

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company for Authority to)	Case No. 13-2385-EL-SSO
Establish a Standard Service Offer)	
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)	Case No. 13-2386-EL-AAM
Certain Accounting Authority.)	

**MEMORANDUM OF INDUSTRIAL ENERGY USERS-OHIO IN
OPPOSITION TO THE SECOND APPLICATION FOR REHEARING OF
THE OHIO POWER COMPANY**

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I. INTRODUCTION

In its Application, the Ohio Power Company (“AEP-Ohio”) sought authorization of an electric security plan (“ESP”) for the period of June 1, 2015 to May 31, 2018.¹ As part of the ESP, AEP-Ohio requested authorization of a nonbypassable rider, the Power Purchase Agreement Rider (“PPA Rider”). Authorization of the billing and collection of the rider would have transferred the wholesale price risk of AEP-Ohio’s retained interest in generation plants operated by Ohio Valley Electric Corporation (“OVEC”) to AEP-Ohio’s retail customers.²

In the ESP III Order, the Public Utilities Commission of Ohio (“Commission”) found: (1) that AEP-Ohio failed to demonstrate that the PPA Rider would have the

¹ AEP-Ohio Ex. 1 at 2. AEP-Ohio also sought authority to terminate the ESP one year early unilaterally. *Id.* at 15. The Commission denied authorization of an early termination provision. Opinion and Order at 86 (Feb. 25, 2015) (“ESP III Order”).

² AEP-Ohio Ex. 1 at 8-9.

effect of stabilizing retail electric service and (2) that authorization of the Rider at a rate greater than zero was not in the public interest.³ Although the Commission found that AEP-Ohio had failed to demonstrate a lawful basis to begin collection of the PPA Rider, the Commission nonetheless authorized AEP-Ohio to establish a PPA Rider as a placeholder with an initial rate of zero.⁴ Further, the Commission held that AEP-Ohio could make a “future filing” for a non-zero PPA Rider and directed AEP-Ohio to address at least four “factors” if it made this “future filing.”⁵

In Applications for Rehearing, Industrial Energy Users-Ohio (“IEU-Ohio”) and others urged the Commission to reverse its authorization of the PPA Rider because authorization was unlawful and unreasonable under both state and federal law.⁶

AEP-Ohio also filed an Application for Rehearing of the ESP III Order. In its Application for Rehearing, AEP-Ohio requested that the Commission reverse its order denying AEP-Ohio authorization to begin collecting the PPA Rider.⁷ IEU-Ohio and others opposed AEP-Ohio’s assignment of error seeking reversal of the Commission’s order finding that the AEP-Ohio could not begin collection of the Rider.⁸

³ ESP III Order at 23-24.

⁴ *Id.* at 24-25. All other parties opposed AEP-Ohio’s proposed PPA Rider. One party, Ohio Energy Group (“OEG”), recommended a substantially modified version. OEG Ex. 1.

⁵ ESP III Order at 25. On May 15, 2015, AEP-Ohio filed an Amended Application seeking the recovery of the above-market generation-related costs of OVEC and several generation plants owned by its unregulated competitive affiliate. *In the Matter of the Application Seeking Approval of Ohio Power Company’s Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case Nos. 14-1693-EL-RDR, *et al.*, Amended Application (May 15, 2015) (“PPA Rider Expansion Case”).

⁶ See, e.g., Application for Rehearing of Industrial Energy Users-Ohio at 1-2 (Mar. 27, 2015) (“IEU-Ohio Application for Rehearing”).

⁷ Application for Rehearing of Ohio Power Company at 1 (Mar. 27, 2015) (“AEP-Ohio Application for Rehearing”).

⁸ See, e.g., Memorandum of Industrial Energy Users-Ohio in Opposition to the Applications for Rehearing of the Ohio Power Company, Ohio Manufacturers’ Association Energy Group, and Environmental Advocates at 2-10 (Apr. 6, 2015) (“IEU-Ohio Memorandum Contra”).

