

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
OHIO POWER COMPANY FOR AN  
INCREASE IN ELECTRIC DISTRIBUTION  
RATES.

CASE NO. 20-585-EL-AIR

IN THE MATTER OF THE APPLICATION OF  
OHIO POWER COMPANY FOR TARIFF  
APPROVAL.

CASE NO. 20-586-EL-ATA

IN THE MATTER OF THE APPLICATION OF  
OHIO POWER COMPANY FOR APPROVAL  
TO CHANGE ACCOUNTING METHODS.

CASE NO. 20-587-EL-AAM

### ENTRY

Entered in the Journal on December 10, 2020

{¶ 1} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric light company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} In Case No. 16-1852-EL-SSO, et al., the Commission modified and approved a stipulation and recommendation (Stipulation) filed by AEP Ohio, Staff, and numerous other signatory parties, which authorized the Company to implement an electric security plan for the period of June 1, 2018, through May 31, 2024. Among the commitments in the Stipulation, AEP Ohio agreed to file a base distribution rate case by June 1, 2020. *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018) at ¶ 45.

{¶ 3} On April 29, 2020, in the above-captioned cases, AEP Ohio filed a pre-filing notice of its intent to file an application for approval of an increase in its electric distribution rates, tariff modifications, and changes in accounting methods.

{¶ 4} On June 8, 2020, AEP Ohio filed its application to increase its rates pursuant to R.C. 4909.18.<sup>1</sup> AEP Ohio filed direct testimony in support of its application on June 15, 2020.

{¶ 5} Pursuant to R.C. 4909.19, Staff conducted an investigation of the facts, exhibits, and matters relating to the application. On November 18, 2020, as corrected on November 25, 2020, Staff filed a written report of its investigation (Staff Report).

{¶ 6} By Entry dated November 23, 2020, the attorney examiner established a procedural schedule.

{¶ 7} On November 25, 2020, an unopposed joint motion to extend certain filing dates in the procedural schedule by 30 days, along with a request for expedited treatment, was filed by AEP Ohio, Staff, and numerous intervenors, including Interstate Gas Supply, Inc. (IGS). The joint motion indicated that it was not intended to affect discovery deadlines or filing dates established by statute.

{¶ 8} On December 1, 2020, the attorney examiner issued an Entry that granted the requested extension to the extent set forth in the Entry and established a revised procedural schedule.

{¶ 9} On December 4, 2020, One Energy Enterprises LLC (One Energy) filed a motion to intervene in these cases. Subsequently, on December 7, 2020, One Energy filed a motion seeking clarification regarding the filing of the Staff Report. One Energy notes that the Staff Report was initially filed on November 18, 2020, and was amended on November 25, 2020, to correct certain clerical errors, with service of the amended version on the applicant, mayors of municipal corporations affected by the application, and other

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<sup>1</sup> Due to the closure of the Commission's offices from June 1, 2020, through June 5, 2020, the application for a rate increase, which was submitted by AEP Ohio on June 1, 2020, was accepted for filing on June 8, 2020, and deemed timely filed in accordance with R.C. 1.14 and Ohio Adm.Code 4901-1-07 and 4901-1-13. *In re the Extension of Filing Dates for Pleadings and Other Papers Due to a Building Emergency*, Case No. 20-1132-AU-UNC, Entry (June 8, 2020).

interested persons following on December 2, 2020. One Energy further notes that the Staff Report, as amended on November 25, 2020, states that it is “intended to supersede and replace in its entirety the Staff Report filed on November 18, 2020.” One Energy asserts that the filing date must be clarified, as it determines both the discovery deadline under Ohio Adm.Code 4901-1-17(B) and the deadline for objections to the Staff Report under R.C. 4909.19(C). Specifically, One Energy proposes that the December 2, 2020 service date of the amended version of the Staff Report be used for purposes of establishing the discovery deadline under Ohio Adm.Code 4901-1-17(B) and establishing the due date for filing objections to the Staff Report under R.C. 4909.19(C). One Energy also requests, pursuant to Ohio Adm.Code 4901-1-12(F), an immediate ruling on its motion, without the filing of memoranda. One Energy claims that granting the motion will not affect the substantial right of any party.

{¶ 10} On December 8, 2020, AEP Ohio filed a memorandum contra One Energy’s motion. Among other things, AEP Ohio argues that One Energy improperly seeks to modify the statutory deadline for the filing of objections and to delay these proceedings. AEP Ohio emphasizes that the clerical errors in the Staff Report were narrow and technical in nature and only affected the supporting schedules, with no effect on the narrative portion or workpapers. According to AEP Ohio, the revisions in question should not be considered to constitute a new report by Staff or to trigger a delay in the objections or discovery cutoff. Alternatively, AEP Ohio contends that, if the Commission concludes that the revised Staff Report should reset the clock for those two deadlines, it should do so narrowly and with deference to the unanimous agreement reached by the parties regarding the procedural schedule. Further, AEP Ohio asserts that One Energy’s reliance on December 2, 2020, as a trigger date is misplaced, as Staff merely mailed a letter of notification by non-certified mail on December 1, 2020, a copy of which was docketed on December 2, 2020, to explain the clerical errors and revised Staff Report to mayors and other interested persons. In any event, AEP Ohio maintains that neither R.C. 4909.19 nor the Commission’s precedent supports One Energy’s position that the statutory clock should run from the completion of the certified

mail process. Citing several recent rate proceedings, AEP Ohio claims that it is the longstanding practice for parties to file objections within 30 days of Staff's filing of a report of investigation without regard to certified mail service dates. Finally, AEP Ohio notes that it supports the issuance of a ruling on the procedural matter raised by One Energy to provide clarity to all parties.

{¶ 11} On December 9, 2020, IGS filed a memorandum in response to One Energy's motion. IGS notes that the amended version of the Staff Report states that it is intended to replace the initial version in its entirety. IGS, therefore, asserts that statutory deadlines should be based upon the filing date of the amended Staff Report, as an equitable and logical result that is consistent with R.C. 4909.19.

{¶ 12} In order to avoid confusion among the parties, entities like One Energy with pending motions for intervention, and prospective intervenors, the attorney examiner clarifies that the filing date of the Staff Report is November 18, 2020. The amended version of the Staff Report notes that it was filed to correct a clerical error contained within certain schedules for which three values were erroneously deleted. The amended version of the Staff Report further notes that the clerical error does not affect the revenue requirement, adjustments, or any other recommendations contained in the text of the report. Although Staff notes that the amended version of the Staff Report is intended to replace the original version, the attorney examiner finds that the corrections in the report are minor in scope, resulting in revisions to some of the supporting schedules, but not affecting the narrative portion of the report in any way. Further, in the December 1, 2020 Entry issued after the filing of the amended Staff Report, the attorney examiner definitively established the procedural schedule for these cases. Accordingly, the deadline for discovery requests and for objections to the Staff Report should be determined based on the filing date of November 18, 2020.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the Staff Report be deemed filed as of November 18, 2020. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

*/s/ Sarah J. Parrot*

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By: Sarah J. Parrot  
Attorney Examiner

NJW/kck

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 20-0585-EL-AIR, 20-0586-EL-ATA, 20-0587-EL-AAM**

Summary: Attorney Examiner Entry deeming the Staff Report filed as of November 18, 2020. electronically filed by Kelli C. King on behalf of Sarah J. Parrot, Attorney Examiner, Public Utilities Commission of Ohio