

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO VALLEY ELECTRIC CORPORATION
FOR APPROVAL OF TERMINATION OF
SERVICE.

CASE NO. 15-892-EL-AEC

FINDING AND ORDER

Entered in the Journal on September 9, 2020

I. SUMMARY

{¶ 1} The Commission denies, without prejudice, the request for approval of the Joint Letter Agreement filed by the Ohio Valley Electric Corporation, United States Department of Energy, and Ohio Power Company d/b/a AEP Ohio on March 12, 2020, and amended on March 23, 2020.

II. DISCUSSION

{¶ 2} Ohio Valley Electric Corporation (OVEC) and Ohio Power Company d/b/a AEP Ohio (AEP Ohio) are electric light companies as defined by R.C. 4905.03 and public utilities as defined under R.C. 4905.02 and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4905.31 authorizes the Commission to approve schedules or reasonable arrangements between a public utility and another public utility or one or more of its customers. The statute provides that every such schedule or reasonable arrangement shall be under the supervision and regulation of the Commission, and is subject to change, alteration, or modification by the Commission.

{¶ 4} On May 7, 2015, OVEC filed an application seeking approval of its agreement with the United States Department of Energy (DOE) to terminate OVEC's right and obligation to provide service to DOE's facility in Portsmouth, Ohio. The Termination Agreement was subsequently modified by filings on July 22, 2015, September 11, 2015, February 19, 2016, August 22, 2016, March 2, 2017, August 23, 2017, and December 19, 2017.

{¶ 5} On April 10, 2018, a Joint Stipulation and Recommendation (Stipulation) was filed by DOE, AEP Ohio, and OVEC. Among other things, the Stipulation provided that AEP Ohio would assume the right and obligation to serve DOE.

{¶ 6} On May 15, 2018, AEP Ohio filed the direct testimony of Andrea E. Moore in support of the Stipulation.

{¶ 7} A hearing on this matter was held on May 17, 2018.

{¶ 8} By Opinion and Order dated June 28, 2018, the Commission approved the Stipulation.

{¶ 9} On July 20, 2018, OVEC filed notice of the eighth amendment to its Termination Agreement with DOE.

{¶ 10} On August 22, 2018, the Commission issued an Entry on Rehearing that granted DOE's request for clarification of the June 28, 2018 Opinion and Order and approved the eighth amendment of the Termination Agreement.

{¶ 11} On March 12, 2020, OVEC, DOE, and AEP Ohio filed a Joint Letter Agreement, requesting the Commission's approval of changes to certain exhibits in the Stipulation and Ms. Moore's testimony, which provide the cost of the service to all three parties, the rate structure of the DOE as compared to the investment necessary to serve the load, and a diagram of the infrastructure necessary to serve the new DOE load. OVEC, DOE, and AEP Ohio state that, through additional scoping of the project, it was determined that a change in the ownership of certain facilities may be needed, which would include an update of cost responsibility, as well as a revision to the contribution in aid of construction agreement between AEP Ohio and DOE. With the Joint Letter Agreement, OVEC, DOE, and AEP Ohio submitted updated versions of Exhibits B, C, and D to the Stipulation and an updated version of Exhibit AEM-3 to Ms. Moore's testimony. OVEC, DOE, and AEP Ohio represent that the updated calculation does not represent a significant cost to other customers.

{¶ 12} On March 23, 2020, AEP Ohio filed correspondence stating that the updated version of Exhibit AEM-3, which shows a summary of the costs of additional investment versus payments received by DOE, was not the correct version of the exhibit. Accordingly, AEP Ohio provided the final version of Exhibit AEM-3 and reaffirmed that the updated calculation does not represent a significant cost to other customers.

{¶ 13} The Commission finds that the request of OVEC, DOE, and AEP Ohio for approval of the March 12, 2020 Joint Letter Agreement, as amended by the correspondence dated March 23, 2020, should be denied, without prejudice. R.C. 4905.31 provides that every reasonable arrangement is subject to change, alteration, or modification by the Commission. Ohio Adm.Code 4901:1-38-05 enumerates the filing requirements for an application for approval of a unique arrangement pursuant to R.C. 4905.31. Proposed modifications to a Commission-approved unique arrangement have generally been brought before the Commission by way of a formal motion or application to modify the arrangement, and the Commission has considered the requirements of Ohio Adm.Code 4901:1-38-05 in reviewing the proposed modifications. *See, e.g., In re Ormet Primary Aluminum Corp.*, Case No. 09-119-EL-AEC, Opinion and Order (Oct. 2, 2013). Among other things, the rule requires an applicant to demonstrate that the proposed unique arrangement is reasonable, does not violate the provisions of R.C. 4905.33 and 4905.35, and furthers the state policy in R.C. 4928.02, as well as to submit to the Commission verifiable information detailing the rationale for the arrangement. In this case, we find that OVEC, DOE, and AEP Ohio have not provided sufficient information for the Commission to determine that the proposed modifications to the unique arrangement are reasonable and further the policy of the state set forth in R.C. 4928.02. For example, our initial approval of the unique arrangement was based, in part, on AEP Ohio witness Moore's representation that all of AEP Ohio's customers would see a net benefit of approximately \$286,023. June 28, 2018 Opinion and Order ¶ 13. With their submission of an update to Ms. Moore's calculation, OVEC, DOE, and AEP Ohio now state that the updated calculation in Exhibit AEM-3 does not represent a significant cost to other customers. As reflected in the corrected exhibit filed on March 23, 2020, Ms. Moore has calculated a negative net benefit of (\$134,382.60) for AEP Ohio's

customers. OVEC, DOE, and AEP Ohio have not attempted to explain what steps, if any, they have taken to maximize the net benefit for other customers. Accordingly, we decline to approve the request for approval of the Joint Letter Agreement at this time.

III. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the request for approval of the Joint Letter Agreement filed by OVEC, DOE, and AEP Ohio on March 12, 2020, as amended on March 23, 2020, be denied, without prejudice. It is, further,

{¶ 16} ORDERED, That a copy of this Finding and Order be served upon all interested persons and parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

SJP/kck

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Case No(s). 15-0892-EL-AEC

Summary: Finding & Order denying, without prejudice, the request for approval of the Joint Letter Agreement filed by the Ohio Valley Electric Corporation, United States Department of Energy, and Ohio Power Company d/b/a AEP Ohio on March 12, 2020, and amended on March 23, 2020. electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio