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BEFORE

FILE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technologies and Resources, and Emission Control Reporting Requirements, and Amendment of Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, pursuant to Chapter 4928, Revised Code, to Implement Senate Bill No. 221.	)	**Case No. 08-888-EL-ORD**

REPLY COMMENTS OFCOLUMBUS SOUTHERN POWER COMPANY AND OHIO POWER COMPANY

INTRODUCTION

By entry dated August 20, 2008, the Commission initiated this docket to implement Senate Bill No. 221 by considering the adoption of proposed rules to be found in OAC Chapter 4901:1-39 (Energy Efficiency and Demand Reduction Benchmarks Applicable Ohio Revised Code Sections: 4928.65 and 4928.66), OAC Chapter 4901:1-40 (Alternative Energy Portfolio Standard Applicable Ohio Revised Code Sections: 4928.64 and 4928.65), and OAC Chapter 4901:1-41 (Greenhouse Gas Reporting and Carbon Dioxide Control Planning). The August 20 Entry also initiated a review of the existing Rules for Long-Term Forecast Reports found in OAC Chapter 4901:5-1, Rules for Filing of Long-Term Forecast Reports found in OAC Chapter 4901:5-3, Rules for Electric Utility Forecast Report Filing Requirements found in OAC Chapter 4901:5-5, and Rules for Gas and Natural Gas Forecast Reports found in OAC Chapter 4901:5-7. The August 20 Entry invited comments from interested parties. Columbus Southern Power Company and Ohio Power Company (collectively, "AEP Ohio") submitted initial comments in response to the Commission's invitation for input on September 9, 2008. AEP Ohio hereby submits its reply comments which respond to selected initial comments of other parties. No inference should be made as to initial comments of other parties not addressed herein; AEP Ohio maintains each of the positions advanced in its initial comments.

OAC CHAPTER 4901:1-39: ENERGY EFFICIENCY AND DEMAND REDUCTION BENCHMARKS APPLICABLE OHIO REVISED CODE SECTIONS: 4928.65 AND 4928.66

Rule 4901:1-39-01, Definitions

The Ohio Consumer and Environmental Advocates (OCEA) suggest (at 4-5) establishing a new definition of "collaborative" that, among other things, "shall be authorized to select the program administrator that will manage the programs." OCEA goes on to propose granting collaboratives broad independent authority, including the power to determine appropriate cost-effectiveness tests for measures [in their proposed rule 4901:1-39-05(C)(12)]; the power to require and oversee a market potential study every four years [in their proposed rule 4901:1-39-05(H)]; power to hire independent, third party evaluators to perform process and impact evaluations [in their proposed rule 4901:1-39-06]; the authority to dictate which cost tests a utility must evaluate in its report to the Commission [under their proposed rule 4901:1-39-07(D)]; the power to dictate cost tests for mercantile customer-sited program evaluation [under their proposed rule 4901:1-39-09(A)(3)]; and the authority to review utility-mercantile annual reports concerning energy savings and peak demand reductions [in their proposed rule 4901:1-39-09(B)].

AEP Ohio submits that it is inappropriate to broadly delegate such responsibilities concerning SB 221's mandates to a collaborative. SB 221 does not create collaborative bodies or require formation of such stakeholder groups, let alone authorize any power to such an entity. Customer groups will not be judged or held accountable for these statutory mandates. Rather, SB 221 places the responsibility for compliance with the multiple complex statutory requirements found within the legislation squarely upon electric distribution utilities –not customer groups or even the Commission.

AEP Ohio does view the collaborative process as a significant opportunity for stakeholder cooperation and mutual productivity. Likewise, the Staff's input and guidance will be invaluable in working through all of the challenges that we jointly face in implementing SB 221. Moreover, the Commission itself will judge the adequacy as well as the prudence of the utilities' compliance actions. But because the responsibility of compliance falls to utilities, so must the management and operational decisionmaking. There is no basis whatever in the law to delegate such responsibilities to customer groups.

