

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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**SECOND APPLICATION FOR REHEARING BY  
THE ENVIRONMENTAL LAW & POLICY CENTER**

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Pursuant to Ohio Revised Code ("R.C.") 4903.10 and Ohio Admin. Code 4901-1-35, the Environmental Law & Policy Center hereby files this application for rehearing of the November 3, 2016 Second Entry on Rehearing ("Entry") of the Public Utilities Commission of Ohio ("Commission") in this proceeding. The Commission's Entry reiterated its approval of a Joint Stipulation and Recommendation ("Stipulation") proposed by Ohio Power Company ("AEP Ohio" or "Company") and other signatory parties. Among its other provisions, the Stipulation commits AEP Ohio to seek future Commission approval, in an Electric Security Plan ("ESP") amendment application, for the Company to allow qualifying customers to opt out of its energy efficiency and peak demand reduction programs but still participate in the its interruptible demand program. As further explained in the accompanying Memorandum in Support, the Entry is unlawful and unreasonable to the extent it fails to prevent AEP Ohio from allowing opt-out customers to participate in the interruptible demand program prior to a decision in that ESP amendment proceeding.

December 5, 2016

Respectfully submitted,

/s/ Madeline Fleisher

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**MEMORANDUM IN SUPPORT OF SECOND APPLICATION FOR REHEARING BY  
THE ENVIRONMENTAL LAW & POLICY CENTER**

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The Environmental Law & Policy Center (“ELPC”) seeks rehearing of the November 3, 2016 Second Entry on Rehearing (“Entry”) of the Public Utilities Commission of Ohio (“Commission”) in this proceeding. The Entry approved a Joint Stipulation and Recommendation (“Stipulation”) that, in Section III.C.11, states that “IRP tariff customers may opt out of the opportunity and ability to obtain direct benefits from AEP Ohio’s EE/PDR Plan as provided in S.B. 310.” This provision would allow customers to participate in the IRP tariff, an interruptible demand program that reduces peak demand, even if they have opted out of paying for Ohio Power Company’s (“AEP” or “Company”) energy efficiency and peak demand reduction programs pursuant to Ohio Revised Code (“R.C.”) 4928.6611.

ELPC argued in its initial brief that this provision violates R.C. 4928.6613. Environmental Intervenors Initial Br. at 57-58. R.C. 4928.6613 provides that if a customer opts out of paying for a utility’s energy efficiency and peak demand reduction programs as permitted by R.C. 4928.6611, the customer is no longer “eligible to participate in, or directly benefit from, programs arising from” the utility’s energy efficiency and peak demand reduction portfolio plan.

In its March 31, 2016 Opinion and Order (“PPA Order”), the Commission held that it would not address whether Section III.C.11 of the Stipulation is inconsistent with R.C. 4928.6613 because Section III.C.11 is merely an item listed for inclusion in a future Electric Security Plan amendment application that AEP Ohio must file pursuant to the Stipulation. PPA Order at 98.

On rehearing, ELPC argued that the Commission had unreasonably interpreted Section III.C.11, and that it was in fact designed to take immediate effect. Environmental Intervenors Rehearing App. at 15. The Entry affirmed the Commission’s reading of this provision as simply a “part of the ESP extension application case,” and clarified “that this provision of the stipulation has not been approved for immediate implementation.” Entry at 107. AEP Ohio subsequently filed its ESP amendment application in Case Nos. 16-1852-EL-SSO *et al.* on November 23, 2016.

ELPC seeks rehearing of the Entry only to the extent it unreasonably failed to state whether AEP Ohio is in fact *barred* from allowing customers who have opted out of the Company’s energy efficiency and peak demand reduction programs from participating in the IRP tariff. AEP Ohio has filed a proposed program portfolio plan for 2017-2019 in Case No. 16-574-EL-POR that includes the IRP tariff as a peak demand reduction program. Case No. 16-574-EL-POR, Williams Test., Ex. JFW-1 at 36 (June 15, 2016). AEP Ohio is likely to begin implementing this plan well before the Commission rules on the Company’s ESP amendment application in Case Nos. 16-1852-EL-SSO *et al.* In order to provide clarity regarding the treatment of opt-out customers under that pending portfolio plan, ELPC respectfully requests that the Commission specifically hold that no customer that has opted out of the plan under R.C. 4928.6611 may simultaneously participate in the IRP tariff unless and until the Commission endorses that procedure as consistent with R.C. 4928.6613 in the ESP amendment case.

December 5, 2016

Respectfully submitted,

/s/ Madeline Fleisher

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Second Application for Rehearing has been electronically filed with the Public Utilities Commission of Ohio and has been served upon all parties to the case via electronic mail on December 5, 2016.

/s/ Madeline Fleisher

Madeline Fleisher

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM**

Summary: App for Rehearing Second Application for Rehearing of the Environmental Law & Policy Center electronically filed by Madeline Fleisher on behalf of Environmental Law and Policy Center