

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company for Approval of its)
Renewable Energy Credit Purchase Offer) Case No. 09-1873-EL-ACP
Program.)

In the Matter of the Application of)
Columbus Southern Power Company for) Case No. 09-1874-EL-ACP
Approval of its Renewable Energy Credit)
Purchase Program.)

**REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") on behalf of the residential utility consumers in of the Columbus Southern Power Company and the Ohio Power Company ("AEP" or "Companies") respectfully submits these reply comments. These comments are a response to the Stipulation filed by the Companies and Public Utilities Commission of Ohio staff ("Staff") filed on October 8, 2010, and separate comments filed by the Industrial Energy Users – Ohio ("IEU"). AEP submitted the initial Application for its Renewable Energy Credit ("REC") Purchase Program on November 30, 2009. The REC program would allow AEP to purchase RECs produced by small customer-sited wind and solar electric generating facilities through December 2011.

These comments are filed in accordance with the Public Utilities Commission of Ohio's ("PUCO" or "Commission") Entry issued on September 24, 2010. OCC files

these comments to propose modifications to the Stipulation, address issues presented in IEU's comments and address alternatives in the event that the AEP renewable energy technology program is not approved by the Commission.¹

II. COMMENTS

A. **OCC's General Support Of The Stipulation Is Contingent Upon The Commission's Approval Of The Renewable Energy Technology Program And A Change In The Stipulation That Would Allow All Interested Parties To Participate In The Development Of A Similar Program Upon Expiration.**

1. **The REC Purchase Program Should be Approved as a Supplement to the Renewable Energy Technology Program.**

The OCC supports most of the elements of the Stipulation as filed. The Stipulation provides a fixed payment for each REC that is approximately 75% of the Alternative Compliance Payment,² provides for participation by shopping customers³ and extends participation to customers leasing their systems.⁴ As stated in comments filed on October 8, including these elements in the REC purchase program will enhance the program, further Ohio's goal of encouraging distributed generation renewable energy facilities and create an opportunity for the Companies to purchase RECs that may be applied towards the mandatory benchmarks in R.C. 4928.64.⁵ However, as noted in its October 8 Comments, OCC supports the PUCO approval of this program, as presented in the Stipulation (with the changes presented below), in tandem with the approval of the

¹ *In the Matter of the Application of Ohio Power Company for Approval of its Renewable Energy Technology Program*, Case No. 09-1871-EL-ACP, et al (Application filed on November 30, 2009).

² Stipulation at 6 (October 8, 2010).

³ Id. at 5.

⁴ Id.

⁵ OCC Comments at 2 (October 8, 2010).

pending Renewable Energy Technology Program.⁶ Together, these two programs will provide the potential for a robust response in AEP territory, and provide opportunities for customers with existing systems to realize greater benefit from their investment in renewable technology and supply the incentive for new system installation. However, irrespective of whether the RET program is approved, the PUCO should lengthen the purchase period of the REC purchase program in order to provide meaningful incentives to customers to install new systems.

2. The REC Purchase Program Should be Lengthened to Two Years and the Development of Similar Future Programs Should Include All Interested Parties.

The Second point in the Stipulation should be modified to include participation by all interested parties in any discussion of future, similar programs, and should allow for the current program to continue for two years. Currently the second point reads as follows:

Parties agree that the Rider shall remain in effect until December 31, 2011. The Companies agree to work with Commission Staff to propose a similar program with cost recovery to be filed with the Commission no later than August 31, 2011.⁷

As proposed, this point limits the collaborative effort desired to create dynamic and forward-looking programs because it limits those who may provide input. In addition, the time frame for the program has been considerably shortened from the original two-year proposal⁸ to a term of approximately one year. This shortened time frame essentially shrinks any benefits that the program may provide.

⁶ OCC Comments at 3 (October 8, 2010).

⁷ Stipulation at 5 (October 8, 2010).

⁸ Application at 3 (November 30, 2009).

As noted in initial comments, the OCC worked with AEP and other stakeholders to construct a REC purchase program and an incentive program that would appropriately encourage residential and small business customers to install distributed generation equipment.⁹ In fact, it was the OCC who approached the Companies with the idea of a REC purchase program at the very beginning. The Companies acknowledged the productivity of the collaboration in their reply comments.¹⁰ It is inexplicable why, after engaging in productive collaboration which resulted in broad participation and the framework of a good program, that AEP and the Commission would stipulate an exclusive discussion that excludes stakeholders that worked diligently to assist in the program construct! The Stipulation should be modified to include and encourage participation by all interested stakeholders when discussions to develop a similar future program begin.

In addition, the length of the Rider should remain in effect for the full two years as originally planned. The end date of December 31, 2011, presented in the Stipulation gives AEP customers less than a year to participate, under a best-case scenario, in which the program would be approved right away. The proposed length of time will not provide for a meaningful program. The opportunity to expend as much of the total funding for the program to purchase RECs should be provided. Therefore, the language in the Stipulation should be changed and allow the program a full two years to operate from the date of PUCO approval or until all funds are expended. This was ordered by the PUCO in the

⁹ OCC Comments at 2 (October 8, 2010).

¹⁰ AEP Reply Comments at 1 (January 27, 2010).

Duke case¹¹ due to the delay in program implementation. Similar circumstances exist in this case. Therefore, an extension of the program which would require it to be offered for the full two years as designed should be instituted here.

B. Irrespective Of Whether The Renewable Energy Technology Program Is Approved By The Commission, The REC Purchase Period In This Program Should Be Lengthened To Fifteen Years In Order To Encourage Customer Investment In Distributed Generation.