Rule 4901:1-39-03, Filing and review of the benchmark report

OCEA sets forth a proposed replacement rule (discussed at 25-27) for subdivision (C) that they re-number 4901:1-39-07(H), suggesting language that would allow Staff to unilaterally reach a finding that would mandate a forfeiture "if Staff or the Commission finds that an electric utility has not demonstrated compliance." This suggestion is misguided and should be rejected. It would clearly be inappropriate and unlawful to delegate to Staff the ability to reach a finding against a utility that would form the basis for imposing a forfeiture, without providing due process. It is the Commission's statutory role to enforce the requirements of Section 4928.66, Ohio Revised Code, and that responsibility cannot be delegated to Staff. In any case, due process such as notice and an opportunity for hearing must be provided prior to any finding of noncompliance or punitive action such as a civil forfeiture. In this regard, Section 4928.66(C) specifically provides for the Commission to reach such determinations and only after notice and opportunity for hearing. There is no basis in SB 221 for that kind of role by Staff and OCEA's recommendation must be rejected.

Rule 4901:1-39-04, Benchmark report requirements

OCEA sets forth a process in its proposed rule 4901:1-39-04(F) providing for a Staff Report concerning a utility's benchmark report, including a provision for detailed Staff "findings" concerning the utility's compliance. But there is no additional process set forth in its proposed rule. This approach is not appropriate. Although the Commission may wish to provide for an automatic Staff Report, it is probably not necessary and seems an inefficient use of limited resources, especially where there are no immediate concerns regarding the report or the utility's compliance. If the Commission does provide for an automatic Staff Report, it should provide for an additional process for utility due process regarding the compliance findings to be contained in the Staff Report, as well as a provision for a utility to request a hearing if any of the findings are to be relied upon by the Commission for any purpose.

Rule 4901:1-39-05, Recovery Mechanism

The Ohio Environmental Council (OEC) recommends (at 17-18) that the cost recovery rule generically require that utilities file for cost recovery in the benchmark report docket. There is no reason to generically restrict the docket or specific method that a utility might utilize to pursue cost recovery for these statutory mandates. Rather, the Commission and the utilities should retain some measure of flexibility and discretion in managing such matters. For example, AEP Ohio has proposed a DSM/EE rider as part of its ESP applications that are pending. OEC's recommendation in this regard should not be adopted.

OCEA also recommends (at 27) imposing a two-year moratorium on shared savings recovery under this rule. Generically ruling out shared savings recovery and arbitrarily putting any incentive off for two years is not appropriate. In the context of encouraging DSM, recovery of shared savings is widely used and accepted as sound regulatory policy. OCEA's proposed rule would unduly reduce flexibility and unnecessarily eliminate reasonable tools that may prove useful.

Finally, for the reasons discussed above in connection with proposed rule 4901:1-39-01, AEP Ohio submits that the Commission reject OCEA's recommendations concerning subdivision (C)(12) of this rule, regarding determination of appropriate cost tests by the collaborative, and subdivision (H) regarding the power to require and oversee a market potential study every four years.

Rule 4901:1-39-06, Commitment for integration by mercantile customers

For the reasons discussed above in connection with proposed rule 4901:1-39-01, AEP Ohio submits that the Commission reject OCEA's recommendations concerning this proposed rule. Regarding OCEA's proposal to authorize the collaboratives to hire independent, third party evaluators to perform process and impact evaluations, OCEA argues (at 20) that the collaborative "should ultimately control the hiring and firing of the independent evaluator." As a related matter, OCEA complains (at 19) that the proposed rules give "the utilities broad latitude" concerning many important decisions about compliance. OCEA then transparently concludes (at 19) that its concerns will be "substantially mitigated" if the collaborative (instead of the utility) is empowered to "achieve the goals envisioned by the General Assembly." Again, OCEA overlooks the fact that the General Assembly did not provide for collaboratives at all, much less empower them to do anything (or hold them responsible) for anything.

Rule 4901:1-39-07 [OCEA-proposed]

For the reasons discussed above in connection with proposed rule 4901:1-39-01, AEP Ohio submits that the Commission reject OCEA's recommendations concerning this proposed rule concerning the authority to dictate which cost tests a utility must evaluate in its report to the Commission.

