

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the 2018 Long-Term</b>	)	
<b>Forecast Report on behalf of Ohio Power</b>	)	<b>Case No. 18-0501-EL-FOR</b>
<b>Company and Related Matters.</b>	)	

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**LIMITED MEMORANDUM CONTRA THE MOTION OF STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO FOR A HEARING  
BY THE NATURAL RESOURCES DEFENSE COUNCIL**

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**I. INTRODUCTION**

The Ohio Power Company (“AEP”) filed an Amendment to its 2018 Long-Term Forecast Report (“LTFR”) on September 19, 2018 (“Amendment”), seeking a determination that there is a resource need for at least 900MW of renewable generation resources in Ohio.<sup>1</sup> In the Amendment, AEP requests an accelerated procedural schedule whereby the Commission would hold its evidentiary hearing on November 28, 2018, seventy-one days after the Amendment was filed. On September 21, 2018, Staff of the Public Utilities Commission of Ohio (“Staff”) filed a Motion for a Hearing and requested that the Commission order a hearing in the case to take place within ninety days of September 19, 2018, but to simply call and continue that hearing.<sup>2</sup> Staff did not propose a date that the Commission should set for the evidentiary hearing.<sup>3</sup>

On September 27, 2018, AEP filed a motion to consolidate this proceeding with Case Nos. 18-1392-EL-RDR (“RGR Case”) and 18-1393-EL-ATA (“Green Tariff Case”).<sup>4</sup> AEP is

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<sup>1</sup> Case No. 18-501-EL-FOR, Amendment to the 2018 Long-Term Forecast Report of Ohio Power Company (Sept. 19, 2018). (“Amendment”).

<sup>2</sup> Case No. 18-501-EL-FOR, Motion for a Hearing and Memorandum in Support filed on behalf of the PUCO at 1 (Sept. 21, 2018).

<sup>3</sup> Id.

<sup>4</sup> Case No. 18-501-EL-FOR, Motion to Consolidate (September 27, 2018).

seeking consolidation of these three cases because the issues presented in each are fundamentally related and administrative efficiency demands they be heard together.

Natural Resources Defense Council (“NRDC”) has a substantial interest in this proceeding as it will directly impact its members in AEP’s service territory. NRDC agrees with Staff’s assertions in their motion that this case presents novel and complex issues that will be of interest to many parties.<sup>5</sup> And NRDC agrees that this proceeding will benefit from a well-developed record and an appropriate amount of time for discovery and to develop expert testimony. However, NRDC also recognizes the value in resolving this case in a timely manner as well as the administrative efficiency and fully developed record that will be achieved by consolidating the three cases. Therefore, NRDC respectfully requests that the Commission consolidate the three cases and adopt the procedural schedule provided below that will allow for an efficient, fair, and timely resolution of these proceedings to the benefit of AEP’s customers.

## **II. ARGUMENT**

This case is the product of two prior Commission approved stipulations. In Case No. 14-1693-EL-RDR (“PPA Rider case”) on December 14, 2015, a Stipulation was filed, to which Staff was a signatory party, that included a commitment to build at least 400MW of solar generation in Ohio.<sup>6</sup> That Stipulation included a provision that AEP would use its best efforts to complete the solar energy projects by 2021.<sup>7</sup> The Commission approved that Stipulation on March 31, 2016.<sup>8</sup> In its Opinion and Order, the Commission discussed the benefits of such a project while also recognizing the need for its timely completion.<sup>9</sup>

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<sup>5</sup> Staff’s Motion at 2.

<sup>6</sup> Case No. 14-1693-EL-RDR, Stipulation at 31-32.

<sup>7</sup> Id. at 32.

<sup>8</sup> Case No. 14-1693-EL-RDR, Opinion and Order.

<sup>9</sup> Id. at 77, 82, & 58.

The Commission stated that the procurement of renewable energy resources would help modernize the grid and that “the Commission supports the construction of new renewables in this state.”<sup>10</sup> The Commission even directed AEP to first pursue solar projects because “solar projects would enhance the diversity of available generation options.”<sup>11</sup> Finally, the Commission recognized that investment tax credits were critical to providing value to customers when considering the construction of renewable generation.<sup>12</sup>

In this case, AEP seeks to fulfill the commitment it made to the Signatory Parties to that Stipulation, including PUCO Staff, which the Commission approved in the PPA Rider Case. NRDC is not suggesting that simply because a party was a signatory to the stipulation in the PPA Rider case it has to support this present case. However, certain goals, the most pertinent to this Memorandum is timeliness, were agreed to by the Signatory Parties to enable AEP to have the best opportunity to capture the greatest potential value for its customers. Therefore, it is only fair to balance Staff’s request for additional time with AEP’s commitment to make its best efforts to capture the maximum value for its customers.

