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. 4928.143, in the Form of an Electric Security Plan.	)))))	Case No. 13-2385-EL-SSO
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority.	)))	Case No. 13-2386-EL-AAM

MEMORANDUM CONTRA OHIO POWER COMPANY'S APPLICATION FOR REHEARING

I. INTRODUCTION AND PROCEDURAL HISTORY

On December 20, 2013, Ohio Power Company (AEP or the Company) filed an application for a standard service offer (SSO) in the form of an electric security plan (ESP) to be in effect initially from June 2015 through May 2018. The Ohio Manufacturers' Association Energy Group (OMAEG), which is comprised of many members with facilities located throughout AEP's service territory, was granted intervention in the above-captioned proceeding on April 21, 2014. A hearing on the ESP proposed in the Application commenced on June 3, 2014 and concluded on June 30, 2014. On December 17, 2014, an oral argument was held before the Commission for the limited purpose of enabling the Commission to clarify the legal and policy implications related to the Power Purchase Agreement (PPA) rider.

On February 25, 2015, the Commission issued an Opinion and Order (Order) which, inter alia, permitted AEP "to establish a placeholder PPA rider, at an initial rate of zero, for the term

of the ESP."[1] The Commission also determined that the Distribution Investment Rider (DIR) should continue with recovery capped at certain designated levels for each year of the ESP, with total recovery capped at $543.2 million over the course of the ESP, and the Company's Interruptible Power - Discretionary (IRP-D) program should be expanded to include new and existing shopping and non-shopping customers.[2]

Numerous parties timely filed applications for rehearing of various aspects of the Order, including issues associated with the PPA rider, the DIR, and the IRP-D program. On May 28, 2015, the Commission issued an entry on rehearing (EOR) in which it determined, inter alia, that it would "defer ruling on the assignments of error related to the PPA at this time."[3] The Commission further determined in the EOR that the annual caps relating to the DIR should be adjusted, resulting in approved recovery of $581 million over the course of the ESP, a $37.8 million increase above the total amounts the Commission previously authorized for recovery in its Order,[4] and that the IRP-D program should be continued only for customers that are currently participating in the program and should not be expanded to new customers.[5]

On June 29, 2015, AEP, OMAEG, and the Office of the Ohio Consumers' Counsel (OCC) filed applications for rehearing of the Commission's EOR. The Ohio Manufacturers' Association Energy Group (OMAEG) hereby files this memorandum contra the application for rehearing filed by Ohio Power Company (AEP or the Company) in the above-captioned matters on June 29, 2015.

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[1] *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 13-2385-EL-SSO, et al., Opinion and Order at 25 (February 25, 2015).

[2] Id. at 41, 40, 67.

[3] EOR at 5.

[4] Id. at 24.

[5] Id. at 9.

II. ARGUMENT

1. The Commission's decision to defer ruling on the assignments of error related to the PPA does not, as AEP suggests, insulate from review the establishment of the zero-dollar placeholder PPA rider or other legal and policy decisions related to the PPA.

AEP argues, inter alia, in its first assignment of error in its June 29, 2015 application for rehearing (AFR or AEP AFR) that the Commission erred when it indefinitely deferred ruling on the assignments of error related to the PPA.[6] In the context of the first assignment of error, AEP contends that it would be "a legally flawed approach to deny the [PPA] rider now, when the ESP statute supports it[.]"[7] AEP also states that "[o]bviously, the zero-dollar placeholder PPA Rider is still in place and the Commission has not reversed or modified the legal and policy determinations made in the Opinion and Order."[8] OMAEG disagrees with AEP's attempt to limit the scope of the Commission's review of the PPA related issues raised by other intervenors in their previous applications for rehearing, which the Commission deferred ruling upon in the Order. Numerous parties, including OMAEG, requested rehearing on the establishment of the placeholder PPA rider, contending, among other things, that it is not supported by statute. It is improper for AEP to suggest, in this AFR, that the Commission may not lawfully decide on rehearing that the establishment of the placeholder PPA rider should be reversed, when AEP is fully aware (and has argued that it is unlawful) that the Commission has not ruled on requests for rehearing on that issue.

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[6] *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 13-2385-EL-SSO, et al., Application for Rehearing of the Ohio Power Company at 8 (June 29, 2015).

[7] Id.

[8] Id.

Further, several parties, including OMAEG, also requested rehearing on a number of the legal and policy determinations related to the PPA that were made by the Commission in the Order. For AEP to state that the placeholder PPA rider and the policy and legal determinations the Commission rendered in the Order have not been reversed improperly suggests that those issues are not presently under Commission review. OMAEG believes it is important to point out that in spite of the Commission's decision in its EOR to defer ruling on all PPA-related issues until some later point, AEP's suggestion that the Commission will not consider those issues upon which many parties applied for rehearing, including the establishment of the PPA rider and the legal and policy determination surrounding the PPA, is false and misleading. To the extent that the Commission does not address PPA related assignments of error in its next-issued Entry on Rehearing, OMAEG requests that the Commission clarify that all PPA related issues on which any party applied for rehearing are still under consideration by the Commission.