The Stipulation fails to provide a reasonable timeframe for customers to offset a portion of their investment costs through the sale of RECs. This program design failure becomes even more critical in the event that the Renewable Energy Technology Program is not approved. Without the incentive program, there will be no program offering, as provided for in the AEP Portfolio Program Stipulation,¹² to encourage investments in distributed renewable energy generation facilities. Modifying this program, as presented in OCC's Comments of October 8, 2010¹³, would provide an adequate substitute. The purchase period should extend to fifteen years as provided for in the Duke and FirstEnergy REC purchase programs.¹⁴ The fifteen years at a fixed price will encourage

¹¹ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Residential Solar Renewable Energy Credit Purchase Program Agreement and Tariff*, Case No. 09-934-EL-ACP, Finding and Order at 3 (July 29, 2010).

¹² *In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, Case No. 09-1089-EL-POR, et al, Stipulation at 5-6 (November 12, 2009).

¹³ OCC Comments at 5-6 (October 8, 2010).

¹⁴ *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company for Approval of Residential Renewable Energy Credit Purchase Program Agreement*, Case No. 09-551-EL-UNC, Finding and Order at 4 (Sept. 23, 2009), and *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Residential Solar Renewable Energy Credit Purchase Program Agreement and Tariff*, Case No. 09-934-EL-ACP, Finding and Order at 3 (July 29, 2010).

investment in renewable technology, as customers will be able to complete the installation of a renewable system, and then enter into a long-term contract with AEP. This will create a meaningful program as described by the PUCO in an Order regarding a similar case with Duke Energy.¹⁵

C. The Comments Of The Industrial Energy Users – Ohio Are Without Merit And Should Be Rejected.

The Industrial Energy Users-Ohio (“IEU”) urge a rejection of this application using arguments identical to the arguments filed in the Renewable Energy Technology Program Case.¹⁶ IEU’s assertion that the program is not needed for purposes of meeting AEP’s 2010 and 2011 benchmarks¹⁷ is short-sighted and divergent from Ohio law. As the Commission has previously stated, the PUCO interprets ORC 4928.65 and 4928.66 as “*requiring* a role for distributed generation in the state’s alternative energy portfolio standard.”¹⁸ (Emphasis added). Further the PUCO has stated that similar programs should not be discouraged due to potential circumstances of over-compliance.¹⁹ The purchase of customer-generated RECs will assist AEP in meeting its mandatory benchmarks in the future. Therefore, the allegations that this program is not “necessary” for immediate or near-term compliance do not provide good cause to discourage or oppose the program. Moreover, if IEU believes that the program is without merit, then

¹⁵*In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Residential Solar Renewable Energy Credit Purchase Program Agreement and Tariff*, Case No. 09-934-EL-ACP, Finding and Order at 3 (July 29, 2010).

¹⁶ See generally, IEU Comments (October 8, 2010).

¹⁷ IEU Comments at 2 (October 8, 2010).

¹⁸ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Residential Solar Renewable Energy Credit Purchase Program Agreement and Tariff*, Case No. 09-834-EL-ACP, Finding and Order at 5 (¶10(c)) (July 29, 2010).

¹⁹ *Id.*

the dollars allocated to non-residential customers – which could potentially be used by IEU members – should be reallocated to purchase additional residential and small business RECs.

Finally, OCC disagrees with IEU's alternative recommendation that the program be delayed. IEU suggests that program implementation should wait and be discussed with interested parties in the context of its next SSO application.²⁰ IEU mischaracterizes Signatory parties' intent in signing the portfolio stipulation, *of which IEU was not a signatory party*, by stating that it was contemplated by signatory parties that the program would be discussed in the next SSO proceeding.²¹ In fact, it is the fuel adjustment clause, under which costs of this program are to be recovered, rather than the REC purchase program that will be discussed in the Companies next SSO, as explained by IEU in their initial comments. IEU is selectively advocating for a delay of a residential program application in this case, while implying frustration with delays in approval of mercantile customer programs elsewhere.²² In fact, this program has been a topic of discussion between OCC and AEP, as well as others, since January 2009. Because the recovery mechanism will soon be discussed in the next SSO, OCC recommends the Commission extend the AEP REC purchase program for a minimum of two years from the approval date. The costs of this program would then be recovered under the mechanism in place after 2011 as approved by the PUCO.

²⁰ See IEU comments at 5.

²¹ See IEU comments at 5 and 6.

²² In a recent Platt's article, an IEU representative complains that "[H]undreds of businesses have filed applications to move forward with energy efficiency that have been sitting at the PUC [Public Utilities Commission] for nine months."

<http://www.platts.com/RSSFeedDetailedNews/RSSFeed/HeadlineNews/ElectricPower/6499883>

If the Commission should require the program to be discussed in the next SSO proceeding, all program details should be required by the Commission as part of any Stipulation presented in that proceeding. However, the immediate application should be approved, including the modifications proposed by OCC. The recommendations of IEU should be summarily rejected by the Commission.

IV. CONCLUSION

OCC generally supports the Stipulation as filed by PUCO Staff and AEP, provided that: 1) The term of the REC purchase be extended to 15 years consistent with the programs already approved for FirstEnergy and Duke, 2) It is approved in conjunction with the pending Renewable Energy Technology Program, 3) That the Stipulation is modified to extend the program for two full years, and 4) That all interested stakeholders are invited to participate in the development of future similar programs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Reply Comments by the Office of the Ohio Consumers' Counsel* was served on the persons stated below *via* regular U.S. Mail Service; postage prepaid this 15th day of October 2010.

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