

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Long-Term Forecast)	
Report of Ohio Power Company and Related)	Case No. 18-501-EL-FOR
Matters)	
)	
In the Matter of the Application Seeking)	
Approval of Ohio Power Company's Proposal)	
to Enter into Renewable Energy Purchase)	Case No. 18-1392-EL-RDR
Agreements for Inclusion in the Renewable)	
Generation Rider)	
)	
In the Matter of the Application of Ohio)	Case No. 18-1393-EL-ATA
Power Company to Amend Its Tariffs)	

**MEMORANDUM CONTRA MOTION TO CONSOLIDATE PROCEEDINGS
BY
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. INTRODUCTION

On April 16, 2018, the Ohio Power Company (AEP Ohio) filed its Long-Term Forecast Report (LTFR) with the Public Utilities Commission of Ohio (Commission) in Case No. 18-501-EL-FOR (Forecast Case),¹ and supplemented its LTFR on June 26, 2018.² On September 19, 2018, AEP Ohio filed its Amendment to the 2018 Long-Term Forecast Report, wherein it requested that the Commission permit AEP Ohio to develop at least 900 MW of renewable energy projects in Ohio (the costs for which would be recovered from customers).³ Eight days later, AEP Ohio commenced a rider proceeding to receive cost recovery associated with two

¹ See *In the Matter of the 2018 Long-Term Forecast Report on Behalf of Ohio Power Company and Related Matters*, Case No. 18-501-EL-FOR (Forecast Case), In the Matter of the 2018 Long-Term Forecast Report on behalf of AEP Ohio (or Ohio Power), pursuant to Section 4935.04, Ohio Revised Code (April 16, 2018).

² See Forecast Case, Ohio Power Company's Supplemental Long-Term Forecast Report Filing (69 kV facilities) (June 26, 2018).

³ See Forecast Case, Amendment to the 2018 Long-Term Forecast Report of Ohio Power Company at 2-3 (September 19, 2018) (Amendment).

solar energy projects from customers through the Renewable Generation Rider (Rider RGR) in Case Nos. 18-1392-EL-RDR, et al. (Cost Recovery Case). In the same Application, AEP Ohio requested the creation of a “Green Tariff” whereby shopping and non-shopping customers could choose to support renewable projects by purchasing green power. Simultaneously with that Application, AEP Ohio filed a Motion to Consolidate the Forecast Case and Cost Recovery Case.⁴ When it filed the Motion to Consolidate, AEP Ohio asked the Commission to issue an expedited ruling on the Motion to Consolidate.

As stated in the Ohio Manufacturers’ Association Energy Group’s (OMAEG) Motions to Intervene in these proceedings, OMAEG has serious concerns about AEP Ohio’s request to amend its LTFR in an attempt to demonstrate need and allow AEP Ohio and its affiliates to develop renewable energy projects that all customers pay for.⁵ In addition to the conflicts with state law and state policy that AEP Ohio’s various requests present, its request to consolidate these proceedings is procedurally improper and inconsistent with Ohio law and Commission practice. As such, pursuant to Ohio Adm. Code 4901-1-12 and 4901:1-35-03, OMAEG timely files this Memorandum Contra AEP Ohio’s Motion to Consolidate.

II. ARGUMENT

Consolidation of cases is a useful vehicle to avoid redundant proceedings and allow for the efficient use of resources. As such, the Commission allows for the consolidation of cases where there are common issues and efficiencies to be gained.⁶ However, it is not the case that all

⁴ See Forecast Case and Cost Recovery Case, Motion to Consolidate (September 27, 2018).

⁵ See Forecast Case, Motion to Intervene of the Ohio Manufacturers’ Association Energy Group (October 4, 2018); Cost Recovery Case, Motion to Intervene of the Ohio Manufacturers’ Association Energy Group (October 4, 2018).

⁶ *In the Matter of the Inquiry into the 1989 Long-Term Forecast Report of the Ohio Gas Company*, Case No. 89-0874-GA-GCR, et al., Opinion and Order (June 26, 1989) (“[C]onsolidation of the hearings is appropriate because common issues exist between these proceedings and the consolidation will enhance the efficiency of the proceedings.”)

proceedings that deal with similar testimony or issues can be efficiently consolidated. In considering whether or not to consolidate cases, the Commission should consider whether common issues exist and whether the issues in each case are similar, not whether the cases are part of the same overall objective of the party asking to consolidate.

In asserting that these matters should be consolidated, AEP Ohio offers that the cases are “fundamentally related” and “interrelated.”⁷ AEP Ohio’s chief evidence for this assertion is that the same witnesses have filed testimony in these proceedings and that the cases concern similar topics.⁸ AEP Ohio states that consolidation would avoid duplicative testimony, hearings, and post-hearing briefing.⁹ AEP Ohio ignores, however, the reality that these cases present completely distinct legal questions and that Ohio law and the Commission’s rules dictate that the Forecast Case must be resolved before the Cost Recovery Case may proceed.

