BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of the Power Purchase Agreement Rider of Ohio Power Company.	**)** **)** **)**	**Case No. 18-1003-EL-RDR**

REPLY COMMENTS OF OHIO POWER COMPANY

I. Introduction and Overview

Pursuant to the Attorney Examiner's December 13, 2019 Entry, Ohio Power Company ("AEP Ohio" or the "Company") hereby filed initial comments regarding the compliance audit report that Vantage Energy Consulting, LLC ("Vantage" or the "Auditor") filed in this case. In addition, comments were filed by intervenors, the Office of the Ohio Consumers' Counsel ("OCC"), the Ohio Manufacturers' Association Energy Group ("OMAEG") and The Kroger Company ("Kroger"). AEP Ohio will briefly address the intervenor comments below. If the Commission considers any of the intervenor comments to have merit after reviewing the written comments, the Company requests a procedural schedule be established for testimony and hearing.

II. Reply to OCC and OMAEG/Kroger Comments

A. The Auditor was correct in concluding that the Company acted prudently with respect to capacity bidding strategy and no further action is needed.

The OCC and OMAEG/Kroger aggressively criticize the Auditor regarding its review of AEP Ohio's capacity bidding strategy for the OVEC contractual entitlement relating to the PJM Reliability Pricing Model Base Residual Auctions (BRA) during the audit period. Overlooking the Auditor's finding that AEP Ohio acted prudently, OCC recommends that the Commission

require AEP Ohio to provide evidence supporting the bidding strategy and require the Auditor to make a supplemental finding concerning the same so the parties can move forward from there. (OCC comments at 5.) OMAEG/Kroger even more heavily relies on the Auditor's comment about the lack of information regarding capacity bidding and opportunistically urges the Commission to find that AEP Ohio failed to meet its burden of proof regarding prudence and to overrule the Auditor's finding of prudence. (OMAEG/Kroger comments at 2-4.) As further discussed below, Intervenors fail to establish any basis to support their recommendations and no further action is necessary or appropriate on this topic. If the Commission wants to ensure the issue is again reviewed in the next audit, it can affirmatively direct that to occur.

The Auditor concluded that the Company acted prudently, despite claiming that the Company did not provide adequate information concerning bidding strategy and process. (Audit Report at 21.) While it is not accurate that the Company failed to provide information about capacity bidding, the question should be rendered academic since the OVEC units cleared the BRA during each planning year covered in the audit period. (Company's Response to VEC 1-014.[1]) Indeed, OCC explicitly acknowledges (at 3) that the OVEC units cleared the BRA during the audit period and produced substantial revenues to the benefit of ratepayers.

Because all capacity resources that clear the BRA get paid the same auction clearing price, there can be no doubt that the bidding strategy utilized for AEP Ohio's OVEC capacity resources was effective and successful (certainly prudent). As mentioned, the Auditor clearly reached that conclusion. (Audit Report at 21.) Consequently, intervenors' bluster about the alleged disconnect between the Auditor's finding of prudence and lack of information is of no

[1] In these reply comments, the Company is citing discovery responses that have been provided to the Auditor and the Parties and are being referenced here in essence as a proffer; if the need arises for entering them into an evidentiary record, the Company can do so under a protective order since many of them are confidential.

consequence. On the contrary, had the Auditor found imprudence when the OVEC capacity resources in fact cleared the BRA, that finding would have been an indefensible position. Only if the units failed to clear would any imprudence or disallowance question be raised for further examination. But since the units cleared and the revenue is being credited to the benefit of ratepayers, no further issue is ripe for determination.

As referenced above, the Company answered every question and data request made by the Auditor relating to the BRA Auction:

> **VEC 1-013** – This response provided the Base Residual Auction bidding history for AEP Ohio's share of the OVEC units in the two PJM planning years covered in the audit.
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> **VEC 1-014** – This response provided the PJM Base Residual clearing results for AEP Ohio's share of the OVEC units.
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> **VEC 4-114** – This response provided the strategy document that detailed how we arrived at the volumes and prices for the 2017/2018 planning year base residual auction. This response covered three planning years but, since the question only asked for the 2017/2018 planning year, fully responding to the question that was asked.
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> **OCC 1-013** – The Company subsequently provided to OCC an expanded version of VEC 4-114 Confidential Attachment 1 that covered both planning years included in the audit.

AEP Ohio answered all of the questions posed by the Auditor relating to the BRA. The Company was never was told by the Auditor that the Company's responses regarding the BRA were inadequate or incomplete. And Intervenors were given access to all of the Auditor's data requests and responses. (OMAEG-RFP-01-001 and 002, KROGER-RFP-01-001 and 002, OCC-RPD-01-001.) So, OCC's recommendation for further information exchange is superfluous and unnecessary. OCC should not get to force a supplemental audit just because it is not pleased with the Commission-ordered audit; that would substantially exceed OCC's role as an intervenor and would turn the audit process on its head.

There is no current issue of imprudence or cost recovery. If the Commission wishes to further explore the issue in this proceeding, the Company requests that it be given an opportunity to present evidence as part of a hearing process. Otherwise, if the Commission wants to continue reviewing the capacity bidding strategy or proactively look to potential impacts on future auctions, it can simply direct that the issue be included in the scope of the next audit.

B. The OCC's recommendation that the Company pay interest on PPA Rider over-recovery balances during the audit period, which extends a discussion from the Audit Report (at 37-39), is not justified and would be unlawful.

