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 Section 4928.143, Revised Code, in the Form of an Electric Security Plan	)))))	Case No. 16-1852-EL-SSO
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority	)))	Case No. 16-1853-EL-AAM

POST-HEARING REPLY BRIEF OF INDUSTRIAL ENERGY USERS-OHIO

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I. INTRODUCTION

In an Amended Application, Ohio Power Company ("AEP-Ohio") is seeking to modify and extend its current electric security plan to May 31, 2024. Following extended negotiations, parties including Industrial Energy Users-Ohio ("IEU-Ohio") entered a Joint Stipulation and Recommendation ("Stipulation").[1] Joint Exhibit 1. One intervening party, the Office of the Ohio Consumers' Counsel ("OCC"), opposed the Stipulation. To take evidence from parties supporting and opposing the Amended Application and Stipulation, the Commission conducted a hearing that concluded on November 6, 2017. Parties then filed initial briefs on November 29, 2017 and addressed, among other issues, whether the Stipulation satisfied the three-part test applied by the Public Utilities Commission of Ohio ("Commission") to assess settlements.[2]

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[1] IEU-Ohio agreed not to oppose two provisions of the Stipulation. Joint Exhibit 1, nn. 4 & 9.

[2] Under the three-part test, the Commission considers three questions: (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties? (2) Does the settlement, as a package, benefit ratepayers and the public interest? (3) Does the settlement package violate any important regulatory principle or practice? *Industrial Energy Consumers of Ohio Power Co. v. Pub. Utils. Comm'n of Ohio*, 68 Ohio St. 3d 559 (1994); *In the Matter of the Application of the Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case Nos. 16-395-EL-SSO, *et al*., Opinion and Order at 16 (Oct. 20, 2017).

In its initial brief, OCC first focuses on ten provisions of the Stipulation that it claims should be rejected because they do not benefit customers or the public interest. Post Hearing Brief by The Office of the Ohio Consumers' Counsel at 4-28 (Nov. 29, 2017) ("OCC Initial Brief"). Among the ten provisions OCC urges the Commission to reject are those proposing to extend and expand the Interruptible Rate Program ("IRP") and the Basic Transmission Cost Recovery Rider Pilot ("BTCR Pilot"). In support of its objections to these two provisions, OCC relies exclusively on OCC Exhibit 8, the testimony of Mr. Haugh. *Id*.

As discussed in the initial post-hearing briefs of IEU-Ohio and AEP-Ohio, a broader review of the record supports Commission findings that the provisions to extend the IRP and the BTCR Pilot benefit all customers by lowering electric costs, improving system reliability, potentially lowering capital investment requirements, and advancing the State's economic goals. Initial Post-Hearing Brief of Industrial Energy Users-Ohio *passim* (Nov. 30, 2017) ("IEU-Ohio Initial Brief"); Initial Post-Hearing Brief of Ohio Power Company in Support of the Joint Stipulation and Recommendation at 25-31 (Nov. 30, 2017). Accordingly, the Commission should reject OCC's objections to these provisions and approve them as part of the extended electric security plan.[3]

II. THE PROVISION OF THE STIPULATION EXTENDING AND EXPANDING THE IRP BENEFITS RATEPAYERS AND THE PUBLIC INTEREST

The Stipulation proposes an extension and expansion of the current IRP. Joint Ex. 1 at 22-26. According to OCC, the Commission should reject the extension and expansion of the IRP because a customer with demand response capabilities "should participate in the PJM program and receive compensation through that process." OCC

[3] Failure to discuss OCC's other complaints regarding the benefits of the Stipulation should not be regarded as agreement with OCC.

Initial Brief at 5. The Commission should reject OCC's complaint because it is not supported by the record. *See* IEU-Ohio Initial Brief at 4-6.

While OCC's complaint is premised on the assumption that the PJM demand response programs and the IRP cover the same product, that assumption is not correct. In several ways, the IRP and PJM demand response are different products. For example, AEP-Ohio under the proposed IRP may require a customer to curtail for either an AEP-Ohio or a PJM announced event; PJM is limited to calling a curtailment event for PJM events. Tr. Vol. IV at 505. AEP-Ohio may call an event with 30 minutes' notice while a customer may arrange for a notice of up to 120 minutes from PJM. *Id.* at 506. Further, the load reduction calculations and the penalty structures for noncompliance are different. *Id.* at 506-07. Because the IRP and PJM demand response are different products, OCC's suggestion that customers could be compensated properly for their curtailment capabilities by resorting to PJM demand response programs is wrong.