In the First Entry on Rehearing issued on April 22, 2015, the Commission granted rehearing to permit further consideration of the applications for rehearing.⁹ In its Second Entry on Rehearing, the Commission, noting that there were proceedings pending at the Federal Energy Regulatory Commission (“FERC”) and United States Environmental Protection Agency that may affect the financial need of generating plants and grid reliability, deferred ruling on the assignments of error related to the PPA Rider.¹⁰ The Commission also noted that it may revisit its decision to defer ruling on the assignments of error related to the PPA Rider at any time.¹¹

Having failed to convince the Commission that it should be permitted to transfer its price risk associated with OVEC to retail customers, AEP-Ohio now seeks rehearing of the Commission’s decision to defer resolution of the lawfulness of the PPA Rider. In support of its assignment of error, AEP-Ohio alleges its right to withdraw from the ESP is impaired because the Second Entry on Rehearing “injected new uncertainty concerning certain legal and policy challenges previously lodged against the PPA Rider.”¹² According to AEP-Ohio, “keeping the PPA Rider issues in limbo indefinitely prevents [AEP-Ohio] from making an informed choice in exercising its statutory consent rights.”¹³

The Commission should deny AEP-Ohio’s first assignment of error because it is without merit.¹⁴ However, if the Commission grants rehearing and then addresses the

⁹ Entry on Rehearing at 2 (Apr. 22, 2015).

¹⁰ Second Entry on Rehearing at 5-6 (May 28, 2015).

¹¹ *Id.* at 6.

¹² Application for Rehearing of Ohio Power Company at 4 (June 29, 2015) (“AEP-Ohio Second Application for Rehearing”).

¹³ *Id.* at 10.

¹⁴ To alleviate the uncertainty AEP-Ohio claims it is suffering as a result of its decision to retain its interest in OVEC, AEP-Ohio could be ordered to comply with the Commission’s previous order to pursue

legal merits of the PPA Rider,¹⁵ it should find that it is without authority under state and federal law to authorize the PPA Rider.¹⁶

the transfer of the OVEC interest to a third party. In the order directing AEP-Ohio to divest its generation assets in 2012, the Commission ordered AEP-Ohio to transfer or divest its interest in OVEC. *In the Matter of the Application of Ohio Power Company for Approval of an Amendment to its Corporate Separation Plan*, Case No. 12-1126-EL-UNC, Finding and Order at 5 n.8 & 25 (Oct. 17, 2012). When AEP-Ohio failed to secure approval from other owners of OVEC, AEP-Ohio sought relief from the Commission. *Id.*, Ohio Power Company's Application to Amend its Corporate Separation Plan (Oct. 4, 2013). In Comments, IEU-Ohio urged the Commission to deny the request or condition approval on the Company's commitment to forgo recovery of OVEC-related costs from retail customers. *Id.*, Industrial Energy Users-Ohio's Objections to Ohio Power Company's Application to Amend its Corporate Separation Plan (Oct. 29, 2013). Over IEU-Ohio's objection, the Commission authorized AEP-Ohio to retain its interest in OVEC with a requirement that AEP-Ohio liquidate the OVEC capacity and energy into the wholesale electric market "until the OVEC contractual entitlements can be transferred to [AEP-Ohio's affiliated generation company] or otherwise divested." *Id.*, Finding and Order at 9 (Dec. 4, 2013).

Rather than seek a transferee, AEP-Ohio ignored the various alternatives available under the Inter-Company Power Agreement ("ICPA") that would permit it to transfer its interest in OVEC to a third party without the approval of the other owners,' IEU-Ohio Ex. 1B at KMM-2 (Amended and Restated Inter-Company Power Agreement, article 9), and instead sought authorization of the nonbypassable PPA Rider in the ESP III Application to transfer its price risk associated with OVEC to retail customers. AEP-Ohio Ex. 1 at 8-9 and AEP-Ohio Ex. 7 at 8-11. Based on AEP-Ohio's failure of proof, the Commission in the ESP III Order rejected AEP-Ohio's request. ESP III Order at 24. Additionally, the Commission again directed AEP-Ohio to take steps to divest its interest in OVEC and directed AEP-Ohio to report the steps it is taking to transfer its interest to a third party by June 30 each year. *Id.* at 27. Although AEP-Ohio sought rehearing of the Commission's refusal to allow AEP-Ohio to bill customers for its above-market wholesale generation-related costs of OVEC, AEP-Ohio did not seek rehearing of the Commission's order directing AEP-Ohio to pursue a transfer of its interest in OVEC to a third party. AEP-Ohio Application for Rehearing (Mar. 27, 2015).

