BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company for Approval of its Renewable Energy Technology Programs.	)))	Case No. 09-1871-EL-ACP
In the Matter of the Application of Columbus Southern Power Company for Approval of its Renewable Energy Technology Programs.	)))	Case No. 09-1872-EL-ACP

FINDING AND ORDER

The Commission finds:

(1) Ohio Power Company (OP) and Columbus Southern Power Company (CSP) (jointly, AEP-Ohio or Companies) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.

(2) Section 4928.64, Revised Code, requires AEP-Ohio to meet certain renewable energy resource benchmarks that may include the use of renewable energy credits (RECs).

(3) On November 30, 2009, as corrected on December 7, 2009, AEP-Ohio filed an application for approval of its proposed renewable energy technology (RET) programs. The purpose of the RET programs is to assist the Companies in meeting their renewable energy resource benchmarks pursuant to the requirements of Section 4928.64, Revised Code, and to encourage residential and small commercial customers to install distributed generation facilities. AEP-Ohio asserts that, as part of the negotiations in *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, and *In the Matter of the Application of Ohio Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, Case No. 09-1090-EL-POR (portfolio plan cases), AEP-Ohio discussed with the parties to the portfolio plan cases the Companies' RET programs, which are up-front incentive-based REC programs, and agreed to file

the instant application. AEP-Ohio notes that, as part of the stipulation filed in the portfolio plan cases, the signatory parties agreed that the Companies' prudently incurred costs associated with the proposed RET programs should be recovered through the respective fuel adjustment clause (FAC) mechanisms of OP and CSP.[1] AEP-Ohio files its application contingent upon such cost recovery.

AEP-Ohio states, among other things, that the key features of the RET programs are as follows:

(a) AEP-Ohio's total incentive budget for the RET programs, through December 31, 2011, would be $5 million, divided equally between OP and CSP, with an annual cap of $1.25 million for 2010 and 2011 for OP and CSP.

(b) Any incentive money not awarded in 2010 would carry over to 2011 for the respective technology and customer type. Any money not awarded in 2011 would not carry over to 2012. All incentives must be awarded by December 31, 2011.

(c) Projects must be installed after January 1, 2010, to be eligible to participate in a RET program, with applications processed on a first-come, first served basis.

(d) Projects must be installed within six months after approval of an application, or by November 30, 2011, if the application is made after May 31, 2011.

(e) Participating customers must agree to assign the RECs produced by the installed system to AEP-Ohio for a term of 20 years.

(f) The customer must be the owner of the system.

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1 By opinion and order issued May 13, 2010, the Commission approved the stipulation in the portfolio plan cases.

(g) The customer will receive the incentive payment after the total system is installed and operates for 30 consecutive days.

(h) If the system becomes inoperable for 90 days or ownership of the property changes, then the customer must refund AEP-Ohio a prorated amount based on the remaining term of the agreement.

(i) The incentive amount for solar photovoltaic (PV) resources would be $1.50 per watt for residential and non-residential customers, with an annual funding cap of $800,000 and $1.2 million, respectively. The maximum incentive per residential and non-residential customer would be $12,000 and $75,000, respectively.

(j) The incentive amount for wind resources would be $0.275 per kilowatt hour (kWh) for residential and non-residential customers, with an annual funding cap of $375,000 and $125,000, respectively. The maximum incentive per residential and non-residential customer would be $7,500 and $12,000, respectively.

The Companies seek approval from the Commission to implement tariffs for their proposed RET programs and request any necessary and appropriate accounting authority to implement the programs.

(4) On January 5, 2010, Industrial Energy Users-Ohio (IEU-Ohio) filed a motion to intervene in these cases. On January 14, 2010, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene, along with comments in opposition to certain elements of AEP-Ohio's proposed RET programs. On January 27, 2010, AEP-Ohio filed reply comments in response to the issues raised by OCC. On May 20, 2010, the Vote Solar Initiative (VSI) filed a motion to intervene. No memoranda contra any of the motions for intervention were filed.

(5) By entry of September 24, 2010, the attorney examiner granted the motions to intervene filed by IEU-Ohio, OCC, and VSI and

established a procedural schedule for the filing of comments and reply comments.

(6) In accordance with the procedural schedule established for these cases, comments were filed by IEU-Ohio and Staff, and jointly by OCC and VSI, on October 8, 2010. Reply comments were filed by AEP-Ohio, IEU-Ohio, and Staff, and jointly by OCC and VSI, on October 15, 2010.

OCC and VSI Joint Comments

(7) OCC and VSI generally agree with AEP-Ohio's RET programs as proposed, particularly with the up-front incentive payment provision. They recommend, however, a number of modifications in their joint comments. First, OCC and VSI state that the incentive amount for solar PV resources should be increased to $1.80 per watt, and $0.29 per kWh for wind resources, for residential customers. OCC and VSI assert that these increased incentive amounts are required to persuade customers to invest in renewable distributed generation and to assist customers in obtaining the financing that they need to make the investment. According to OCC and VSI, these incentive amounts bring the REC value closer to 75 percent of the compliance payment set forth in Section 4928.64(C)(2), Revised Code, which is a percentage that has been used by the Commission in recent cases.[2] Additionally, OCC and VSI suggest that the Commission should allow AEP-Ohio to adjust the incentive caps as needed based on program participation levels so as to most effectively spend the funds allocated to the RET programs.

(8) In reply, IEU-Ohio disagrees that the incentive amounts should be increased, noting that the cases cited by OCC and VSI involved REC purchase programs, rather than incentive programs, and that increasing the incentive amounts will needlessly add to the potential FAC deferrals. Likewise, AEP-Ohio replies that REC purchase programs and REC

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2 *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Residential Renewable Energy Credit Purchase Program Agreement,* Case No. 09-551-EL-UNC (September 23, 2009); *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 (July 29, 2010).

incentive programs are different. Further, the Companies note that the basis for its proposed incentive amounts has been explained and that its amounts strike the appropriate balance between providing an incentive and increasing costs for ratepayers.

(9) With respect to the eligibility requirements of the proposed RET programs, OCC and VSI state that both shopping and non-shopping customers in AEP-Ohio's service territory should be permitted to participate. Additionally, OCC and VSI assert that residential customers who lease renewable distributed generation facilities from installation companies should also be eligible. OCC and VSI recognize that AEP-Ohio, in the event of a system failure, would need to have a contractual obligation with the immediate customer to recover any incentive paid for RECs that were not received. To accommodate that need, OCC and VSI recommend that the customer should be required to be the owner of the RECs, rather than the owner of the system.

(10) In its reply comments, Staff agrees with OCC and VSI that the RET programs should be open to both shopping and non-shopping customers, pointing out that the RECs are a viable compliance tool, regardless of generation supplier. AEP-Ohio states that it is willing to offer the RET programs to both groups of customers. In addition, the Companies are amenable to OCC and VSI's suggestion that customers leasing facilities should be eligible to participate in the programs if they own the RECs.

(11) In addition, OCC and VSI recommend that AEP-Ohio be required to implement the RET programs no later than 30 days from the date of the Commission's order in these cases, as well as to offer the programs until December 31, 2011, or until the total $2.5 million per utility is expended, whichever comes later. During this period, OCC and VSI request that AEP-Ohio be required to file quarterly updates with the Commission. They further request that the Companies be required to implement a follow-up program or, in the alternative, to maintain the initial programs for a period of at least two years from their starting date.

(12) In reply, AEP-Ohio disagrees with OCC and VSI that the RET programs should be implemented within 30 days of approval, pointing out that there are administrative issues that must be in line before the programs begin. The Companies also maintain that the programs must not continue past December 31, 2011, when the FAC mechanisms for OP and CSP end. AEP-Ohio also disagrees that the RET programs should continue until the total $2.5 million per utility is spent. IEU-Ohio also argues that the RET programs should not be extended past December 31, 2011, stating that there is no indication that the programs are necessary in 2012 or beyond.

Staff disagrees that AEP-Ohio should be directed to implement a follow-up program, noting that the results of the initial programs should be evaluated first, but does not oppose OCC and VSI's alternative recommendation to maintain the initial programs for two years, provided that the proposed funding caps remain in place. Staff agrees that quarterly updates should be filed. For its part, AEP-Ohio agrees with Staff that it is premature to require a follow-up program at this point. Regarding quarterly updates, the Companies state that they will monitor the RET programs as they progress and share information with Staff and other parties as appropriate, but quarterly update filings would be an unnecessary administrative burden.

