

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Implementation of Ohio)
Power Company's Power Purchase) Case No. 18-1003-EL-RDR
Agreement Rider)
)

**JOINT REPLY COMMENTS
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP
AND
THE KROGER COMPANY**

I. INTRODUCTION

On June 6, 2018, in order to facilitate the annual audit proceeding envisioned by the Public Utilities Commission of Ohio (Commission) of the Power Purchase Agreement Rider (PPA Rider),¹ the Ohio Power Company (AEP Ohio) filed its quarterly PPA Rider updates in this newly docketed proceeding.² On July 11, 2018, the Commission selected Vantage Energy Consulting, LLC (Vantage or Auditor) to conduct the prudence and performance audit of AEP Ohio's PPA Rider for the period of June 1, 2016 through December 31, 2017. The Audit Report was filed in this proceeding on August 8, 2019.³

Pursuant to the Entry issued December 13, 2019, the Ohio Manufacturers' Association Energy Group (OMAEG) and The Kroger Company (Kroger) filed joint comments on January 17, 2020. The Office of the Consumers' Counsel (OCC) also submitted comments on January

¹ 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*, Case Nos. 14-1693- EL-RDR, et al., Opinion and Order at 90 (March 31, 2016) (PPA Rider Cases).

² See AEP Ohio's Application at 1 (June 6, 2018).

³ See Audit Report of the Power Purchase Agreement Rider of the Ohio Power Company completed by Vantage Energy Consulting, LLC (August 8, 2019) (public version) (Audit Report).

17, 2020.⁴ As set forth in OMAEG, Kroger, and OCC’s respective initial comments, AEP Ohio bears the burden of proof on the prudence of the costs in these annual audits of the PPA Rider and failed to satisfy that burden.⁵ And, while AEP Ohio also filed initial comments, nothing in those initial comments changes that fact.⁶ Instead, AEP Ohio’s initial comments seem to focus solely on *de minimus* complaints, such as “improper micromanaging” by Vantage.⁷ Although those minor complaints should be rejected by the Commission and the Commission should adopt the recommendations of OMAEG and Kroger, as well as OCC, in their respective initial comments, OMAEG and Kroger hereby jointly submit the following reply comments.

II. REPLY COMMENTS

A. AEP Ohio’s Operations of OVEC Are Subject to Prudence Review.

In its criticisms of the Audit Report, AEP Ohio accuses Vantage of “improper micromanaging.”⁸ AEP Ohio, however, seems to forget that it is a regulated utility that is subject to review and audit by the Commission, including its operation of OVEC and the recovery of costs associated with OVEC through its PPA Rider. Although unique, the operation of OVEC is not immune from prudence review. OMAEG and Kroger support Vantage’s recommendation to take detailed minutes at all Committee meetings, and supports a formal decision-making process regarding market participation, either at the annual meeting or in a separate meeting. Far from an “arbitrary” requirement,⁹ requiring that notes of Committee

⁴ OCC Initial Comments (January 17, 2020).

⁵ Id. at 2; see also OMAEG and Kroger Joint Initial Comments at 2-3 (January 17, 2020).

⁶ AEP Ohio Initial Comments (January 17, 2020).

⁷ Id. at 2.

⁸ Id.

⁹ Id.

meetings be taken is essential. Because they can be a retrospective evaluation of decisions made by a utility, prudence review inherently requires such minutes.

OMAEG and Kroger support OVEC's participation in PJM markets, including the ancillary service market, if it is prudent and makes financial sense for OVEC to participate. AEP Ohio takes the position that it lacks control over the OVEC Operating Committee and therefore cannot implement the recommendation that it formalize the process whereby the Operating Committee reviews market participation decisions.¹⁰ Similarly, AEP Ohio argues that it is not able to make decisions about OVEC's participation in the capacity or ancillary service markets by itself as a matter of OVEC internal governance.¹¹ However, that should not prohibit scrutiny of AEP Ohio's market participation decisions. AEP Ohio cannot simultaneously try to recover costs associated with OVEC and OVEC operations as "prudently incurred" under R.C. 4909.154 while attempting to avoid prudence review due to the lack of input and control of the other OVEC sponsors. To the extent that nonparticipation is due to an imprudent decision involving AEP Ohio, cost recovery should be prohibited.

