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Via E-file

May 14, 2015

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

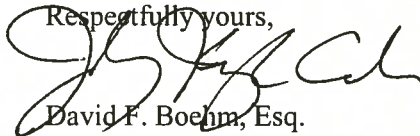
In re: Case Nos. 14-841-EL-SSO; 14-842-EL-ATA

Dear Sir/Madam:

Please find attached the MEMORANDUM CONTRA APPLICATIONS FOR REHEARING BY THE OHIO ENERGY GROUP e-filed today in the above-referenced matters.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



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Michael L. Kurtz, Esq.
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Jody Kyler Cohn, Esq.
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MLKkew
Encl.

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter Of The Application Of Duke Energy Ohio, Inc. For Authority To Establish A Standard Service Offer Pursuant To Section 4928.143, Revised Code, In The Form Of An Electric Security Plan, Accounting Modifications And Tariffs For Generation Service.	:	Case No. 14-841-EL-SSO
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	:	
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In The Matter Of The Application Of Duke Energy Ohio, Inc. For Authority To Amend Its Certified Supplier Tariff, P.U.C.O. No. 20.	:	Case No. 14-842-EL-ATA
	:	

**MEMORANDUM CONTRA APPLICATIONS FOR REHEARING
BY THE OHIO ENERGY GROUP**

The Ohio Energy Group (“OEG”) submits this Memorandum Contra Applications for Rehearing filed by various parties at the Public Utilities Commission of Ohio (“Commission”) on May 4, 2015 in this proceeding. OEG’s decision not to respond to other arguments raised in this proceeding should not be construed as implicit agreement with those arguments.

I. The Commission Acted Lawfully and Reasonably In Approving the Placeholder Price Stabilization Rider.

Many parties claim that the Commission erred in approving Duke Energy Ohio, Inc.’s (“Duke” or “Company”) proposed Price Stabilization Rider (“PSR”) as a placeholder and in setting forth a list of factors that utilities seeking to include generation units in a PSR-like mechanism must address in future filings.¹ OEG disagrees. As OEG already set forth in detail in its Brief in this proceeding, a properly designed PSR is consistent with both Ohio and federal law.² For the sake of brevity, OEG incorporates by reference its arguments regarding the legality of the PSR here. That other parties may interpret the relevant Ohio statutes (R.C. 4928.143(B)(2)(d),

¹ Application for Rehearing by the Office of the Ohio Consumers’ Counsel at 3-42; Application for Rehearing of the City of Cincinnati at 3-4; Application for Rehearing of the Retail Energy Supply Association at 17-27; Application for Rehearing by Constellation NewEnergy, Inc. and Exelon Generation, LLC at 6-18; Application for Rehearing of IGS Energy at 17-30; Application for Rehearing and Memorandum in Support of Industrial Energy Users-Ohio at 8-57; Application for Rehearing and Memorandum in Support of the Ohio Manufacturer’s Association at 4-13; Ohio Partners for Affordable Energy’s Application for Rehearing and Memorandum in Support at 7-21; Application for Rehearing by the Environmental Law & Policy Center and the Ohio Environmental Council at 3-18; Sierra Club’s Application for Rehearing at 2-18.

² Brief of the Ohio Energy Group at 2-5, 11-14.

R.C. 4928.02, etc.) differently is not a sufficient basis for the Commission to second-guess its carefully-reasoned finding that the placeholder PSR can be lawfully adopted in an Electric Security Plan (“ESP”) proceeding.

Any arguments regarding the potential implications of establishing the PSR are premature. Presently, the PSR is merely a placeholder. No costs or credits have yet been approved to flow through that Rider. As the Commission notes, it has established placeholder riders repeatedly in ESP proceedings.³ Hence, the Commission acted consistent with its past practice when it established the placeholder PSR. And because the PSR is currently set at zero and does not yet flow through the costs or credits associated with any generating unit, there is no harm (or benefit) to customers as a result of merely establishing the Rider in this proceeding.

Some of the arguments against the PSR might have validity if Duke had requested approval of a Market Rate Offer. But it did not. The Legislatively-prescribed ESP process empowers the Commission to maintain jurisdiction over certain elements of generation pricing, primarily to provide price stability consistent with R.C. 4928.143(B)(2)(d). And that is what a properly designed PSR can provide. If the right generating units are offered to customers at their average embedded cost plus a reasonable profit margin, and if the transaction is supported by appropriate terms and conditions, then the PSR can be win-win. Customers can benefit by having a state-regulated cost-based hedge against full reliance on volatile FERC/PJM-regulated wholesale pricing. And utility shareholders can benefit by locking in a fixed return on certain generating units, which provides financial stability to them when wholesale prices are low in exchange for agreeing to a price cap when market prices are high.

Since Senate Bill 221 was enacted in 2008, there have been times when legacy generation pricing at average embedded cost has been both higher and lower than the marginal cost based wholesale market. Marginal cost pricing is good for customers during times of surplus, but very costly during times of shortages, when pricing must be high enough on a sustained basis to support new construction. Whether the average embedded cost of a particular generation unit will be higher or lower than the marginal cost of generation across the entire PJM footprint over the long term is debatable. But what is fairly clear is that marginal cost pricing for energy and capacity is more volatile.


³ Opinion & Order (February 25, 2015) (“Order”) at 47.

The potential benefits of a properly structured PPA to the State of Ohio can extend beyond price stability. A properly structured PPA can support economic development consistent with R.C. 4928.02(N) by preserving power plant jobs, retaining state, local and school tax revenue, and utilizing local fuel sources for coal generation. Additionally, maintaining nuclear generation in Ohio can provide environmental benefits and help the State satisfy the requirements of the U.S. EPA's proposed Clean Power Plan since that generation resource is zero carbon-emitting. These are issues that FERC/PJM cannot even lawfully consider as they cannot adopt policies specifically aimed at promoting the economic interests of any particular state.

Duke, AEP Ohio, and FirstEnergy all obviously want to de-risk their generation portfolios by entering into PPAs for some of their units while maintaining the high risk/high reward of market pricing for the remainder of their generation assets. This puts the Commission and its Staff in the favorable position of being able to demand serious concessions to benefit customers. Now is a buyer's market. Although Duke has only limited control over the jointly-owned OVEC units, the Commission can still ensure that the Company and customers are in the same boat by requiring Duke to maintain a certain percentage of the financial interest in OVEC (e.g. 20%). And for non-OVEC units that may be included in Duke's PSR in the future, the authorized return on equity, capital structure, calculation of tax expense and depreciation expense, appropriate ratepayer/shareholder sharing of profits and losses, and the audit and review process are all areas where proposed PPAs can be brought closer into compliance with the Commission's minimum standards for PSR proposals set forth in the Order. If the generation owners are willing to make the necessary concessions to win Commission approval, then customers and the State economy will benefit. But if they are not, then customers will be no worse off than they are now.

The Commission's Order was an important first step to establishing a solid regulatory framework for generation pricing in Ohio and it should not be weakened on rehearing.

Respectfully submitted,



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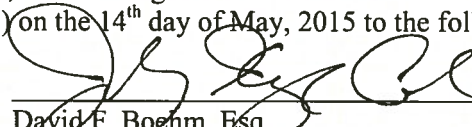
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May 14, 2015

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 14th day of May, 2015 to the following:


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Case No(s). 14-0841-EL-SSO, 14-0842-EL-ATA

Summary: Memorandum Ohio Energy Group (OEG) Memorandum Contra Applications for Rehearing electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group