In its attempt to undo the Stipulation, OCC also neglects to address all the benefits of the IRP. OCC correctly acknowledges the benefit of load reduction on system management, noting that "interruptible electric service may provide benefits at times of peak usage and system stress," OCC Initial Brief at 4; *see* Tr. Vol. I at 171; Vol. IV at 521-22. OCC, however, ignores that extension and expansion of the IRP also will encourage economic development. AEP-Ohio Ex. 1 at 18 and 21; Tr. Vol. I at 165 and 171.

While OCC urges the Commission to find that the proposed expansion of the IRP is not justified, the record establishes otherwise. Based on the record before the Commission, the Commission should approve a modification of the ESP to extend and expand the IRP.

III. THE PROVSION OF THE STIPULATION EXPANDING THE BTCR PILOT BENEFITS RATEPAYERS AND THE PUBLIC INTEREST

The Stipulation proposes an extension and expansion of the BTCR Pilot established in a prior settlement. Joint Ex. 1 at 27-31. While OCC advocated for a modification of the BTCR Pilot in its hearing testimony, it now urges the Commission to reject the provision of the Stipulation expanding the BTCR Pilot. Compare OCC Ex. 8 at 9 with OCC Initial Brief at 6. In support of its new-found position, OCC claims that the Pilot does not benefit customers or the public interest because there is no guarantee of a continual reduction in load for AEP-Ohio because customers can elect annually to participate. *Id*. at 6. OCC also complains that participation of an unlimited number of schools would not provide additional benefits to other customers because schools have low usage during the summer months. *Id*. OCC adds that participation is too limited. *Id*. at 7. None of these complaints, however, justifies a finding that the extension and expansion of the BTCR Pilot does not benefit customers and the public interest.

Initially, OCC complains that there is no guarantee of a continual reduction in the transmission peak because eligible customers will "game the system if they are not able to reduce their load." *Id*. at 6. With the expectation that they can lower their energy bills, however, customers in the BTCR Pilot will remain economically motivated to reduce load in response to system peaks. These incentives assure that customers are motivated to not "game" the system.

OCC's second complaint about school participation once again ignores the fact that AEP-Ohio has a single annual peak day that may fall either in the summer or winter months and the likelihood of either is about the same. Tr. Vol. IV at 504. Because the benefit of the Pilot is tied to managing the customer's single zonal peak, schools must manage their peak loads throughout the year if they are to take full advantage of the BTCR Pilot.

OCC's third complaint that participation in the program is too limited is also unwarranted. OCC has not pointed to any customer that has come forward and complained that it has been excluded from participation under the Stipulation. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Opinion and Order at 112 (Mar. 21, 2016) (rejecting a challenge to a term of a stipulation because the challenger did not identify any injured customer). Further, its complaint ignores the prior Commission determination that customers not eligible to participate in a transmission pilot may seek to participate under a reasonable arrangement. *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case Nos. 08-1094-EL-SSO, *et al.*, Finding and Order at 10-11 (Aug. 26, 2016). If there is a customer that would benefit from participation in the BTCR Pilot that has not been identified, it can seek relief from the Commission.

OCC also ignores the benefits of the expanded BTCR Pilot. Using the zonal coincident peak for purposes of developing responsibility for transmission-related demand costs will provide a signal to participating customers to reduce their demand on peak and near-peak days, and this demand reduction will promote efficient use of the transmission grid. AEP-Ohio Ex. 1 at 18-19. This efficient use should help lower the need for costly upgrades, a benefit to all customers.

While OCC urges the Commission to find that the proposed expansion of the BTCR Pilot is not justified, the record establishes otherwise. Based on the record before the Commission, the Commission should approve a modification of the electric security plan to include the expanded Pilot.

IV. CONCLUSION

Contrary to OCC's complaints, two important benefits of the Stipulation are the expansion of the IRP and BTCR Pilot. By reducing costs for the participating customers and providing system benefits for all customers, these provisions help "[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service" and "[f]acilitate the state's effectiveness in the global economy." R.C. 4928.02(A) & (N); *see, also, 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 Nos. 13-2385-EL-SSO, *et al.*, Opinion and Order at 36-40 (Feb. 25, 2015). Accordingly, the Commission should approve both modifications of the current ESP as proposed by the Stipulation.

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 *Post-Hearing Reply Brief of Industrial Energy Users-Ohio*, was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 21st day of December 2017, *via* electronic transmission.

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