In sum, Kroger and OMAEG support prudent entry into PJM's ancillary services market by OVEC and supports the Auditor's recommendation for AEP Ohio to file a report with the Commission, detailing the opportunities available and potential revenues that may be obtained from OVEC's participation in PJM's ancillary services market. As pointed out by OCC, OVEC potentially misses out on \$350,000 in revenue each year due to nonparticipation in the ancillary services market.¹² As OCC argues, this estimated \$350,000 in ancillary services revenue cost recovery should be discounted to reflect all such lost revenue.

¹⁰ AEP Ohio Initial Comments at 3.

¹¹ Id.

¹² OCC Initial Comments at 6-7 (quoting Audit Report at 25).

B. AEP Ohio Fails to Respond to the Auditor’s Finding That It had Insufficient Information to Conduct its Prudency Review.

AEP Ohio states that Vantage “found no instances of imprudence” but if that is true, it is because AEP Ohio has not met its burden of proving prudence, especially regarding the crucial issue of participation in capacity auctions. As set forth in more detail in Kroger and OMAEG’s initial comments, in the Audit Report, Vantage complains that the information provided by AEP Ohio relating to market participation was insufficient, and that the information relating to participation in PJM Reliability Pricing Model (RPM) auctions lacked detail. As a result, Vantage noted that it was “unable to conduct a thorough analysis” based upon the lack of information.¹³ As argued in OMAEG and Kroger’s initial comments, Vantage cannot make this factual finding and then conclude that “[AEP Ohio] is acting prudently.”¹⁴ These positions are inconsistent and illogical and should be addressed. AEP Ohio, however, does not resolve, or even address, this issue in its comments.

As such, given that Vantage stated that it did not have sufficient information and/or could not conduct a thorough analysis, the Commission should reject Vantage’s prudency conclusions reached in the Audit Report, and should require AEP Ohio to provide additional information. OMAEG and Kroger agree with OCC that AEP Ohio should either provide the relevant information, or costs should be disallowed to the extent OVEC lost out on revenues due to unduly low bids or for imprudent failures to bid into the auctions.¹⁵

¹³ Audit Report at 24.

¹⁴ Id. at 24-28.

¹⁵ OCC Initial Comments at 4-5; OCC argues that rider charges in total should be disallowed if prudent participation in PJM is not proven by AEP Ohio. OMAEG and Kroger agree.

**C. AEP Ohio Should Credit Customers For Carrying Charges on AEP Ohio's
Overcollections.**

The Auditor found that AEP Ohio overcollected \$2.5 million from customers during the audit period. As set forth in OCC's initial comments, the Auditor recommended that AEP Ohio assess a carrying charge at a rate of 4.5% in favor of customers whenever AEP's overcollection balance is greater than 15% of the actual OVEC Rider charges to address this harm to customers.¹⁶ OMAEG and Kroger support the Auditor's recommendation and OCC's position that "customers should be entitled to a carrying charges credit in the amount of \$342,413 during the audit period."¹⁷

¹⁶ Audit Report at 37-39; see also OCC Initial Comments at 5-6.

¹⁷ OCC Initial Comments at 5-6.

III. CONCLUSION

For the foregoing reasons, OMAEG and Kroger jointly request that the Commission adopt the recommendations set forth in their initial comments, adopt the Auditor's recommendations that OVEC take the necessary steps to maximize revenues, and ensure AEP Ohio is properly evaluating and, when appropriate, participating in capacity markets and ancillary services markets.

Respectfully submitted,

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/s/ Kimberly W. Bojko

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Summary: Reply Joint Reply Comments of The Ohio Manufacturers' Association Energy Group and The Kroger Company electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group and The Kroger Co.