Next, the OCC recommends that the Company credit customers with $342,413 in order to pay a carrying charge to customers for providing a "loan" to the Company in the form of PPA Rider over-collections. (OCC comments at 5-6.) This recommendation was not supported through either a narrative of the OCC's calculation or work papers to show how the OCC came up with their values. The Commission and other parties do not have the ability to propose a different value as the amount is a brief statement in comments with no description or calculation to support the value. Of course, the OCC fails to address whether customers would pay a carrying charge where under-collections occur. But the recommendation is legally flawed as being unlawful retroactive ratemaking and any ability to prospectively change the PPA Rider has been superseded by the new Legacy Generation Resource (LGR) rider under R.C. 4827.148. Moreover, the Company cannot replicate OCC's flawed carrying charge calculation.

A carrying charge component was not included in the PPA Rider when the Commission approved it as part of AEP Ohio's *ESP III* plan or in the *PPA Rider Cases* (Case Nos. 14-1693-EL-RDR *et al*.) and it cannot retroactively change the terms of the PPA Rider. Further, the OCC's recommendation ignores that the Commission ordered in the *PPA Rider Cases* that the Company defer OVEC costs from June through December of 2016 with no carrying costs. (*PPA*

Rider Cases, Second Entry on Rehearing at 29.) The recommendations that the Company was holding customer funds completely ignores that the Company was carrying nearly $21M of costs for six months of 2016 with no recovery and with no carrying costs applied. In addition, in order to spread out bill impacts, the Company agreed to collect that value over a twelve month period in 2017. This value far outweighs any over collection that may have occurred in the quarterly filings. The over-under results are common in rider mechanisms and OCC ignores that there is an equal chance of carrying a regulatory liability or a regulatory asset.

Moreover, the Legacy Generation Recovery (LGR) rider superseded the PPA Rider as of January 1, 2020, in accordance with R.C. 4928.148 that was enacted as part of HB 6. There is no carrying charge component to the LGR, since the statute does not provide for that and the Commission explicitly rejected the idea in its decision approving the LGR. (*In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Nov. 21, 2019 Entry at ¶ 30.)

Of course, it would be unfair and arbitrary for the Commission to impose a one-dimensional carrying charge only for regulatory liabilities (over-recovery) and not impose a carrying charge for regulatory assets (under-recovery). Indeed, OCC advocated in the LGR docket against utilities receiving any carrying charge for deferrals not collected from consumers within 12 months. (*Id*. at ¶ 20.) OCC's contrary position here is disingenuous and should be rejected. And that disparity is not resolved through the 15% buffer suggested by the Auditor nor is it consistent with the Commission's order on the OVEC cost deferral from June through December 2016.

In sum, OCC's carrying charge recommendation lacks support in law or fact and should be rejected.

C. The arbitrary imputation of ancillary service revenues during the audit period suggested by OCC would be unreasonable and unlawful; this issue is already on track and will be reviewed in the next audit.

The Auditor recommended that a technical study be performed to determine if it would be prudent for OVEC to participate in the ancillary services market. (Audit Report at 25.) OCC questions why OVEC did not consider participating in the ancillary services market during the audit period and arbitrarily recommends that $110,445 be disallowed. (OCC comments at 7.) The OCC's recommendation is premature and otherwise misguided.

OVEC had established a pseudo-tie with PJM just prior to the 2016/17 planning year and only recently achieved full integration into PJM in December 2018. Moreover, the Auditor reviewed this issue and did not find the Company acted imprudently; rather, the Auditor merely recommended that the operating committee study this issue and that recommendation is already being followed. Based on data requests sent to the Auditor and released through discovery to the Intervenors, it is undisputed that the OVEC operating committee has already taken up this issue. (VEC 4-096, meeting minutes discuss PJM Regulation in May 2018 as discussed in the Audit Report; OCC-INT-01-014.) Therefore, OVEC has followed a logical sequence of development within PJM and is pursuing a prudent path of timely consideration of whether to participate in the ancillary market. OCC's position fails to consider that entering the ancillary market is not risk-free; it is a complex matter weighing the risks and rewards in light of the generation resource capabilities. In other words, it should be carefully studied before pursuing – and that is what OVEC's operating committee is already doing. As a practical matter, it would be unlawful for the Commission to impute revenues that do not exist and were not properly calculated, as OCC suggests. Another issue that OCC ignores is the potential for penalties associated with OVEC participating in the ancillary services market. It is not entirely clear that

either OCC or the Auditor would recommend full recovery of such costs, but that should be known going in. If the risk is worth the reward, then both should flow through the rider. It would be fundamentally unfair to impute revenue without permitting full recovery of associated costs. Finally, OCC's calculation of $110.445 should not be used because it starts with a speculative, preliminary number and applies addition gross assumptions that are not justified.

In any case, the issue is on track and will be fully reviewed in the next audit, so no further action is necessary at this time. If the Commission wants to further consider OCC's position in this case, it should adopt a procedural schedule that gives the Company an opportunity to be heard through evidence and a hearing.

CONCLUSION

Consistent with the above explanations, AEP Ohio requests that the Commission address the Auditor's recommendations as set forth in these reply comments and find that the Company's costs during the audit period were prudent and reasonable.

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 was sent by, or on behalf of, the undersigned counsel to the following individuals this 7th day of February, 2020, via electronic transmission.

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Summary: Comments - Reply Comments of Ohio PowerCompany electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company