

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of Ohio Power Company for Authority to Issue Phase-In-Recovery Bonds and Impose, Charge and Collect Phase-In- Recovery Charges and for Tariff and Bill Format Approvals Change.))))))	Case No. 12-1969-EL-ATS
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OHIO POWER COMPANY’S MEMORANDUM IN OPPOSITION

In response to the Attorney Examiner’s August 14, 2012 Entry, the Office of Consumers’ Counsel (OCC) filed a motion to modify the procedure established in this case. Specifically, the Entry established a comment process in September (initial comments on the 14th and reply comments on the 28th). OCC now believes an expedited discovery process is needed and advocates cutting the response time down to nearly one-third of the normal time (from 20 days to 7 days). As explained below, Ohio Power Company (dba AEP Ohio) disagrees and recommends that OCC’s request be denied as unwarranted. Any ruling shortening the normal discovery deadline should be applied prospectively from the date of the ruling.

OCC has already submitted a long list of discovery questions to AEP Ohio as of August 17, 2012. Responses to those requests will be provided to OCC prior to the established comment cycle even begins – without the need for a ruling on OCC’s motion. The issues to be addressed through the comments in this case are not terribly complex and should not require extensive discovery. Further, this is a paper proceeding and not an evidentiary hearing; the Commission’s discovery rules are primarily designed to apply in proceedings where an evidentiary hearing is being conducted. OCC’s argument that “time is of the essence,” merely because a comment

cycle was established that ends approximately 45 days after it was established and nearly two months after the application was filed, is premature and without merit.

As a more general matter, AEP Ohio submits that OCC is underestimating the benefits associated with securitization and overstating potential concerns and problems. In addressing the general prospect of AEP Ohio's fuel deferral regulatory assets being securitized in the future, the Commission referred to securitization as "an extremely useful tool our General Assembly created for electric utilities and their customers through House Bill 364..." *ESP II* (Case Nos. 11-346-EL-SSO et al.), Opinion and Order at 56. The Commission went on to observe that "[s]ecuritization not only leads to lower utility bills for all customers as a result of reduced carrying costs, but also leads to lower borrowing costs for AEP Ohio." *Id.* OCC's premise that securitization creates significant concerns that must be addressed through litigation and discovery is without merit. There is no reason to shorten the discovery period to an expedited response time of only seven days. OCC's unfounded opposition to securitization should not be encouraged through making the securitization process more burdensome on utilities.

Nonetheless, if the Commission is inclined to shorten the discovery response time, a 14 day response time would be more than sufficient to allow OCC to obtain multiple sets of discovery responses prior to the comment cycle being completed, even if the subsequent discovery requests are submitted only after receiving the initial responses. For example, if the current set is due 14 days from the date of an entry to be issued on August 24, OCC would receive answers to its first set prior to the initial comment deadline and would receive the second set prior to the reply comment deadline. Moreover, OCC could submit multiple requests from now until August 30 without waiting for answers from its initial set and it would still receive responses to all of its questions prior to the initial comment deadline (*i.e.*, using a 14-day

response time). In short, OCC has failed to demonstrate good cause for its request for expedited relief.

CONCLUSION

OCC's request for expedited discovery should be denied, for the reasons set forth above.

Respectfully submitted,

//s/Steven T. Nourse

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On behalf of Ohio Power Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the forgoing memorandum in opposition was served this 22nd day of August, 2012 by electronic mail, upon the persons listed below.

//s/Steven T. Nourse

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/22/2012 12:20:37 PM

in

Case No(s). 12-1969-EL-ATS

Summary: Memorandum in Opposition electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company