OCEA also sets forth a process in its proposed rule 4901:1-39-07(F) providing for a Staff Report concerning a utility's benchmark report, including a provision for detailed Staff "findings" concerning the utility's compliance. For the reasons discussed above in connection with proposed rule 4901:1-39-04(F), AEP Ohio recommends against adopting OCEA's proposed rule.

Rule 4901:1-39-09 [OCEA-proposed]

For the reasons discussed above in connection with proposed rule 4901:1-39-01, AEP Ohio submits that the Commission reject OCEA's recommendations concerning this proposed rule regarding the power to dictate cost tests for mercantile customer-sited program evaluation and the authority to review utility-mercantile annual reports concerning energy savings and peak demand reductions.

OAC CHAPTER 4901:1-40: ALTERNATIVE ENERGY PORTFOLIO STANDARD APPLICABLE OHIO REVISED CODE SECTIONS: 4928.64 AND 4928.65

Rule 4901:1-40-01, Definitions

OCEA recommends (at 33) creating a more onerous and restrictive definition of "clean coal technology." AEP Ohio is concerned that the proposed targets of 65% CO_2 capture by 2016, 75% by 2018, and 90% in 2018 from and beyond from clean coal might be too aggressive, given where the technology is. Smaller percentages would be more reasonable and serve to better encourage deployment of clean coal technology in Ohio. The OCEA definition requires clean coal to have same emission rates as new combined cycle gas units. As gas has virtually no SO_2 or Hg emissions, clean coal technology would potentially have to remove nearly 100% of these pollutants which is very difficult (and expensive), presuming that it is even possible. AEP Ohio recommends adopting of the Staff's proposed rule that was more general and, thus, provided more flexibility for dealing with the uncertainties of the future.

Rule 4901:1-40-03, *Requirements*

OCEA recommends (at 43) providing in this rule that the total number of RECs needed for compliance be calculated at the generator busbar and be adjusted upward to take into account electric transmission and distribution losses. This method is not consistent with how RECs are tracked by GATS and MRETs; RECs are tracked at Point of Interconnect (the Revenue Meter) and equal the amount of energy delivered and settled on the grid. And this approach would also serve to increase the difficulty and cost of complying with the mandate. OCEA's proposal should not be adopted.

Rule 4901:1-40-04, Qualified resources

In their comments, the American Wind Energy Association, Wind on the Wires, Ohio Advanced Energy and Environment Ohio (Wind/Environment Group) argues (at 12-13) that the five-year expiration date provision in this rule should be expanded to encompass RECs created by utility-owned renewable generation and that the rule should provide that the five-year period should commence upon the generation of the associated renewable energy. Similarly, OCEA proposes (at 47) rule language that would say a REC is acquired by its owner immediately upon the generation of the renewable energy (*i.e.*, the five year expiration period begins immediately upon generation of the renewable energy). Both of these proposed modifications operate to shorten the life of a REC and extend the scope of the statutory five-year expiration period that only applies to RECs acquired from another entity. Therefore, these proposed rules should be rejected.

Although Section 4928.65, Ohio Revised Code, contains a five-year REC expiration date, the proposed rule language should be clarified by using more of the key language included in that applicable statutory phrase (as recommended in AEP Ohio's initial comments), rather than adding new restrictions not contained in the statutory restriction. The actual statutory language makes clear that the REC expiration date only applies to RECs acquired from third parties, by describing the expiration date as follows: "five calendar years following the date of their purchase or acquisition from any entity, including, but not limited to, a mercantile customer or an owner or operator of a hydroelectric generating facility..." Expanding the scope of that expiration provision to include RECs that a utility creates through its own renewable generation would not only go beyond the terms of R.C. 4928.66, but could serve as a disincentive to build renewable generation in Ohio. If a utility can buy RECs from a third party closer to the time of need and get a five-year period to use those RECs from the date of acquisition (which RECs may have been "created" through renewable generation that occurred some years in the past), that would give more flexibility than a utility operating its own renewable generation if the five-year expiration would begin to run immediately upon generation. Therefore, the additional phrase "from any entity" should be added to subdivision (D)(3) of this rule and the recommendations of OCEA and the Wind/Environmental Group should not be adopted.

OCEA also suggests (at 49) adding several new concepts to the definition of renewable energy resource (*i.e.*, "naturally replenished as soon as they are consumed, impact upon air and water quality, etc.). These restrictions are not statutory and merely serve to restrict discretion that the General Assembly vested in the Commission to determine whether future technologies should be considered as a renewable energy resource. The restrictions are too vague and could have a chilling effect or present unintended consequences on the development of new technology, especially given that the technology is unknown at this time. The General Assembly was wise in recognizing that presently-undeveloped technology cannot be presently regulated. OCEA's proposed restrictions on the Commission's discretion should not be adopted.

<u>Rule 4901:1-40-06, Force Majeure</u>

The Wind/Environment Group proposes (at 16-17) to substantially curtail the scope of the force majeure provision by providing that "an event has occurred that was beyond the control of the utility or company and not reasonably foreseeable, and that event caused renewable energy resources to not be reasonably available in the marketplace in sufficient quantities for the utility or company to comply with the subject minimum benchmark." OCEA makes a similar recommendation (at 51). These proposals should not be adopted.

The statute specifies certain examples for excusal and adds the language "otherwise outside the utility's control." The OCEA's and Wind/Environmental Group's proposed language conjunctively requires an event beyond the utility's control and additionally provides that it is not reasonably foreseeable. But there are many events beyond the utility's control that might cause undercompliance –regardless of whether there is a point in time that those events are foreseeable. In this regard, the Staff-proposed rule more closely tracks the statutory concept in its proposed rule, while retaining appropriate discretion and flexibility.

<u>Rule 4901:1-40-07, Cost cap</u>

AMP-Ohio recommends (at 5) that a provision be included in this rule that specifically indicates that if the cost cap is determined to be in effect, that does not free the electric utility or company from its obligations under any contractual arrangement pertaining to the AEPS, including the purchase of RECs. AEP Ohio submits that the Commission should not address collateral contract issues relating to a utility's implementation of the standards or its efforts to meet the statutory benchmarks. It would not serve the public interest for the Commission to adopt a provision that would nonetheless "force" the utility to purchase RECs under that circumstance or similarly to "declare" by administrative rule that a utility did not need to follow a contractual obligation. That is just one of many possible examples illustrating why such matters should be left to the utility's management. If the Commission does make a statement about contracts in this rule, it should simply say that if the 3% "offramp" is triggered, it does not automatically have any impact on contractual obligations. But it would be best to avoid addressing contractual obligations in an administrative rule of this nature.

Rule 4901:1-40-10 [Wind/Environmental Group-proposed]

The Wind/Environmental Group proposes (at 22-25) an entirely new rule to require every electric utility company to issue requests for proposals each year for energy and/or RECs from solar and wind installations; offer a long-term contracts for the purchase of RECs based on the RFP from small customer installations less than 100 kW in capacity; and file contracts with the Commission. A similar proposal is offered by OCEA (at 57) in connection with its proposed rule 4901:1-40-07(G). These recommendations should not be adopted.

AEP Ohio is strongly against this approach. The utility ultimately has the obligation to make a prudent business decision and this is a form of micromanagement. The public bidding process would preclude the utility taking advantage of opportunities as they come up between RFPs. If there is a separate desire to help small producers, some relatively small set-aside could be considered.

OAC CHAPTER 4901:5-1: LONG-TERM FORECAST REPORTS

Rule 4901:5-1-01, Definitions

In an effort to further support its suggestion for annually litigating each electric utilities' integrated resource plan, OCEA would have the Commission modify the definition of "substantial change" in subdivision (I) to include not just the actual addition of a generating facility in the electric utility's plans, coupled with the intention to seek cost recovery under Section 4928.143 (B) (2) (b) or (c), Ohio Revised Code, but even the projected addition of a generating facility and even if the electric utility does not intend to seek cost recovery under that statue. (OCEA Comments, p. 68). OCEA would make the same change to the definition of "substantial change" in Section 4901:5-3-01 (E). (Id. at 69, 70).

