

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Not for an)
Increase in Rates Pursuant to Section) Case No. 13-1937-EL-ATA
4909.18, Revised Code, of Ohio Power)
Company to Establish an Expiration for its)
gridSMART Experimental Tariffs.)

**MOTION TO INTERVENE
AND
OBJECTIONS TO THE APPLICATION
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Ohio Power Company ("AEP Ohio") seeks to end the opportunity for residential customers to take advantage of voluntary dynamic and time-differentiated pricing opportunities.¹ OCC is filing on behalf of AEP Ohio's approximately 1.2 million residential electric utility customers.

In addition, OCC files objections to the Application. AEP Ohio's proposal will harm those consumers participating in the pricing programs by eliminating a pricing advantage for them. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion and reject the Application are further set forth in the attached Memorandum in Support.

¹ See Application (September 13, 2013) at 1.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTERVENTION

In its Application filed on September 13, 2013, AEP Ohio seeks to end the opportunity for residential customers to take advantage of the experimental billing offerings associated with the gridSMART pilot.² Specifically, AEP Ohio requests that, as of the first billing cycle of January 2014, the following riders end: Schedule RS-TOD2 (Experimental Time-of-Day Service); Rider DLC (Experimental Direct Load Control Rider); Schedule CPP (Experimental Critical Peak Pricing Service); Schedule RS-RTP (Experimental Residential Real-Time Pricing Service); and Schedule GS-1 TOD (Experimental Small General Service Time-of-Day).³ OCC has authority under law to represent the interests of AEP Ohio's approximately 1.2 million residential utility customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in this case where AEP Ohio is seeking to end its experimental rate structures that

² Id.

³ Id.

are currently utilized by approximately 9,000 residential customers.⁴ Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing residential customers in this case involving AEP Ohio's attempt to end the current experimental pricing tariffs for residential customers as of the first billing cycle of January 2014 on the aforementioned tariffs. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that AEP Ohio's rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law, and should allow residential customers to utilize the full potential of the gridSMART program for which AEP Ohio's customers have paid. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

⁴ Customer count from "gridSmart Phase 1 Update" PowerPoint presented to the AEP Ohio Collaborative Meeting on August 21, 2013, page 4.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where AEP Ohio is seeking to end current tariffs that approximately 9,000 residential customers voluntarily use to take advantage of dynamic and time-differentiated pricing.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its

interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁵

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

II. OBJECTIONS TO THE APPLICATION

Ending the current experimental pricing options may negatively impact some of the 9,000 AEP Ohio residential customers who have voluntarily chosen to avail themselves of those dynamic and time-differentiated pricing opportunities. This is especially true for those residential customers who have been enjoying bill reductions from participating in the experimental rates and want to continue to be served at the experimental rate structure.

Beginning in March of 2009, the PUCO authorized AEP Ohio to begin installing Phase 1 of gridSMART, a compilation of customer programs and advanced technology for delivering electricity to AEP Ohio's customers.⁶ A primary component of the gridSMART system includes the installation of advanced metering infrastructure ("AMI"), also known as "smart meters," in customers' homes.⁷ In order to attain the full benefit of smart meters and the gridSMART infrastructure, AEP Ohio designed five pilot programs that experimented with voluntary dynamic and time-differentiated pricing of electricity consumption.⁸ Those five programs include:

⁵ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

⁶ *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets ("AEP Ohio ESP I")*, Case No. 08-917-EL-SSO, Opinion and Order (March 18, 2009) at 37-38; *AEP Ohio ESP I*, Case No. 08-917-EL-SSO, Direct Testimony of Karen L. Sloneker ("Sloneker Direct") (July 31, 2008) at 3.

⁷ *AEP Ohio ESP I*, Opinion and Order at 34; Sloneker Direct at 9.

⁸ Sloneker Direct at 5 (stating "[t]he gridSMART capabilities provide more accurate information to facilitate usage decisions, as well as programs and **pricing options** focused on energy efficiency and demand reduction").