AEP makes it clear in the Amendment filing that a portion of the value the projects predicated on this need filing provide is derived from the tax credits available.<sup>13</sup> For solar projects to capture the largest available credit for AEP’s customers, construction must start before December 2019.<sup>14</sup> This timeline was considered by the Commission when it noted the value tax credits provide in its Opinion and Order in the PPA Rider Case.<sup>15</sup> Additionally, Signatory Parties agreed in the PPA Rider Case Stipulation that AEP should make its best efforts

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<sup>10</sup> Id. at 77 & 82.

<sup>11</sup> Id. at 83.

<sup>12</sup> Id. at 58.

<sup>13</sup> Amendment at 8.

<sup>14</sup> Id.

<sup>15</sup> PPA Rider Case Opinion and Order at 58.

to have these solar generation resources operational by 2021.<sup>16</sup> But, Staff's request to have an open-ended call and continue Entry will unnecessarily delay these proceedings and could place at risk the significant value that available tax credits could provide to AEP's customers.

AEP requested a waiver of certain requirements and expedited consideration from the Commission in June of this year. 104 days later, the Commission issued its decision on September 19, 2018, and that very same day AEP filed its Amendment Application. AEP has taken steps throughout this process to ensure the greatest opportunity to capture value for its customers from federally available tax credits as evidenced by the company's request for an accelerated procedural schedule. AEP suggested the following procedural schedule:

- A. Motions to intervene be filed by October 7, 2018.
- B. Testimony on behalf of intervenors be filed by October 29, 2018.
- C. Discovery requests, except for notices of deposition, be served by November 12, 2018.
- D. Responses to discovery requests be due seven calendar days after requests are served.

Discovery requests and responses be served by hand delivery or e-mail unless otherwise agreed by the parties.

- E. Testimony on behalf of the Commission Staff be filed by November 12, 2018.
- F. A procedural conference be scheduled for November 20, 2018, at 10:00 a.m., at the offices of the Commission.
- G. The evidentiary hearing commence on November 28, 2018, at 10:00 a.m., at the offices of the Commission.

While this is clearly a condensed schedule, AEP has offered to offset it with a commitment to a seven calendar day discovery turn-around. But a quick discovery turnaround is

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<sup>16</sup> PPA Rider Stipulation at 31.

not enough and NRDC agrees with Staff that at least some additional time is prudent in this proceeding. NRDC suggests setting a hearing date within the ninety days required, as suggested by Staff, but instead of an open-ended call and continue, an evidentiary hearing date should be set to commence no later than January 14, 2019. In his concurring opinion in the Second Entry on Rehearing in the PPA Rider Case, Chairman Haque stated that “every party involved must be transparent and work towards the betterment of this endeavor, especially early on as appropriate processes are developed, all the while being mindful of ratepayer impacts.”<sup>17</sup> Therefore, NRDC respectfully proposes the following procedural schedule which balances Staff’s reasonable request for additional time while providing a fair opportunity to capture benefits for AEP’s customers provided by federal tax credits with known expiration dates:

- A. Motions to Intervene be filed by November 3, 2018.
- B. Testimony on behalf of Intervenors be filed by November 30, 2018.
- C. Discovery Requests, except notices for deposition, be served by December 14, 2018.
- D. Responses to discovery requests be due seven calendar days after requests are served.

Discovery requests and responses be served by hand delivery or e-mail unless otherwise agreed by the parties.

- E. Testimony on behalf of the Commission Staff be filed by December 14, 2018.
- F. A procedural conference be scheduled for 10:00 a.m. on December 21, 2018, at the offices of the Commission.
- G. The evidentiary hearing commence on January 14, 2018, at 10:00 a.m. at the offices of the Commission.

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<sup>17</sup> PPA Rider Case, Second Entry on Rehearing, Chairman Haque’s Concurring Opinion at 7 (November 3, 2016).

This procedural schedule balances Staff's request for additional time with providing AEP a fair opportunity to capture the maximum value for its customers. It maintains AEP's accelerated response time and allows for over a month and a half of additional time between the hearing date proposed by AEP and the hearing date in this proposal.

It is imperative that the Commission set deadlines in this case. An open-ended call and continue would jeopardize the value that AEP's customers stand to gain as a result of this case and its related cases. NRDC respectfully requests that the Commission adopt this procedural schedule and balance the need for a fully developed record with protecting the potential value available to AEP's customers via the filings AEP has sought to consolidate.

### **III. CONCLUSION**

The Commission should reject Staff's request for an open-ended call and continue and should provide a case timeline that protects the ability to obtain the potential value that AEP is seeking to capture for its customers.

*[Signature block on the next page.]*

Respectfully submitted,

/s/Robert Dove

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## **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served via electronic mail upon the following counsel of record, this 8<sup>th</sup> day of October, 2018:

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Summary: Memorandum Limited Memorandum Contra to Staff's Motion for a Hearing  
electronically filed by Mr. Robert Dove on behalf of The Natural Resources Defense Council