Another part of AEP Ohio’s argument is that it has requested the same expedited procedural schedule in both of these cases.¹⁰ Contrary to AEP Ohio’s assertion that the Company’s preferred timing of these cases makes consolidation of the cases proper, the timing AEP Ohio seeks is actually prohibited by Ohio law as well as the Commission’s rules and its prior orders. As justification for seeking cost recovery for the development of renewable projects, AEP Ohio cites R.C. 4928.143(B)(2)(c). Per that statute, AEP Ohio is required to demonstrate a “resource planning need” for these projects before Commission approval.¹¹ The Commission’s rules governing cost recovery for renewable generation owned or operated by an electric utility are contained in Ohio Adm. Code 4901:1-35-03. Specifically, Ohio Adm. Code

⁷ Motion to Consolidate at 2.

⁸ Id.

⁹ Id.

¹⁰ Id. at 3.

¹¹ R.C. 4928.143(B)(2)(c).

4901:1-35-03(C)(9)(b)(i) states that at the time an application is filed, “[t]he need for the proposed facility must have *already been reviewed and determined by the commission* through an integrated resource planning process filed pursuant to rule 4901:5-5-05 of the Administrative Code.”¹² Indeed, the Commission’s decisions related to AEP Ohio’s Rider RGR explicitly provide that any cost recovery for renewable projects will be considered by the Commission on a case-by-case basis.¹³

Additionally, pursuant to Ohio Adm. Code 4901:5-5-06(B), a utility must file its LTFR a year prior to any filing under R.C. 4928.143(B)(2)(b) or R.C. 4928.143(B)(2)(c). The Commission has previously determined that a utility cannot seek cost recovery for the construction of a new power plant under R.C. 4928.143(B)(2)(c) until the year following the year in which the utility’s LTFR was filed.¹⁴ In AEP Ohio’s 2010 forecast case, it requested inclusion of the Turning Point facility in its forecast.¹⁵ The Commission rejected a stipulation reached between some of the parties because it found that the signatory parties, including AEP Ohio, had failed to demonstrate a need for the project.¹⁶ Although AEP Ohio claims here that consolidation will result in greater efficiency due to the avoidance of redundant discovery and testimony, its own 2010 forecast case demonstrates that the opposite is true. If the cases are consolidated, the parties will be required to conduct discovery, prepare and file testimony, and litigate the issues surrounding both the proposed Amendment in the Forecast Case and cost recovery in the Cost

¹² Ohio Adm. Code 4901:1-35-03(C)(9)(b)(i) (emphasis added).

¹³ See *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, et al.*, Case Nos. 14-1693-EL-RDR, et al. (AEP Ohio PPA Case), Second Entry on Rehearing at 57 (November 3, 2016) and Fifth Entry on Rehearing at 32 (April 5, 2017).

¹⁴ See *In the Matter of the Long Term Electric Forecast Report of the Ohio Power Company and Related Matters, et al.*, Case Nos. 10-501-EL-FOR (2010 Forecast Case), Opinion and Order at 20-21 (January 9, 2013).

¹⁵ 2010 Forecast Case, Supplement to the 2010 Long-Term Forecast Report to the PUCO (December 20, 2010).

¹⁶ 2010 Forecast Case, Opinion and Order at 20-21 (January 9, 2013).

Recovery Case. But if the Commission, as it did previously, determines that AEP Ohio's proposed development of renewable facilities is not necessary, all discovery and testimony related to cost recovery for specific projects would have been a complete waste of time and resources.

Furthermore, consolidation is especially inappropriate given that AEP Ohio is not even seeking the same relief in these cases and is seeking relief for different renewable projects. AEP Ohio concedes in its Application in the Cost Recovery Case that it is seeking a determination from the Commission in the Forecast Case that a generic set of projects totaling at least 900 MW is necessary, but that in the Cost Recovery Case, it is only seeking cost recovery for two projects totaling 400 MW.¹⁷ Additionally, AEP Ohio's Cost Recovery Case requests the creation of a "Green Tariff." Not only do the two cases seek approval of different levels and possibly types of renewable projects, but AEP Ohio also fails to acknowledge that the Commission's rules reject the proposition that these issues can be resolved simultaneously. Before AEP Ohio can even begin to seek cost recovery, the Commission must rule that the specific projects proposed are necessary (not a generic set of projects). Thus, the issue in the Forecast Case is whether or not specific renewable projects that AEP Ohio proposes are necessary and the issue in the Cost Recovery Case is whether, and to what extent, AEP Ohio can seek cost recovery from customers through Rider RGR for the specific projects that have already been deemed necessary.

The Commission may hear from some of the same witnesses and some of the same parties when it considers these issues, but the issues themselves are simply not the same. The Commission should adhere to its rules and first assess the necessity of specific renewable generation facilities owned by AEP Ohio and its affiliates and then, if the Commission does

¹⁷ Cost Recovery Case, Application at 6.

determine that the facilities are necessary, proceed to the Cost Recovery Application that AEP Ohio filed.

III. CONCLUSION

The Commission should reject AEP Ohio's attempt to combine these distinct issues into a single proceeding. The Commission has established a defined process by which utilities can own or operate renewable generation facilities. It should follow that process rather than agree to AEP Ohio's attempt to short-circuit the process in hopes that doing so would allow AEP Ohio to begin charging customers for generation that it and its affiliates developed more quickly than if proper procedure were followed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon all parties of record via electronic mail October 4, 2018.

/s/ Brian W. Dressel
Brian W. Dressel

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Summary: Memorandum Memorandum Contra Motion to Consolidate Proceedings by The OMAEG electronically filed by Mr. Brian W Dressel on behalf of The Ohio Manufacturers' Association Energy Group