In response to the Commission's order in the ESP III Order requiring AEP-Ohio to file annual status reports on its efforts to transfer its interest in OVEC, AEP-Ohio filed a letter on June 30, 2015. Letter to Sarah Parrot from Steven T. Nourse regarding Case No 12-1126-EL-UNC (June 30, 2015) ("2015 OVEC Status Report"). In this status report, AEP-Ohio acknowledged that it retained its ownership interest and that it had no intention of complying with the Commission's order to pursue transfer of the OVEC interest. Noting that it had sought rehearing of the Commission's order in the ESP III case concerning the PPA Rider (but leaving out the fact that AEP-Ohio did not seek rehearing of the Commission's order directing it to pursue the transfer of the interest in OVEC), it claimed that its assignment of error will be moot if it transfers its interest in OVEC. *Id.* Additionally, AEP-Ohio claimed that "nothing has changed with respect to ... the [other] owners' decision to withhold consent" (but failed to disclose that it has other means under the ICPA by which it may transfer its interest in OVEC to a third party). The report concluded that AEP-Ohio "is not actively pursuing [options to transfer its interest in OVEC] while rehearing on this issue remains open." *Id.* The 2015 OVEC Status Report demonstrates that AEP-Ohio is not in compliance with the Commission's orders to pursue transfer of the interest in OVEC. Rather than comply, AEP-Ohio bluntly admits that it "is not actively pursuing such options."

¹⁵ In addition to AEP-Ohio, the Office of the Ohio Consumers' Counsel ("OCC") and Ohio Manufacturers' Association Energy Group ("OMAEG") also urge the Commission to reverse its decision to defer resolution of the legality of the PPA Rider. Application for Rehearing of the Office of the Ohio Consumers' Counsel at 1-2 (June 29, 2015); Application for Rehearing of the Ohio Manufacturers' Association Energy Group at 1 (June 29, 2015).

¹⁶ This memorandum addresses only AEP-Ohio's first assignment of error in the AEP-Ohio Second Application for Rehearing. Although IEU-Ohio is not addressing AEP-Ohio's other assignments of error, failure to address an assignment of error is not an indication of support for the positions advanced by AEP-Ohio on those other assignments of error.

II. ARGUMENT

In its first assignment of error, AEP-Ohio alleges that the Commission's decision to defer resolution of the lawfulness of the PPA Rider unlawfully and unreasonably impaired AEP-Ohio's right to withdraw its ESP application under R.C. 4928.143(C)(2).¹⁷ To support the assignment of error, AEP-Ohio presents a two-step argument. It premises its assignment of error on the claim that the Commission cannot leave open the possibility that it will modify the ESP III Order in future proceedings.¹⁸ Based on this premise, AEP-Ohio then concludes that it is prejudiced because the Commission's decision to defer resolution of the lawfulness of the PPA Rider "prevents the Company from making an informed choice in exercising its statutory consent rights."¹⁹

Neither the premise nor the conclusion has merit. First, the premise that the Commission cannot modify the ESP III Order is based on a misreading of R.C. 4928.143(C)(2) and a recent Ohio Supreme Court decision. Second, AEP-Ohio's conclusion that its right to withdraw is impaired because the Commission deferred decision on the legal issues related to the PPA Rider is not factually true: AEP-Ohio has the right to withdraw and already has all of the information that it needs or that it would have if the Commission granted rehearing and issued a decision on the legal merits of the PPA Rider. Further, AEP-Ohio admits that it would not do anything different if the Commission denied rehearing of its first assignment of error. Because neither portion of the argument supporting the assignment of error has merit, AEP-Ohio's first assignment of error should be denied.

¹⁷ AEP-Ohio Second Application for Rehearing at 1.

¹⁸ *Id.* at 9-10.

¹⁹ *Id.* at 10.