This back-door approach to micromanaging electric utilities' planning process must be rejected. Besides the policy and legal reasons for rejecting OCEA's proposal for annually filing integrated resource plans, implementing this proposal would be unmanageable. Under the Staff's proposal, a generating facility either is or is not included in an electric utility's supply plan. OCEA's proposal, however, would require an inquiry, prior to the filing of the forecast report, into whether the utility projects adding a generating facility during the forecast period that it has not yet included in its supply plan. Assuming that could be done, OCEA's disregard for whether there will be a complementary application for cost recovery under Section 4928.143 (B)(2)(b) or (c), Ohio Revised Code, remains a significant defect. If the electric utility does not intend to seek cost recovery for this as yet unplanned generating facility, a hearing should not be required under the "substantial change" provision.

Rule 4901:5-1-02, Purpose and Scope

OCEA proposes to modify this rule out of concern that an electric utility that does not own a " major facility" might not have to file forecast reports. Section 4935.04 (C), Ohio Revised Code alleviates that concern. If any change to the rule is needed, AEP Ohio suggests the use of language that is consistent with the applicable statutory provision. The language in the existing rule, which Staff proposed to modify, refers to persons furnishing electricity directly to more than fifteen thousand customers. The Commission could consider using that same language.

Rule 4901:5-1-03, Long-term forecast report requirements

Most startling of OCEA's comments is the suggestion "that a comprehensive integrated resource plan be filed by all Ohio electric utilities every year." (OCEA Comments, p. 68). OCEA seems to believe that its suggestion is in line with the proposed rules. OCEA asserts that the Staff is "recommending an annual integrated resource planning requirement [under proposed Section 4901:1-5-5-05. Ohio Admin. Code] on electric utilities operating in the state." (Id. at 67).

OCEA's reading of the proposed rules is far wide of the mark. Section 4901:5-3-01 (A), Ohio Admin. Code, (proposed to become division 02 with only a cosmetic modification) states that in years in which the forecast does not show a substantial change the electric utility "may file only the forms specified in Chapter 4901:5-5 of the Administrative Code in satisfying the requirements of this rule." A complete forecast report is required in "any year that a hearing is required under division (D)(3) of section 4935.04 of the Revised Code ...."

Further, the proposed new provision in Section 4901:5-1-03 (C)(1) and (2), Ohio Admin. Code, makes clear that an electric utility must include in its full (not forms only) forecast report "all resource plan requirements set forth in rule 4901:5-5-05 of the

Administrative Code, if the utility intends to file a subsequent application under division (B)(2)(b) and/or (B)(2)(c) of section 4928.143 of the Revised Code" and "for the life of any generating facility subject to recovery pursuant to division (B)(2)(b) and/or (B)(2)(c) of section 4928.143 of the Revised Code." (emphasis added).

It is clear from these provisions that the proposed rules do not require the annual submission of an integrated resource plan as part of the forecast report. Nor should they. SB 221 did not reimpose cost-of-service rate regulation of the electric utilities' generating function. SB 221 did not give the Commission the authority to manage Ohio's electric utilities and it certainly did not grant that authority to any government entities that are part of OCEA. What SB 221 did do was impose significantly challenging requirements on Ohio's electric utilities regarding renewable energy resources, advanced energy resources, energy efficiency and peak demand reductions. (Sections 4928.64 and 4928.66, Ohio Revised Code). The utilities' plans for meeting those requirements should not be subject to annual litigation and second-guessing. The focus of the proposed rules on planning resulting in requests for cost recovery under Section 4928.143 (B)(2)(b) and (c), Ohio Revised Code, is in keeping with SB 221.[1] As AEP Ohio noted in its initial comments, however, even the Staff's proposal is in need of refinement. (See p. 18 of AEP Ohio's Initial Comments). OCEA's attempt at regulatory expansion should be rejected.

As a final matter regarding this rule, OCEA would support its regulatory expansionist ideas by changing proposed division (C)(3) from giving electric utilities that are not otherwise required to file an integrated resource plan with their forecast report the discretion to do so, to

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[1] Section 4928.143 (B)(2)(b), Ohio Revised Code, conditions recovery of costs for generating facility construction on the Commission first determining "that there is a need for the facility based on resource planning projections submitted by the electric distribution utility."

requiring that such a plan be filed annually. For the reasons stated above, this proposal also should be rejected.