Schedule RS-TOD2 (Experimental Time-of-Day Service); Rider DLC (Experimental Direct Load Control Rider); Schedule CPP (Experimental Critical Peak Pricing Service); Schedule RS-RTP (Experimental Residential Real-Time Pricing Service); and Schedule GS-1 TOD (Experimental Small General Service Time-of-Day).

For instance, under Schedule RS-TOD2, residential customers may volunteer for a variable pricing schedule where energy consumed during the hours of 1:00 PM to 7:00 PM from June 1 to September 30 (excluding weekends) is priced at 24.76022 cents per kWh.⁹ All other energy consumption is priced at 0.54393 cents per kWh. Schedule CPP allows even further price differentiation based upon time-of-use and critical peak demand on the electric distribution system. Specifically, in the summer months, low cost generation hours (weekdays from 12:00 AM to 7:00 AM and 9:00 PM to 12:00 AM) are billed at 0.54393 cents per kWh, medium cost generation hours (weekdays from 7:00 AM to 1:00 PM and 7:00 PM to 9:00 PM) are billed at 1.70543 cents per kWh, high cost generation hours (weekdays from 1:00 PM to 7:00 PM) are billed at 3.48617 cents per kWh, and critical peak hours (called at AEP Ohio's sole discretion) are billed at 54.39301 cents per kWh.¹⁰ Finally, Schedule RS-RTP affords customers the most amount of time-differentiated pricing and peak demand reduction through real-time pricing of electricity consumption.¹¹

In its Application, AEP Ohio now seeks to terminate the five experimental programs starting with the first billing cycle of January 2014. But by ending these programs without offering equivalent programs in their place, AEP Ohio would eliminate one of the values of the

⁹ Tariffs, P.U.C.O. No. 20, 2nd Revised Sheet No. 315-1

¹⁰ Tariffs, P.U.C.O. No. 20, 2nd Revised Sheet No. 317-2, 317-3.

¹¹ Tariffs, P.U.C.O. No. 20, 2nd Revised Sheet No. 318-1.

smart meters – demand response through price signals¹² – for approximately 9,000 residential customers who have volunteered for the various experimental pricing options.

The time-differentiated pricing programs contained in AEP Ohio’s current tariffs is one of the consumer values gained through the installation of the AMI meters that AEP Ohio touted in the process of gaining approval for the installation of the gridSMART infrastructure.¹³ In its proposal for Phase 2 of gridSMART, AEP Ohio stated that it “envision[s] that DR or CRES providers will take the lead role in these enhanced customer program offerings [DR or time-differentiated pricing tariffs].”¹⁴ However, all the conditions for CRES providers to offer such programs have not been resolved. For example, there continues to be issues related to consumer privacy, EDI and billing system protocols, and who will pay for billing system upgrades for CRES-provided customer programs.

AEP Ohio should not be allowed to end the time-differentiated rates as part of its gridSMART program until there is either a time-differentiated standard service offer available to AEP Ohio residential customers or when CRES providers are offering enhanced rates in the AEP Ohio service territory. The PUCO should deny AEP Ohio’s request to terminate its customers’ continued ability to voluntarily participate in experimental time-differentiated and dynamic pricing programs.

¹² *AEP Ohio ESP I*, Tr. Vol. III (November 20, 2008) at 80.

¹³ Sloneker Direct at 9-10 (stating “AMI, when paired with tariff options and the [Home Area Network], can empower customers to control their energy usage by providing real-time information and usage data, allowing them to better understand their energy consumption and potentially reduce their electricity bill”); *AEP Ohio ESP I*, Tr. Vol. III (November 20, 2008) at 304-305.

¹⁴ *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of Its gridSMART Project and to Establish the gridSMART Phase 2 Rider*, Case No. 13-1939-EL-RDR, Application (September 13, 2013) at 6.

III. CONCLUSION

OCC has met the criteria for intervention in this proceeding. The PUCO should grant OCC's motion to intervene.

AEP Ohio's proposal to end the time-differentiated rates may harm those consumers voluntarily participating in the pricing programs by eliminating a pricing advantage for them. The PUCO should deny the Application.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene and Objections to the Application* was served on the persons stated below via electronic transmission this 14th day of November 2013.

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Summary: Motion Motion to Intervene and Objections to the Application by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.