

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power)
Company for Approval of its Renewable Energy) Case No. 09-1871-EL-ACP
Technology Program.)

In the Matter of the Application of Columbus)
Southern Power Company for Approval of its) Case No. 09-1872-EL-ACP
Renewable Energy Technology Program.)

REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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A. INTRODUCTION

On November 30, 2009, Columbus Southern Power (“CSP”) and Ohio Power Company (“OP”) (collectively, American Electric Power-Ohio or “AEP-Ohio”) filed the instant Application for approval of a Renewable Energy Technology Program (hereinafter “Program”) by the Public Utilities Commission of Ohio (“Commission”). AEP-Ohio filed the Application pursuant to a Stipulation and Recommendation (“Stipulation”) submitted in AEP-Ohio’s energy efficiency/peak demand reduction (“EE/PDR”) portfolio plan proceeding.¹ On September 24, 2010, the Attorney Examiner granted the Motions to Intervene of Industrial Energy Users-Ohio (“IEU-Ohio”), the Office of the Ohio Consumers’ Counsel (“OCC”), and the Vote Solar Initiative (“VSI”), and also established a procedural schedule permitting initial and reply comments on the application. Industrial Energy Users-Ohio (“IEU-Ohio”) submitted its Initial Comments

¹ *In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, PUCO Case Nos. 09-1089-EL-POR, *et al.*, Stipulation and Recommendation at 5-6 (November 12, 2009). The Stipulation, as modified and approved by the Commission, only requires AEP-Ohio to propose the Program and in no way pre-determines approval of the Program. *Id.* at 5.

regarding the instant application on October 8, 2010 and hereby submits its Reply Comments, pursuant to the September 24, 2010 Attorney Examiner Entry.²

B. REPLY COMMENTS

1. Commission Staff (“Staff”)

In its Initial Comments, Staff states its objection to recovering the entire incentive amounts up-front inasmuch as this method of recovery is contrary to Staff’s general preference to more closely align rate impacts with benefits.³ However, Staff expresses some sympathy for the position that spreading the program costs over the proposed 20-year term of the Program may create administrative burdens that exceed the benefits of the Program.⁴ If the Commission approves the Program components that include immediate collection of the up-front payments rather than collecting the costs over the term of the Program, then Staff makes three recommendations to attempt to ensure that customers actually receive the benefits of the Program. Specifically, Staff suggests that the Commission order retired renewable energy credits (“RECs”) be assigned no cost to ratepayers to recognize the pre-payment for the RECs, the proceeds from any Program REC sales should be credited to the fuel adjustment clause mechanism (“FAC”) or other such mechanism in place at the time, and refunds from Program participants for non-performance should flow through the FAC or other mechanism in place at the time.⁵

² IEU-Ohio’s decision to address only certain portions of the Initial Comments should not be construed as IEU-Ohio’s agreement with the positions not addressed by IEU-Ohio.

³ Staff’s Initial Comments at 3.

⁴ *Id.*

⁵ *Id.*

The caveats introduced by Staff are a solid attempt to mitigate the risk that customers will not receive the benefits of REC pre-payments *via* the incentive payments, but there can be no assurance that customers would receive the benefits of the REC pre-payment in the Program. AEP-Ohio's current standard service offer ("SSO"), through the form of an electric security plan ("ESP"), runs through calendar year 2011. As explained by IEU-Ohio in its Initial Comments, there is no guarantee that AEP-Ohio will have an FAC in any future SSO or certainty that there will be any other mechanism that would allow customers to reap the benefits associated with the REC pre-payment in a future AEP-Ohio SSO. Thus, the Commission should deny approval of the Program inasmuch as AEP-Ohio customers would incur up-front costs for benefits that may never be received.⁶

2. Office of the Ohio Consumers' Counsel and Vote Solar Initiative

OCC and VSI submitted joint comments generally supporting the Program but asking for certain modifications to the proposed Program. Among other things, OCC and VSI ask the Commission to increase the incentive amounts and to ensure the Program exists until the later of December 31, 2011 or the total \$5 million budget for the Program is expended.⁷ OCC and VSI also attempt to minimize the performance risk associated with the up-front payments.⁸

First, if the Commission allows the Program to proceed, it should not increase the incentive amounts. OCC/VSI have provided no reason why the incentive amounts should be changed. The FirstEnergy and Dayton Power and Light ("DP&L") programs

⁶ See IEU-Ohio Initial Comments at 4-5.

⁷ OCC/VSI Initial Comments at 3-4, 6-7, respectively.

⁸ *Id.* at 8-9.

cited to by OCC/VSJ were for REC purchase programs where customers were being paid for their actual performance. Customers' performance in this incentive program will not be established until after the payment is made. Thus, the comparison to the REC purchase programs of FirstEnergy and DP&L are inapplicable and unpersuasive. Increasing the incentive amounts will only needlessly add to the potential FAC deferrals caused by the Program.⁹

Second, the Commission should not extend the due date of the Program beyond December 31, 2011. The Program is unnecessary in 2010 and 2011 and there is no indication that the Program is needed in 2012 or beyond.¹⁰ Instead of extending the Program's life, the Commission should deny the Application and accept IEU-Ohio's recommendation to require the Program be taken up by the group that will meet to holistically discuss AEP-Ohio's compliance with the alternative energy mandates in the next SSO.¹¹ This is the most appropriate course given that AEP-Ohio's ESP also would terminate at the end of 2011, this option has already been contemplated by the Signatory Parties to the EE/PDR case, and doing so would avoid needlessly increasing FAC costs during the ESP period.¹²

Finally, the assertions of OCC/VSJ diminishing the risk of the up-front payment should be tempered by Staff's clear concern that the Program shifts risks for the

⁹ IEU-Ohio Initial Comments at 2-3.

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² Finally, of note, the current "pilot program" instituted by the Commission in Case No. 10-834-EL-EEC for mercantile customer participation in the EE/PDR compliance efforts of the Ohio electric distribution utilities only lasts for 18 months and will be reviewed after 12 months. There is no reason that the "pilot program" in this case should get a guaranteed two years while the "pilot program" for mercantile customers is limited to just 18 months. See OCC/VSJ Initial Comments at 8 ("The Commission should facilitate the utilities efforts in developing and testing these pilot programs.")

Program from AEP-Ohio to ratepayers.¹³ Specifically, Staff worries about up-front payments for contract performance over a 20-year period and also raises concerns about the mechanics of recouping any incentive payments for non-performance. OCC/VSI provides no information or citations to support their assertions regarding this supposedly minimal risk from experience in other states. The issues raised by Staff add even more persuasive reasons to reject AEP-Ohio's application and require that the Program be evaluated in the context of AEP-Ohio's alternative energy mandate compliance strategy, as recommended by IEU-Ohio and contemplated in the EE/PDR portfolio plan Stipulation.¹⁴

C. CONCLUSION

For the reasons stated herein, IEU-Ohio requests the Commission deny the application and direct the Parties to discuss this Program in the context of AEP-Ohio's next SSO filing.

Respectfully submitted,

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¹³ Staff's Initial Comments at 2.

¹⁴ IEU-Ohio Initial Comments at 5.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 15th day of October 2010 *via* electronic transmission, hand delivery, or first class U.S. mail, postage prepaid.

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