OAC CHAPTER 4901:5-5: ELECTRIC UTILITY FORECAST REPORT FILING REQUIREMENTS

Rule 4901:5-5-01, Definitions

OCEA would modify Staff's proposed definition of demand-side management in subdivision (F) to restrict that term to programs "delivered or sponsored by a utility [and] paid for through customer rates." (OCEA Comments, p.70). In the context of developing an integrated resource plan, the electric utility should consider the projected impacts of all demand-side management programs, not just the utility's programs and not just those programs paid for through customer rates. Adopting OCEA's suggestion would result in an over-estimation of projected load and, consequently an over-estimation of the need for generating resources or demand-side management programs.

OCEA's proposed definition of an "integrated resource plan" in subdivision (L) is unduly cumbersome in its collection of vaguely defined and inconsistent terms. For instance, "least cost" service may not be "least risk" service. OCEA's inclusion of a "full and fair consideration" of options sounds laudable, but what is "full" consideration and is the fairness of the consideration objectively determinable? Further, the definition does not need to state what should be included in an integrated resource plan. Proposed rule 4901:5-5-05 already sets out, in considerable detail, those factors which are to be considered in the development of the plan. OCEA's proposal should be rejected.

OCEA's proposed definition of "system capability" in subdivision (V) would subtract firm sales from the calculation. This makes no sense. "System capability" should reflect the capability to make sales, not what is left after firm sales are made. OCEA's proposal should be rejected.

Rule 4901:5-5-02, Forecast report requirements for electric utilities and transmission owners

OCEA would require in subdivision (A) that the summary of the forecast report will include a discussion of social and environmental costs.[2] These are extremely subjective costs and discussion of these costs would result in endless debate. OCEA's suggestion should be rejected.

In both these subdivisions (C)(2) and (4), OCEA proposes specifying geographically targeted demand-side management and distributed generation as factors to be analyzed. There are a wide variety of factors to be analyzed and no one factor should be specified to the exclusion of other factors. OCEA's suggestion should be rejected.

Rule 4901:5-5-05, Resource plans for electric distribution utilities

In this provision, OCEA again tries to require that an integrated resource plan must be filed each year. For the reasons discussed earlier in the context of Section 4901:5-1-03, OCEA's proposal should be rejected.

Rule 4901:5-5-05(B)-(E)

At pages 75-81 of their comments, OCEA proposes an array of changes to the Staff's proposal. OCEA's changes reflect its desire for more and more information, and would refocus any integrated resource plan proceeding from the planning function to a preliminary rate case. In fact, when all the changes are considered, they would pose yet additional barriers to the ability granted in Section 4928.143 (B) (2) (b) and (c), of the Ohio Revised Code, to obtain cost recovery for new generating facilities and environmental investments. While erecting barriers

[2] AEP Ohio assumes "environmental costs" are not the costs of complying with environmental statutes and regulations, but the judgmental cost of the integrated resource plan's impact on the environment.

to such cost recovery may not be OCEA's motivation, the Commission should reject OCEA's suggestions rather than impose additional barriers to the construction of generating capacity and retrofitting existing capacity, which is and will be needed to meet a growing economy in Ohio. All of OCEA's suggestions concerning these divisions should be rejected.

As a final general comment regarding OCEA's comments on these divisions, the Companies disagree with the notion that electric utilities must "conduct a stakeholder review and input process in the preparation of its resource plan." (OCEA Comments, p. 77). OCEA's suggestion fails to appreciate that resource planning is a continuous process. As circumstances change, and that happens on a constant basis, resource plans change. Incorporating a "community effort" approach simply is not practical.

Perhaps OCEA recognized the inherent difficulty in its suggestion when it fashioned its proposed language to (E) (6) on page 81 of its comments. There OCEA proposes that the public have an opportunity to review and comment on the integrated resource plan before the Commission decides on any plan. The public, through its statutory representative, will have the ability to participate in any hearing on the forecast report.

