

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 Pursuant to R.C.)	Case No. 13-2385-EL-SSO
4928.143, 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.)	

**OHIO POWER COMPANY’S MOTION FOR ORAL ARGUMENT AND REQUEST
FOR EXPEDITED RULING**

Pursuant to Rules 4901-1-12 and 4901-1-32, Ohio Administrative Code, Ohio Power Company (“Ohio Power” or the “Company”) respectfully moves that the Commission schedule an oral argument regarding any legal or policy issues related to these proceedings that it believes would assist it in producing an Opinion and Order in this proceeding. The Company requests that the oral argument be scheduled as soon as possible in this 2014 calendar year and that the Commission define the issues to be addressed during the argument. Therefore, Ohio Power requests that this motion be considered on an expedited basis pursuant to O.A.C. 4901-1-12(C).

A memorandum in support of the items in this motion is attached.

Respectfully submitted,

/s/ Steven T. Nourse

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**OHIO POWER COMPANY’S MEMORANDUM IN SUPPORT
OF THE MOTION FOR ORAL ARGUMENT**

Ohio Power Company (“Ohio Power” or the “Company”) respectfully files this motion as a tool for Commission use in its consideration of these dockets. The initial application was filed on December 20, 2013, the evidentiary hearing ended on June 30, 2014 and the post-hearing briefing was completed on August 15, 2014. The hearing and the post-hearing briefing demonstrated that the parties have dramatically different views on the legality of specific aspects of the Company’s proposed Electric Security Plan as well as policy decisions that may well impact the competitiveness of Ohio and its businesses for many years to come. The application has been before the Commission for more than 10 months. There are a number of potential explanations for the delay in the Commission’s order in these proceedings, but to the extent that it is due to the complexity and difficulty that may attend certain issues in this proceeding, the Commission may benefit from an oral argument on those legal or policy issues. On that basis, the Company proposes that the Commission schedule such a proceeding.

The use of oral arguments is already contemplated by Commission rules. O.A.C. 4901-1-32 provides that the Commission may hear oral arguments at any time in the proceeding upon a party's or its own motion. Specifically O.A.C. 4901-1-32 "Oral Arguments" states:

The commission, the legal director, the deputy legal director, or an attorney examiner may, upon motion of any party or upon their own motion, hear oral arguments at any time during a proceeding. Such arguments may, in the discretion of the commission, the legal director, the deputy legal director, or the attorney examiner, be limited to one or more specific issues, and are subject to such time limitations and other conditions as the commission, the legal director, the deputy legal director, or the attorney examiner may prescribe.

Thus, it is appropriate under the Commission's rules to hear oral arguments on one or more specific issues, at any time, in accordance with a process and any conditions that the Commission may prescribe.

The Commission previously has utilized this tool to further consider or narrow important issues that it has faced in this Electric Security Plan era. For example, in the Company's *ESP II* proceeding¹ the Commission scheduled an oral argument to better understand the partial settlement signed by parties in that proceeding.² There is precedent for the Commission requesting clarification, through oral argument, on significant legal and policy issues before arriving at a decision. The oral argument procedure should not be used as a venue for any party to introduce new evidence or make claims outside of the closed evidentiary record. Rather, it

¹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan, Commission Case Nos. 11-346-EL-SSO et al. ("ESP II")*.

² *ESP II* Oral Argument held July 13, 2012.

should serve as an opportunity for the Commissioners to explore the legal basis of specific provisions requested in the case or the policy implications of decisions that they might make.

The Commission is in the best position, of course, to determine the issues or questions that would benefit from further input. For example, one issue under review that potentially could benefit from oral argument is the Company's request for approval of a purchased power agreement rider and the application of that rider to the Company's OVEC entitlement (OVEC/PPA Rider). Factual and evidentiary issues aside, there has been some discussion in the docket about the legal basis and policy implications of approval of the Company's proposal. Of course the Parties briefed the legal and policy issues associated with the OVEC/PPA Rider proposal, but did so unilaterally and without the benefit of knowing the particular questions and concerns of the Commission. Moreover, just recently, on October 17, 2014, a group of commercial customers filed a non-evidentiary letter in the docket with arguments concerning the basis and public policy implications of the proposal. These arguments were provided without intervening in the case and well past the deadline for post-hearing briefs. Without commenting here on the merits of the claims made in the letter it is clear that there is a public policy question involved that may benefit from an open discussion before the Commission through the oral argument process. Likewise, the Commission Staff also participated in the hearing as an adversarial party and included arguments challenging the legality of the proposal in its post-hearing brief. This leaves the Commission in a unique situation deliberating legal conclusions and threshold matters assumedly without the benefit of an independent or neutral Staff advisor in its review of the case.

As referenced, the parties to the proceeding presented the arguments in dispute in their post-hearing briefs as those parties understood the issues to be under debate. But to the extent

the Commissioners are reviewing the matters in a broader, or from a different, perspective; the parties are available to provide further insight to be used as a resource for the Commissioners. Likewise, if the Commissioners would benefit from the give and take of an oral argument to test any issue in the case, like the basis and policy implications of the PPA/OVEC rider, then such a public oral argument would provide the vehicle for the Commissioners to ensure they have heard all sides of the issues upon which they are deliberating.

The oral argument tool is available to the Commissioners as they consider novel and significant issues. The oral argument would be limited to the existing record and would not provide an opportunity to present new evidence. The Commission could issue an Entry establishing the oral argument date in the near future and identify the issues regarding which it would provide parties an opportunity to furnish input, as requested by the Commission. As the moving party, and as the party with the ultimate burden of persuasion, the Company could provide the initial round of argument and responses to questions from Commissioners. The process would then provide the Company an opportunity to provide rebuttal to any of the arguments raised by intervening parties providing arguments in the case including the arguments offered by the Commission Staff as an active adversarial party asserting legal conclusions in the case. To the extent the Commissioners would want to hear directly from the Parties on any of the open issues in these proceedings, the oral argument provides a venue for the Commissioners to do so in an open and transparent forum.

The Company also requests that the Commission consider this matter on an expedited basis. As referenced above the docket has been open for over ten months and counting. Processing of the Company's electric security plan is an important matter that impacts distribution investment, energy positions, and signals to the competitive supplier market on the

attractiveness of competing in Ohio Power's territory (among a number of other issues). Based on these grounds an expedited ruling is appropriate if an oral argument is determined to be a useful tool to the Commission. With the number of intervenors in this case it did not make sense to delay the filing of this motion by seeking unanimous agreement on this offer to provide assistance. Therefore the Company cannot certify that there is no opposition to the proposal by any other Party. The Commission can await the provisional seven-day response time period for memoranda contra as provided in the rule before acting, however because the Commission can already order an oral argument under O.A.C. 4901-1-32, it could also establish the oral argument *sua sponte* at any time.

CONCLUSION

For the foregoing reasons Ohio Power requests an oral argument on any issues whose resolution the Commission believes would benefit from further discussion.

Respectfully submitted,

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Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of *Ohio Power Company's Motion for Oral Argument and Memorandum in Support* upon counsel for all other parties of record in this case, on this 4th day of November, 2014.

/s/ Steven T. Nourse

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/4/2014 10:26:40 AM

in

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

Summary: Motion for Oral Argument and Request for Expedited Ruling electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company