilliamson@spilmanlaw.com](mailto:dwilliamson@spilmanlaw.com)  
[dborchers@bricker.com](mailto:dborchers@bricker.com)  
[Edmund.berger@occ.ohio.gov](mailto:Edmund.berger@occ.ohio.gov)  
[fdarr@mwncmh.com](mailto:fdarr@mwncmh.com)  
[gary.a.jeffries@dom.com](mailto:gary.a.jeffries@dom.com)  
[gpoulos@enernoc.com](mailto:gpoulos@enernoc.com)  
[Williams@whitt-sturtevant.com](mailto:Williams@whitt-sturtevant.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)  
[tsiwo@bricker.com](mailto:tsiwo@bricker.com)  
[jmcdermott@firstenergycorp.com](mailto:jmcdermott@firstenergycorp.com)  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)  
[jkylercohn@bkllawfirm.com](mailto:jkylercohn@bkllawfirm.com)  
[joseph.clark@directenergy.com](mailto:joseph.clark@directenergy.com)  
[joliker@mwncmh.com](mailto:joliker@mwncmh.com)  
[joseph.serio@occ.ohio.gov](mailto:joseph.serio@occ.ohio.gov)  
[judi.sobecki@aes.com](mailto:judi.sobecki@aes.com)  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
[lfriedeman@igsenergy.com](mailto:lfriedeman@igsenergy.com)  
[lhawrot@spilmanlaw.com](mailto:lhawrot@spilmanlaw.com)  
[mohler@carpenterlipps.com](mailto:mohler@carpenterlipps.com)

[haydenm@firstenergycorp.com](mailto:haydenm@firstenergycorp.com)  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)  
[whit@whitt-sturtevant.com](mailto:whit@whitt-sturtevant.com)  
[myurick@taftlaw.com](mailto:myurick@taftlaw.com)  
[mjsatterwhite@aep.com](mailto:mjsatterwhite@aep.com)  
[mswhite@igsenergy.com](mailto:mswhite@igsenergy.com)  
[Maureen.grady@occ.ohio.gov](mailto:Maureen.grady@occ.ohio.gov)  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)  
[msmalz@ohiopovertylaw.org](mailto:msmalz@ohiopovertylaw.org)  
[nmcdaniel@elpc.org](mailto:nmcdaniel@elpc.org)  
[plee@oslsa.org](mailto:plee@oslsa.org)  
[Philip.sineneng@thompsonhine.com](mailto:Philip.sineneng@thompsonhine.com)  
[ricks@ohanet.org](mailto:ricks@ohanet.org)  
[rocco.dascenzo@duke-energy.com](mailto:rocco.dascenzo@duke-energy.com)  
[sam@mwncmh.com](mailto:sam@mwncmh.com)  
[swilliams@nrdc.org](mailto:swilliams@nrdc.org)  
[casto@firstenergycorp.com](mailto:casto@firstenergycorp.com)  
[sasloan@aep.com](mailto:sasloan@aep.com)  
[Stephanie.chmiel@thompsonhine.com](mailto:Stephanie.chmiel@thompsonhine.com)  
[Stephen.chriss@walmart.com](mailto:Stephen.chriss@walmart.com)  
[stnourse@aep.com](mailto:stnourse@aep.com)  
[tammy.turkenton@puc.state.oh.us](mailto:tammy.turkenton@puc.state.oh.us)  
[tshadick@spilmanlaw.com](mailto:tshadick@spilmanlaw.com)  
[tobrien@bricker.com](mailto:tobrien@bricker.com)  
[tdougherty@theoec.org](mailto:tdougherty@theoec.org)  
[vparisi@igsenergy.com](mailto:vparisi@igsenergy.com)  
[werner.margard@puc.state.oh.us](mailto:werner.margard@puc.state.oh.us)  
[zkravitz@taftlaw.com](mailto:zkravitz@taftlaw.com)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/23/2014 4:22:00 PM**

**in**

**Case No(s). 13-2385-EL-SSO, 13-2386-EL-AAM**

Summary: Brief Post Hearing Brief of the EPO electronically filed by Mr. Kevin R Schmidt on behalf of The Energy Professionals of Ohio