Rule 4901:5-5-05(B)(1 (c)

OCEA suggests modifying this rule so that proprietary information would need to be included in the integrated resource plan, albeit under seal. OCEA's basis for this suggestion is that parties will be made aware of the information. The parties already will be aware of the electric utilities' research, development and demonstration efforts related to expected changes identified in subdivision (B) (1) (a).3 For forecasting/integrated resource plan purposes, there is no compelling reason to file proprietary information, even under seal.

[3] Staff's proposed rule incorrectly refers to (A) (1) (a) of this rule.

Rule 4901:5-5-05(D)(1)

Here again, OCEA proposes to include language concerning lowest cost and least risk. These concepts are not necessarily compatible. Further, OCEA wants a quantification of many factors which simply are not quantifiable. For instance, how would regulatory climate be quantified? The Staff's rule requires a discussion of many factors, some of which might be capable of being quantified in some manner. Electric utilities should be permitted to provide the discussion which they believe is appropriate. Finally, OCEA's suggestion regarding the introductory language in (D) to change the focus of the integrated resource plan to a rate case must be rejected.

Rule 4901:5-5-05(D)(1)(h) (K) (l) (m) (n)

Regarding these subdivisions, OCEA would require a discussion of various cost components the electric utility might encounter. This suggestion fails to recognize that even with OCEA's suggested change to (D) (1), the requirement is to describe the procedure followed in determining need for additional resource options. Division (D) (1) does not require portrayal of what specific assumptions were used.

Rule 4901:5-5-05(E)(1)

OCEA suggests that the subdivision's reference to mix of resource options should specify that the mix shall include "all reasonably useful and cost effective supply and demand side resources that are available." The problem with this suggestion is that if the Commission were to determine that one or more "reasonably useful and cost effective resources" was not in the mix, the utility could be found to have violated a Commission rule. That is a stiff price to pay for a difference of opinion concerning what is "reasonably useful and cost effective." The

Commission's rules should leave to the electric utility the mix of resources it chooses, subject to statutory requirements in Sections 4928.64 and 4928.66, Ohio Revised Code.

OCEA also suggests that the projected resource mix must comply with state policy set forth in Section 4928.02, Ohio Revised Code. This suggestion would result in the utility's resource planning process being tied in knots as it tries to develop a plan that complies with nineteen separate policy statements. This suggestion must be rejected.

Rule 4901:5-5-05(2)(b)

OCEA's suggestion seeks to refocus the discussion of fuel adequacy to a discussion of price volatility and options for alternate sources of fuel. The review of an integrated resource plan is not the place to debate fuel pricing issues. That debate will occur in either a base rate case or a fuel cost adjustment proceeding. OCEA's suggestion should be rejected.

Rule 4901:5-5-05(E)(3)

The Companies' initial comments reflect their concern with the Staff's proposal to require rate impacts and cost effectiveness analyses in the integrated resource plan. OCEA's suggestion compounds the problem with the Staff's proposal by requiring an alternative plan to be submitted along with the integrated resource plan. Electric utilities should not be required to duplicate their planning process just to satisfy the curiosity of OCEA.

Rule 4901:5-5-05(E)(4)(d) and (5)(a)

OCEA once again suggests adding "least cost," "least risk" and "risk management" to the items to be demonstrated as part of the integrated resource plan. Based on the Companies' prior arguments regarding conflicting goals, this suggestion should be rejected.

Section 4901:5-5-05 (E) (5) (b)

OCEA suggests incorporating a specific total resource cost test for determining cost effectiveness of demand side management programs. The review of an integrated resource plan should not erupt into demand side management litigation. Even if such a determination were appropriate, an electric utility should be free to apply the test of its choice. OCEA's suggestion should be rejected.

Rule 4901:5-5-05(E)(5)(b)(vi)

OCEA suggests including "expiring tax credits or other financial incentives" as a strategic matter that must be considered. There are, no doubt, countless strategic matters that could be listed in this rule. OCEA gives no reason for this particular factor to be specified. Therefore, its suggestion should be rejected.

CONCLUSION

For the foregoing reasons, AEP Ohio recommends the above comments b considered by the Commission in finalizing its rule review.

Respectfully submitted,

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