(13) Finally, OCC and VSI assert that the risk associated with up-front payments is small and limited by the funding caps, noting that up-front payment programs have been widely used with success in other states, and that the experiential learning opportunities offered by the RET programs justify the minimal risk. OCC and VSI point out that the Commission has already approved "pay-as-you-go" programs, and by approving AEP-Ohio's proposed up-front payment programs, the Commission would then be able to compare the results of the two types of programs for the purpose of considering future REC programs. In order to obtain the up-front payment, OCC and VSI note that participants should be willing to assign their RECs to AEP-Ohio for 15 years, rather than 20 years, as proposed by the Companies.

(14) In reply, AEP-Ohio agrees with OCC and VSI that a diversity of programs is a good approach and that up-front payment programs are reasonable and have been used successfully in other states. The Companies further agree that the term of the RET agreements could be reduced to 15 years. IEU-Ohio and Staff note that OCC and VSI offer no support or explanation for their claim that up-front payment programs pose minimal risk as evidenced by the success experienced in other states. Considering the overall cost-effectiveness of up-front payment programs and the impact on ratepayers, Staff questions the potential success of such a program design.

Staff Comments

(15) In its comments, Staff states that its primary concern with the design of the RET programs is that the up-front payment shifts the risk of performance over the 20-year term from the participant to the Companies' generation ratepayers. While participants would be required to refund a prorated amount of their incentive payments due to a failure to perform, Staff is concerned that this aspect of the RET programs would become administratively burdensome and likely to generate significant participant resentment. Staff cites the potential for change in ownership of the resource over the 20-year term as another difficulty. In light of its concerns, Staff states that it is generally more supportive of programs in which compensation is directly tied to performance and more closely tracks market conditions.

(16) OCC and VSI generally respond to Staff's concerns with the up-front payment design by stating that such a design is an appropriate mechanism to employ for financing renewable systems and encouraging distributed generation because it makes the purchase and installation of small renewable systems more feasible. With respect to recovery of incentive payments in the event of system failure, OCC and VSI note that Staff's concerns are neither substantiated nor echoed by AEP-Ohio. Additionally, OCC and VSI maintain that Ohio-certified installers will be used; warranties are available to system owners; system owners are highly motivated to repair non-performing systems; and solar PV arrays are highly reliable and long lived, according to the U.S. Department of

Energy. Therefore, OCC and VSI maintain that the risk of non-performance is minimal.

In its reply comments, AEP-Ohio states that its up-front payment design is effective, as well as administratively manageable, and that there are measures to recover prorated amounts of incentive payments for failure to perform. AEP-Ohio believes that the expected risks in the structure of the RET programs should be weighed against what can be accomplished and learned through the programs.

Regarding change in ownership, OCC and VSI respond to Staff's concern by suggesting that, when such a change occurs, the participant should be able to exercise one of the following options:

(a) The contract can be transferred to the new owner as long as it is agreeable to all parties, including the mortgage company.

(b) If the participant is moving within AEP-Ohio's service territory, the solar PV panels can be moved to the new residence with comparable solar access at no cost to the Companies.

(c) The participant can refund to the Companies a prorated amount of the incentive payment based upon the remaining term of the agreement.

OCC and VSI believe that these modifications would minimize the potential for performance problems resulting from a change in ownership and that they should be incorporated into the proposed RET program agreements.

(17) Regarding recovery of costs, Staff notes that AEP-Ohio intends to seek recovery upon payment of the incentive through the FAC, which is contrary to Staff's general preference of more closely aligning rate impacts with benefits. Staff recognizes that spreading program costs over the 20-year term may cause an administrative burden that exceeds the benefits of such an approach. Should the Companies be authorized to include program costs in the FAC as they are incurred, Staff

recommends a number of parameters that should be established:

(a) The RECs obtained from participants should be assigned a cost of zero for the purpose of ultimately determining REC expense. When these particular RECs are retired in order to achieve compliance with Section 4928.64, Revised Code, they should be assigned no cost to ratepayers in recognition that they were already paid for by ratepayers.

(b) Because the RECs obtained from participants would have already been paid for by ratepayers, the proceeds from any decision to ultimately sell these RECs should flow directly to the benefit of ratepayers via the FAC or other such mechanism that may be in place at the time.

(c) In the event of a refund from a participant associated with non-performance, such refund should flow directly to the benefit of ratepayers via the FAC or other such mechanism that may be in place at the time.