2. **AEP's additional request for rehearing on the DIR caps improperly attempts to expand the costs recoverable through the DIR, and should be denied.**

Throughout the proceedings, AEP sought Commission approval of an expanded DIR in its proposed ESP, requesting a total rate cap of $667 million for the DIR over the course of the ESP.[9] In the Order, the Commission appropriately denied AEP's request to expand the DIR; however, on rehearing, the Commission increased the DIR rate caps it previously authorized, noting that the adjusted caps "reflect annual growth in the DIR, as a percentage of customer base distribution charges, or three to four percent, which was our objective in modifying the DIR

[9] Order at 41.

annual revenue caps proposed…for the ESP 3 term so that they *more closely track* the progression from the *ESP 2 Case*."[10]

In its AFR, AEP requests that the Commission "re-adjust the annual DIR revenue caps to meet its stated intention of providing a 3-4% growth rate, in order to preserve important reliability impacting capital infrastructure projects."[11] In essence, AEP complains that "the annual revenue caps still fall short of the Commission stated intention of 3-4% growth[.]"[12] In fact, AEP contends the following:

> [I]n order to match up with the bottom end of the 3-4% growth range, an additional $23 million is needed over the ESP term beyond the annual revenue caps adopted in the Entry on Rehearing. And if the top end of the Commission's stated range is to be achieved (*i.e.*, 4% growth), an additional $86 million is needed over the ESP term beyond the annual caps adopted in the Entry on Rehearing.[13]

In response to AEP's request, OMAEG submits that, while its decision to increase the DIR caps in the EOR was unsupported by the record,[14] the Commission's use of the three to four percent growth rate to guide its decision did not bind the Commission to set the DIR caps to authorize recovery at exactly three (or up to four) percent. As emphasized above, in the Order, the Commission noted that the three to four percent annual growth figure was used as a guideline so that the DIR caps "more closely track" the caps previously authorized in the last AEP ESP case. As such, AEP's complaint that the Commission miscalculated the caps it authorized in the

[10] EOR at 24 (emphasis added to "more closely track").

[11] AEP AFR at 13.

[12] Id. at 14.

[13] Id. at 15-16.

[14] See *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 13-2385-EL-SSO, et al., Application for Rehearing of the Ohio Manufacturers' Association Energy Group at 8-10 (June 29, 2015).

EOR and, accordingly, should increase the caps collectively by at least $23 million over the term of the ESP, is unreasonable and unsupported by the record.

AEP also contends that "[a]bsent additional funding, the capital infrastructure programs that the Company has undertaken to improve reliability could be impacted."[15] In support of this contention, AEP references its Underground Network Risk Mitigation Project, which, the Company contends, is important to distribution reliability but "was not even considered in the revenue caps proposed in this case because of the timing of the program's development."[16] As AEP notes in its AFR, the capital budget for the Underground Network Risk Mitigation Project was approved in May 2014.[17] The evidentiary hearing in these matters did not commence until June 2014. As such, AEP could have amended its requested DIR cap figures prior to the hearing. The Company failed to take any such action. Its present attempt to persuade the Commission into increasing the authorized DIR revenue caps by complaining that the costs associated with the Underground Network Risk Mitigation Project were not considered in this proceeding is disingenuous and inappropriate. AEP's attempt to fund its Underground Network Risk Management Project, after the Commission considered the Company's distribution investment revenue requirements for the ESP term in the evidentiary hearing in this matter, by protesting that the Commission did not consider the program when establishing the DIR caps is unsupported by law and objectionable. In the event AEP wishes to properly request funding for its Underground Network Risk Management Project, it is aware of the steps it must take to lawfully seek such funding. The Commission should reject its attempt to use this proceeding, at this extraordinarily late phase, to increase the DIR caps to fund the project.

[15] AEP AFR at 16.
[16] Id.
[17] Id.

3. The Commission should ensure that the economic benefits obtained from bidding IRP demand resources into PJM auctions are passed back to AEP customers to reduce the costs of IRP credits collected from customers.

Throughout the course of the proceeding, OMAEG has stressed the importance of using revenues realized from successfully bidding IRP customers' interruptible resources into PJM auctions to reduce the costs of IRP credits to customers. On rehearing, OMAEG again stresses to the Commission the importance of reducing the costs of IRP program credits to customers. AEP contends in its AFR that there is a significant risk that poorly performing demand resources yielded by an IRP customer that are successfully bid into the PJM capacity auctions may result in penalty charges from PJM.[18] Indeed, this is a real possibility. AEP requests that the Commission clarify that AEP and "other customers who bear the cost of the IRP program's credits will not be adversely affected by such penalty charges."[19] AEP suggests that this goal could be accomplished by "requiring that any such non-performance charges be the direct responsibility of the IRP customers and suspending the $8.21/MW-month credits until such non-performance charges are paid."[20] OMAEG supports this proposal. However, AEP further requests that in the event of the insolvency of an IRP customer whose demand resources have been successfully bid into the PJM auction and have resulted in substandard performance charges, the Commission should clarify that such substandard performance charges are "eligible for recovery through the EE/PDR rider."[21] OMAEG objects to the recovery of substandard performance penalties due to the insolvency of any IRP customer through the EE/PDR rider. Such an approach would penalize those customers who are funding the substantial credits

[18] Id at 27.

[19] Id at 27-28.

[20] Id. at 28.

[21] Id.

obtained by those customers participating in the IRP program. Rather, such penalties would be more suitably recovered by reducing the $8.21/MW-month credit received across the IRP customer class by the penalized amount.

III. CONCLUSION

In connection with the arguments set forth above, OMAEG respectfully requests that the Commission deny AEP's application for rehearing and grant the application for rehearing filed by OMAEG in this matter on June 29, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on July 9, 2015.

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Summary: Memorandum Contra Application for Rehearing of Ohio Power Company electronically filed by Ms. Rebecca L Hussey on behalf of OMAEG