A. AEP-Ohio's first assignment of error is premised on a misreading of R.C. 4928.143(C)(2) and the *Ohio Power Case*

The premise of AEP-Ohio's first assignment of error is that "it is clear that the Commission cannot leave open the possibility that modifications of the ESP will be adopted subsequent to the initial decision to adopt, reject or modify and adopt."²⁰ To support this claim, AEP-Ohio relies on the text of R.C. 4928.143(C)(2) and the Supreme Court's decision reversing a Commission order modifying an ESP order on the ground that the Commission's modification impaired AEP-Ohio's right to withdraw ("*Ohio Power Case*").²¹ However, AEP-Ohio's broad claim that the Commission cannot "leave open the possibility that modifications of the ESP will be adopted"²² is not supported by R.C. 4928.143(C)(2). AEP-Ohio also ignores and misreads the Court's holdings in the *Ohio Power Case*.

R.C. 4928.143(C)(2) provides that an electric distribution utility ("EDU") may withdraw its application if the Commission modifies and approves the application. Contrary to AEP-Ohio's claim, the text does not specify that the Commission cannot defer resolution of an issue in the order adopting and modifying an application.

Additionally, the *Ohio Power Case* does not support AEP-Ohio's claim that the Commission cannot defer resolution of an issue. In that case, the Court addressed the Commission's decision to modify the initial order ("ESP I Order") in the first AEP-Ohio ESP. In the ESP I Order, the Commission ordered that AEP-Ohio phase-in rate increases. The Commission also ordered that the amount of revenue AEP-Ohio deferred accrue a carrying charge at the weighted average cost of capital, as requested

²⁰ AEP-Ohio Second Application for Rehearing at 9.

²¹ *In re Application of Ohio Power Company*, Slip Op. No. 2015-Ohio-2056 (June 2, 2015).

²² *Id.*

by AEP-Ohio in its application. As the originally authorized term of the ESP I Order ended, AEP-Ohio filed an application seeking authorization of a rider to collect the deferred amount and the continuation of the carrying charge at the weighted average cost of capital. In its order approving the application, the Commission prospectively reduced the carrying charge to AEP-Ohio's cost of debt. AEP-Ohio appealed the Commission's decision to lower the carrying charge. In its appeal, AEP-Ohio claimed that the decision to lower the carrying charge was not permitted because it occurred after the term of the ESP (a claim that was inaccurate since the term of the ESP was extended by operation of law²³), thereby impairing AEP-Ohio's right to withdraw its application under R.C. 4928.143(C)(2). The Court agreed. It found that the Commission's decision to lower the carrying charge had modified a term of AEP-Ohio's ESP application.²⁴ "[B]ecause the modification of that term occurred *after* the ESP had expired, Ohio Power was unable to withdraw."²⁵ The Court then reversed and remanded the Commission's decision to lower the carrying charge.

Although the Court agreed that the Commission had erred when it reduced the carrying charge, the Court also held that the Commission may modify a prior order, provided it explains the change and the new regulatory course is permissible.²⁶ The Court further noted that it had upheld the Commission's decision to modify the ESP I Order in a prior opinion, in part because the Commission had the inherent authority to

²³ *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 Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO, *et al.*, Entry on Rehearing at 12 (Feb. 23, 2012).

²⁴ *Ohio Power Case*, ¶ 29.

²⁵ *Id.* (emphasis added).

²⁶ *Id.*, ¶ 17.

revisit and modify prior rate orders.²⁷ Thus, the Court has rejected on repeated occasions AEP-Ohio's claim that the Commission is barred from modifying its ESP Order "subsequent to the initial decision to adopt, reject or modify and adopt" an ESP application.²⁸

The Court also rejected the Commission's interpretation of R.C. 4928.143(C)(2) that modifications triggering a right to withdraw were limited to modifications occurring in the proceedings in which the Commission modifies and approves the application and not triggered by modifications in subsequent proceedings.²⁹ The Court held that the Commission's interpretation was unreasonable.³⁰

Although the Court rejected the Commission's argument that modifications of the ESP were limited to those occurring in only the ESP proceeding, AEP-Ohio now presents an even narrower position that the Commission cannot leave open the possibility that modifications of the ESP will be adopted *subsequent to the initial decision*. Pushed to its extreme, AEP-Ohio's argument is that the Commission can make no further modifications even on rehearing. That result is not supported by R.C. 4928.143(C)(2) or the Court's decision in the *Ohio Power Case* and would bind the hands of the Commission in ways that are unreasonable.

