**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**REPLY COMMENTS**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

As explained in the Office of the Ohio Consumers’ (“OCC”) initial comments, AEP has failed to meet its burden of proving that charges to customers for power plant subsidies under the OVEC Rider were prudent.[[1]](#footnote-2) Nothing in AEP’s initial comments changes this.[[2]](#footnote-3)

To the contrary, AEP’s initial comments say very little, registering some minor complaints about the Auditor’s recommendations and agreeing with several others, while ignoring the critical issues regarding prudence raised in OCC’s, Kroger’s, and the Ohio Manufacturers’ Association Energy Group’s (“OMA”) initial comments.[[3]](#footnote-4)

The PUCO should adopt the recommendations found in OCC’s, Kroger’s, and OMA’s initial comments, namely, that AEP has failed to meet its burden of proving prudence in this case. And it should reject AEP’s opposition to the Auditor’s recommendations, as explained below.

**I. REPLY COMMENTS**

**A. AEP complains that the Auditor’s recommendations are “overly specific” (whatever that might mean). The Auditor should make specific consumer protection recommendations for the PUCO to adopt.**

The Auditor recommended that the OVEC Operating Committee meet at least once per year, with such meeting “dedicated to the review of the prior year’s operational and financial performance” and to “address strategies to improve performance in the following year.”[[4]](#footnote-5) Because AEP customers pay to subsidize the OVEC power plants based on their performance, this recommendation seems eminently reasonable.

AEP, however, complains that this recommendation is “overly specific” and “constitutes improper micro-managing.”[[5]](#footnote-6) The PUCO should reject AEP’s complaint, for several reasons.

First, this recommendation goes to the heart of the audit. The performance of the subsidized OVEC power plants directly impacts the amount that customers pay under the OVEC Rider. Thus, whether the charges to consumers under the rider are prudent, as required by Order approving the OVEC Rider, depends on the plants’ operational and financial performance.[[6]](#footnote-7)

Second, this recommendation is hardly burdensome. The Auditor is recommending that OVEC hold a single meeting, once a year. If AEP believes that OVEC can’t comply with such a basic recommendation to improve its performance in exchange for AEP’s customers paying tens of millions of dollars per year in subsidies, then perhaps AEP should stop asking for the subsidies.

**B. AEP should comply with the Auditor’s recommendation that the OVEC Operating Committee formalize the process by which alternative opportunities are raised by Sponsoring Companies.**

As part of the audit, the Auditor found that OVEC was not participating in PJM’s ancillary services market.[[7]](#footnote-8) Participating in the ancillary services market could generate additional revenues, which would lower charges to customers under AEP’s OVEC Rider. The Auditor found that the topic of participating in the ancillary services market was raised by Duke Energy at an OVEC Operating Committee meeting in 2018, but not again since.[[8]](#footnote-9)

To ensure that OVEC is not missing opportunities like this to generate additional revenues for the benefit of customers, the Auditor recommended that OVEC establish a formal process by which the sponsoring companies can raise and discuss such opportunities.[[9]](#footnote-10) This is a reasonable recommendation. After all, by failing to participate in the ancillary services market which would generate additional revenue, AEP acted imprudently to the detriment of customers, in an amount totaling $110,445.[[10]](#footnote-11)

In response, AEP says, “AEP Ohio does not control the activities of the committee and can only make its own recommendation to the OVEC sponsors to include this additional information.”[[11]](#footnote-12) While it may be true that AEP cannot unilaterally implement the Auditor’s recommendation, the PUCO should require AEP to propose such a recommendation to the OVEC Operating Committee. When a utility is receiving an above-market subsidy, consumers should be protected from paying unnecessary subsidy charges where the utility is not maximizing its revenue opportunities.

**II. CONCLUSION**

The PUCO should adopt the consumer-protection recommendations found in OCC’s Initial Comments. It should also adopt the Auditor’s recommendations that OVEC take all necessary steps to maximize revenues, thus lowering charges to consumers for OVEC subsidies.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic transmission, this 7th day of February 2020.

/s/ *Christopher Healey*

Christopher Healey

Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

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1. OCC Initial Comments (Jan. 17, 2020). [↑](#footnote-ref-2)
2. Initial Comments of Ohio Power Co. (Jan. 17, 2020). [↑](#footnote-ref-3)
3. Joint Comments of The Ohio Manufacturers’ Association Energy Group and The Kroger Company (Jan. 17, 2020). [↑](#footnote-ref-4)
4. Audit Report at 6. [↑](#footnote-ref-5)
5. AEP Initial Comments at 2. [↑](#footnote-ref-6)
6. Case No. 14-1693-EL-RDR, Opinion & Order at 89 (Mar. 31, 2016) (“AEP will bear the burden of proof in demonstrating the prudency of all costs and sales during the review, as well as that such actions were in the best interest of retail ratepayers.”). [↑](#footnote-ref-7)
7. Audit Report at 24-25. [↑](#footnote-ref-8)
8. Audit Report at 25. [↑](#footnote-ref-9)
9. Audit Report at 19. [↑](#footnote-ref-10)
10. *See* OCC Initial Comments at 6-7. [↑](#footnote-ref-11)
11. AEP Initial Comments at 2-3. [↑](#footnote-ref-12)