(18) OCC and VSI agree that Staff's parameters should be adopted, finding that they should alleviate concerns related to AEP-Ohio's recovery of program costs as they are incurred. The Companies also agree with Staff's parameters. In its reply comments, IEU-Ohio states that Staff's parameters are a solid attempt to mitigate the risk to ratepayers. IEU-Ohio, however, reiterates that AEP-Ohio's application should be denied because ratepayers would incur up-front costs for benefits that may never be received, given the uncertainty of AEP-Ohio's future standard service offer (SSO).

(19) Finally, Staff finds that the metering requirements contained in AEP-Ohio's application are inconsistent with Rule 4901:1-40-04(D)(1), Ohio Administrative Code (O.A.C.), and recommends that the Companies modify their proposed riders and RET program agreements to be consistent with the rule. OCC and VSI, as well as AEP-Ohio, agree with Staff's recommendation.

IEU-Ohio Comments

(20) In its initial comments, IEU-Ohio asserts that the Commission should deny AEP-Ohio's application or, alternatively, direct AEP-Ohio to discuss the RET programs with interested parties in the context of its next SSO application. IEU-Ohio contends that the Companies have not shown a need for the RET programs in order to meet their benchmarks in 2010, in 2011, or after the current electric security plans (ESP) end. IEU-Ohio also maintains that the Companies have not provided any information on the cost-effectiveness of utilizing RECs obtained from the RET programs for compliance with the benchmarks versus other available compliance alternatives, either during or after the current ESP. IEU-Ohio believes that approval of the application would needlessly increase FAC costs, as well as force customers to pay FAC costs without any assurance that they will receive the benefits associated with those costs, inasmuch as AEP-Ohio's future SSO beyond 2011 is unknown.

(21) In reply, AEP-Ohio admits that, because of its renewable energy purchase agreement with Wyandot Solar LLC, it may not need the solar RECs from the RET programs to comply with its 2010 and 2011 benchmarks but disagrees that that is reason enough to deny the application. AEP-Ohio further states that, as of the date of filing its reply comments, it was still in need of non-solar RECs for the 2010 calendar year. The Companies maintain that they have proposed prudent, cost-effective RET programs that would provide AEP-Ohio with a known source of RECs for 15 years, as well as lower overall REC costs because the RECs generated from the programs would have a cost of zero. Staff notes that RECs can be banked for a certain period of time, and, therefore, RECs obtained through the RET programs need not be used immediately to be considered a viable compliance tool. OCC and VSI assert that the installation of additional solar projects through the RET programs will assist AEP-Ohio in meeting its benchmarks in the future.

Additionally, Staff is not opposed to continued discussions on a potential incentive-based program in the context of AEP-Ohio's next SSO application. OCC and VSI, as well as AEP-Ohio, disagree that the RET programs should be delayed. OCC and

VSI add that the RET programs should be in place for at least two years from the date on which they are approved or that the Companies should be required to propose a continuation of the programs or a new, similar program no later than August 31, 2011, as proposed in the stipulation of AEP-Ohio's REC purchase program,[3] with costs to be recovered through a Commission-approved mechanism in place after 2011.

Conclusion

(22) As we have previously noted, the Commission interprets Sections 4928.64 and 4928.65, Revised Code, as requiring a role for distributed generation in the state's alternative energy portfolio standard.[4] The Commission further acknowledges the Companies' annual in-state renewable requirements under Section 4928.64, Revised Code. Upon review of the application, comments, and reply comments, the Commission concludes that AEP-Ohio's application, as corrected on December 7, 2009, should be approved, with the following modifications and clarifications:

(a) The RET programs should be open to both shopping and non-shopping customers.

(b) Participants must agree to assign their RECs to AEP-Ohio for 15 years.

(c) Customers may participate in the RET programs if they own the RECs, regardless of whether they own or lease the facilities that produce the RECs.

(d) AEP-Ohio should file quarterly updates with the Commission.

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3 *In the Matter of the Application of Ohio Power Company for Approval of its Renewable Energy Credit Purchase Program*, Case No. 09-1873-EL-ACP, *et al.* (October 8, 2010).

4 *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Residential Renewable Energy Credit Purchase Program Agreement*, Case No. 09-551-EL-UNC (September 23, 2009); *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 (July 29, 2010).

(e) The Companies should modify their proposed riders and RET program agreements to be consistent with the metering requirements of Rule 4901:1-40-04(D)(1), O.A.C.