B. AEP-Ohio's right to withdraw its application is not impaired because it has the right to withdraw, it is not financially harmed by the

²⁷ *Id.*, ¶ 33, citing *In re Columbus S. Power Co.*, 129 Ohio St.3d 568 (2011) (affirming the Commission's decision to exempt the economic development rider from the rate caps).

²⁸ AEP-Ohio Second Application for Rehearing at 9.

²⁹ *Ohio Power Case*, ¶ 28. AEP-Ohio relies on the Court's treatment of the Commission's argument as support for its claim that the Commission cannot modify its initial decision. AEP-Ohio Second Application for Rehearing at 9. As discussed in the text above, the portion quoted by AEP-Ohio is actually a critique of the Commission's position that a modification in a proceeding other than the ESP proceeding did not trigger AEP-Ohio's right to withdraw. AEP-Ohio's reliance on this portion of the *Ohio Power Case*, thus, is misplaced because the quotation is taken out of context.

³⁰ *Ohio Power Case*, ¶ 28.

Commission's decision to defer resolution of the legal issues concerning the PPA Rider, and it has the ability to make an "informed choice" to withdraw

AEP-Ohio cannot legitimately claim that it cannot withdraw under R.C. 4928.143(C)(2). That section provides that an EDU may withdraw its application and thereby terminate the ESP if the Commission modifies and approves the application. In the ESP III Order, the Commission modified AEP-Ohio's application in several respects including one that denied AEP-Ohio the opportunity to bill retail customers under the PPA Rider. The condition for withdrawal specified by R.C. 4928.143(C)(2) having been satisfied, AEP-Ohio has the right to withdraw.

According to AEP-Ohio, however, the problem on which it bases its first assignment of error is that it cannot make an "informed choice" whether to withdraw "[g]iven the current uncertainty regarding the PPA Rider."³¹ At the same time, however, it also states that it will not withdraw if the Commission continues to defer a decision on the legal merits of the PPA Rider.³² If AEP-Ohio will take no action if the Commission decides to continue to defer, then the "uncertainty" AEP-Ohio claims it is suffering is not harming it and it is not prejudiced.

At a more practical level, AEP-Ohio cannot demonstrate that it is financially injured by the Commission's decision to defer. Based on the record evidence, the Commission found that AEP-Ohio failed to demonstrate that implementation of the PPA Rider at a rate greater than zero was reasonable or in the public interest. Based on that determination, AEP-Ohio would be barred from billing and collecting the PPA Rider whether the Commission agreed with AEP-Ohio or the intervenors on the legal

³¹ AEP-Ohio Second Application for Rehearing at 10.

³² *Id.*

challenges to the Rider. Simply put, AEP-Ohio would not be made any better or worse by a Commission decision on the legal merits of the ESP. As a result, AEP-Ohio suffers no financial injury as a result of the Commission's decision to defer.

Moreover, since the results of a determination of legal issues will have no effect on the terms of the ESP, AEP-Ohio has all the information it needs or will have to make an "informed choice" to withdraw its ESP application. Accordingly, the claim that AEP-Ohio's ability to make an informed choice to withdraw is impaired by a Commission decision to defer is without merit.

A decision that the Commission lacks authority to authorize the PPA Rider, of course, is important to AEP-Ohio (and the intervenors) because it will adversely affect AEP-Ohio's amended application in the pending *PPA Rider Expansion Case*. In that case, AEP-Ohio relies on the ESP III Order's authorization of the PPA Rider to support its request to "expand" the Rider to include the price risk of other affiliate-owned power plants.³³ If the Commission denies authorization of the PPA Rider, AEP-Ohio will lose its claimed legal authority for the relief it is seeking in the pending case. Again, however, a determination of the legal issues will not affect AEP-Ohio's right to collect the PPA Rider in this ESP case. Thus, AEP-Ohio's allegation that it is injured because its right to withdraw is impaired in this case is a "red herring."³⁴ the relief it seeks through the first assignment of error has no effect on the outcome of this case; it is asserted to protect AEP-Ohio's Amended Application in the *PPA Rider Expansion Case*.

Finally, AEP-Ohio attempts to demonstrate it is prejudiced by citing several cases concerning claims for violations of rights and argues that a loss of a right is sufficient to

³³ *PPA Rider Expansion Case*, Amended Application, *passim*.

