

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application Seeking)	
Approval of Ohio Power Company's)	Case No. 14-1693-EL-RDR
Proposal to Enter into an Affiliate Power)	
Purchase Agreement in the Power)	
Purchase Agreement Rider.)	

In the Matter of the Application of)	
Ohio Power Company for Approval of)	Case No. 14-1694-EL-AAM
Certain Accounting Authority.)	

NOBLE AMERICAS ENERGY SOLUTIONS LLC'S
MOTION TO STAY PROCEEDINGS
PENDING A RULING BY FERC

Now comes Noble Americas Energy Solutions LLC, by and through counsel, pursuant to Ohio Administrative Code section 4901-1-12, to move this Commission for the entry of an Order that stays this proceeding pending a ruling by the Federal Energy Regulatory Commission in the matter of *Electric Power Supply Association et al. v. AEP Generation Resources, Inc. et al*, Case. No. 16-33-000. Grounds for this Motion are set forth in the attached Memorandum in Support, which is incorporated by reference herein.

Respectfully submitted,

/s/ Michael D. Dortch

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MEMORANDUM IN SUPPORT

On January 27, 2016, Electric Power Supply Association (“EPSA”), Retail Energy Supply Association (“RESA”), Dynegy, Inc. (“Dynegy”), Eastern Generation, LLC (“Eastern Generation”), NRG Power Marketing LLC (“NRG”) and GenOn Energy Management, LLC (“GenOn”) (together, the “Complaining Parties”) filed a joint complaint with the Federal Energy Regulatory Commission (“FERC”). A copy of their complaint was filed within Docket No. EL 16-34-000, and is attached hereto as **Exhibit A**. The Complaining Parties ask FERC to rescind a previously-approved waiver of FERC rules regarding affiliate transactions, in order to allow FERC to review the affiliate purchase power agreement (the “PPA”) that is central to this proceeding, before this Commission, against principles of federal law and policy.

On March 21, 2016, the Office of the Ohio Consumers’ Counsel (“OCC”), Appalachian Peace and Justice Network (“APJN”) and the Ohio Manufacturers’ Association Energy Group (“OMAEG”) (together, “Movants”) filed a joint motion for stay of this proceeding, pending a final determination in Case No. EL 16-34-000 of the legality of AEP Ohio’s proposed PPA.

The Movants contend that a stay of this proceeding is necessary in order to protect AEP Ohio rate payers against an irreparable harm. Citing *In re: Columbus Southern Power Co.* 138, Ohio St. 3d 448 (2014), in which the Ohio Supreme Court held that this Commission had erred in setting rates for AEP Ohio, but which also held that AEP Ohio could not be compelled to refund some \$463 Million Dollars in erroneously-established rates. Movants correctly posit a similar, unrecoverable, overpayment resulting from AEP Ohio’s proposal in this case if the PUCO were to approve AEP’s proposed PPA rider.

Noble Solutions joins in, and fully supports the Motion to Stay as filed by the Movants. The potential irreparable harm to AEP-Ohio's rate payers arising from approval of AEP's PPA rider alone warrants Noble Solutions' support of the Motion. Noble Solutions is alarmed, however, by still another irreparable harm it believes must result from AEP-Ohio's PPA proposal. Noble Solutions is deeply concerned that the wholesale and retail markets for generation in Ohio will be irretrievably damaged by the PPA proposal. That damage would arise from the AEP Generation Resources receiving a ratepayer subsidy through a guaranteed return of 10.38% on the resources which are the subject of the PPAs. No other wholesale provider will have a similar ratepayer subsidy which places AEPGR at a competitive advantage in the wholesale market. It therefore urges this Commission to stay any decision regarding the proposal pending FERC's determination of the legality of that proposal under federal law.

For the past sixteen years, Ohio has encouraged the growth and development of competitive markets. That encouragement has created an attractive investment environment for potential suppliers of electric power. Regulatory manipulation of the Ohio market in order to artificially support aging and perhaps even uneconomic generating units will not merely entrench those units within the market. Such manipulation inevitably deters the entry of new, more efficient competitive generation supplies. At best, Suppliers that find their path forward in Ohio blocked by subsidies to AEP Ohio will simply sit on the sidelines as spectators, waiting for legal battles to be resolved in order to determine whether Ohio remains a competitive marketplace. At worst, Suppliers will instead reallocate their capital to other markets deemed more favorable. The specific damage to Ohio and its markets may never even be quantifiable, let alone recoverable. Noble Solutions respectfully asks this Commission to stay any determination

regarding AEP Ohio's PPA proposal until FERC has determined whether the PPA is even lawful under federal law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing were served via electronic transmission upon the persons listed below this Tuesday, March 29, 2016.

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Summary: Motion to Stay electronically filed by Mr. Michael D. Dortch on behalf of Noble Americas Energy Solutions LLC