(f) It is important to the Commission that AEP-Ohio's RET programs are designed to be meaningful. The programs were originally proposed to run for the length of the current ESP, which means that, at best, the programs would be in effect for six months. The Commission finds that lengthening the programs is necessary. Therefore, the programs should remain in place for a two-year period from their starting date, with an annual cap of $1.25 million per year for each utility. Incentive money not awarded in the first year should carry over to the second year for the respective technology and customer type. Any money not awarded in the second year will not carry over beyond the end of the two-year period. Projects must be installed on or after the starting date of the RET programs to be eligible for the programs and, as proposed by AEP-Ohio, installed within six months after approval of an application.

(g) The Companies' prudently incurred costs associated with the proposed RET programs should be recovered through the respective FAC mechanisms of OP and CSP, which are updated quarterly and reviewed annually, through the term of the current ESP. Following the current ESP, such prudently incurred costs should be recovered through a mechanism approved by the Commission in the next SSO. We note that AEP-Ohio proposes in its pending ESP filing an alternative energy rider to recover REC expense, including costs associated with the proposed RET

programs.[5] Thus, if approved, there is an available mechanism for RET program cost recovery during the next SSO.

(h) The RECs obtained from participants should be assigned a cost of zero for the purpose of ultimately determining REC expense. When these particular RECs are retired in order to achieve compliance with Section 4928.64, Revised Code, they should be assigned no cost to ratepayers in recognition that they were already paid for by ratepayers.

(i) Because the RECs obtained from participants would have already been paid for by ratepayers, the proceeds from any decision to ultimately sell these RECs should flow directly to the benefit of ratepayers via the FAC in the current ESP or, following the current ESP, a mechanism approved by the Commission in the next SSO.

(j) In the event of a refund from a participant associated with non-performance, such refund should flow directly to the benefit of ratepayers via the FAC in the current ESP or, following the current ESP, a mechanism approved by the Commission in the next SSO.

(23) In response to IEU-Ohio's concerns, the Commission agrees with AEP-Ohio that, although the Companies may not immediately need the solar RECs from the RET programs to comply with their benchmarks, that is an insufficient reason to deny the application. AEP-Ohio may bank excess RECs for future compliance, as provided in Sections 4928.64(C)(4)(b) and 4928.65, Revised Code. The Companies may also sell any excess RECs applicable to their baselines at the end of the year into the market, passing on any gains, as a result of the sale, to customers.

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5 *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Direct Testimony of Philip J. Nelson (January 27, 2011) at 15.

(24) With regard to Staff's concerns with the up-front payment design and the resultant risk to ratepayers, we find that responsibility for the proper administration of the RET programs should be assumed by AEP-Ohio, particularly given that the Companies intend to seek recovery through the FAC of incentives paid, upon payment of those incentives. Should it become apparent that AEP-Ohio is not taking proper steps to recover prorated amounts of incentive payments in cases of non-performance, the Commission may order the Companies to credit ratepayers appropriately, through the FAC in the current ESP or, following the current ESP, a mechanism approved by the Commission in the next SSO. The quarterly updates filed by AEP-Ohio should provide data to enable the Commission to evaluate the RET programs, including information related to system performance and the Companies' efforts to recover prorated amounts of incentive payments for failure to perform.

(25) With the above modifications, the Commission concludes that the proposed RET programs will facilitate the development of distributed renewable generation in the state and will contribute to the Companies' efforts to satisfy their annual in-state renewable requirements. Therefore, the Commission finds the proposed RET programs, as modified herein, to be both reasonable and consistent with Sections 4928.64 and 4928.65, Revised Code.

It is, therefore,

ORDERED, That AEP-Ohio's application filed on November 30, 2009, as corrected on December 7, 2009, and modified herein, be approved. It is, further,

ORDERED, That AEP-Ohio be granted the necessary and appropriate accounting authority to implement the RET programs, as modified by this finding and order. It is, further,

ORDERED, That AEP-Ohio be authorized to file, in final form, four complete copies of its tariff, consistent with the RET programs delineated in this finding and order. Each utility shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in these case dockets. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division, of the Commission's Utilities Department. It is, further,

ORDERED, That the effective date of the new tariff shall be a date not earlier than the date of this order, or the date upon which four complete, printed copies of the final tariff are filed with the Commission, whichever date is later. It is, further,

ORDERED, That AEP-Ohio shall notify all residential and small commercial customers via a bill message or bill insert within 30 days of the effective date of the new tariff. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Paul A. Centolella

Steven D. Lesser

Andre T. Porter

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Entered in the Journal
JUN 08 2011

Betty McCauley
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