³⁴ A "red herring" is something that misleads or distracts from a relevant or important issue. It may be either a logical fallacy or a literary device that leads readers or audiences towards a false conclusion.

show prejudice.³⁵ In each of the cited cases, as AEP-Ohio notes, the plaintiff alleged some legally recognizable harm. Unlike the injured parties in the cited cases, however, AEP-Ohio has no “right” that is injured by the Commission’s decision to defer. If the right it claims is injured is the right to withdraw, AEP-Ohio is not prejudiced since it may legally withdraw today. If the right AEP-Ohio asserts is to have the ability to make an “informed choice,” that right is not impaired since it has all the information to decide whether to withdraw its ESP application. More fundamentally, however, AEP-Ohio admits that it would not withdraw if the Commission took no further action on rehearing. Thus, AEP-Ohio has failed to show that it is prejudiced by the Commission’s decision to defer resolution of the lawfulness of the PPA Rider.

C. If the Commission grants the applications for rehearing of AEP-Ohio, OCC, or OMAEG seeking final resolution of the lawfulness of the PPA Rider, the Commission should find that the rider is unlawful and unreasonable

AEP-Ohio, OCC, and OMAEG ask the Commission to find that its decision to defer resolution of the lawfulness of the PPA Rider was either unlawful or unreasonable. If the Commission reverses its prior order to defer resolution of assignments of error concerning the lawfulness of the PPA Rider and proceeds to the legal merits of the PPA Rider, it should find that authorization of the PPA Rider is unlawful.

As IEU-Ohio demonstrated in its Application for Rehearing (and incorporates by reference here), the Commission’s order authorizing the PPA Rider is unlawful for several reasons:³⁶

³⁵ AEP-Ohio Second Application for Rehearing at 12.

³⁶ IEU-Ohio Application for Rehearing, *passim*.

- The Commission's finding that it may authorize the PPA Rider as a term of an ESP is unlawful because R.C. 4928.143(B)(2)(d) does not provide authorization for a nonbypassable generation-related rider.
- The Commission's finding that it may increase AEP-Ohio's compensation for wholesale generation-related electric services is unlawful because the finding exceeds the Commission's jurisdiction under Ohio law.
- AEP-Ohio did not satisfy the burden of proof to demonstrate that the PPA Rider is a limitation on customer shopping, and the Commission's finding that the PPA Rider is a limitation on customer shopping is not supported by the manifest weight of the evidence.
- The Commission's finding that the PPA Rider may have the effect of providing certainty or stability in the provision of retail electric service is not supported by the manifest weight of the evidence and is expressly contradicted by the Commission's determination that AEP-Ohio failed to demonstrate that the PPA Rider would promote rate stability.
- The Commission's finding that it can authorize a non-zero PPA Rider through a separate filing would permit AEP-Ohio to unlawfully evade the requirements of R.C. 4928.143(C)(1).
- The Commission's finding that it may authorize a non-zero PPA Rider is unlawful because the authorization would violate R.C. 4928.02(H).
- The Commission's finding that R.C. 4928.02(H) does not bar the authorization of the PPA Rider is unlawful because it departed from prior precedent without a reasoned explanation and the finding that the PPA Rider does not violate the section is neither lawful nor substantively reasonable.

- The Commission's authorization of the PPA Rider is unlawful because the Commission may not authorize, in practice or theory, the recovery of transition revenue or its equivalent.
- The Commission's authorization for AEP-Ohio to establish a PPA Rider is preempted by the Federal Power Act ("FPA").

In summary, the Commission should reject the claims of AEP-Ohio that the PPA Rider may be lawfully authorized under state and federal law and will operate to the benefit of customers.

III. CONCLUSION

AEP-Ohio has not demonstrated a legal basis for the Commission to reverse its decision to defer resolution on the lawfulness of the PPA Rider. If the Commission does grant rehearing, however, the Commission should cut off further debate over the PPA Rider by correctly finding that it cannot lawfully authorize the rider under Ohio or federal law.

Respectfully submitted,

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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 upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Memorandum of Industrial Energy Users-Ohio in Opposition to the Second Application for Rehearing of the Ohio Power Company* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 9th day of July 2015, via electronic transmission.

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