

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application Seeking)	
Approval of Ohio Power Company's)	
Proposal to Enter into an Affiliate)	Case No. 14-1693-EL-RDR
Power Purchase Agreement for)	
Inclusion in the Power Purchase)	
Agreement Rider)	
)	
In the Matter of the Application of)	
Ohio Power Company for Approval of)	Case No. 14-1694-EL-AAM
Certain Accounting Authority)	

SIERRA CLUB'S MOTION TO ESTABLISH A PROCEDURAL SCHEDULE

Under Ohio Administrative Code § 4901-1-12(A), Sierra Club moves for the Attorney Examiner to establish a procedural schedule for these cases that affords reasonable opportunity for interested parties to evaluate the application of Ohio Power Company ("AEP" or the "Company") for approval of an affiliate power purchase agreement involving four coal-fired power plant. Specifically, Sierra Club respectfully requests that the Attorney Examiner adopt this procedural schedule:

Discovery requests except for depositions due	Jan. 29, 2015 (118 days after application filed)
Intervenors' Testimony due	Feb. 19, 2015 (139 days after application)
Staff Testimony due	March 9, 2015 (18 days after intervenors' testimony)
Pre-hearing Conference	March 9, 2015 (18 days after intervenors' testimony)

Sierra Club's proposed schedule is modeled on the schedule approved by the Attorney Examiner in the FirstEnergy case (No. 14-1297-EL-SSO) currently pending before the Commission.¹ For Sierra Club's proposed schedule here, each of the deadlines is set to allow the same number of days (measured from the date of the application, intervenors' testimony, or pre-hearing conference) as were afforded in the FirstEnergy case.² Though the issues in the Company's cases are in some respects broader in scope—AEP's proposal, for example, extends through at least 2051, while FirstEnergy's proposal goes through 2031—the First Energy schedule serves as an appropriate model here as the issues involved in both cases are similar: assessment of cost and revenue projections for four specified generation facilities over decades and other issues related to affiliate power purchase agreements.

Unlike the schedule proposed by AEP,³ Sierra Club's proposed schedule allows adequate opportunity for the parties to engage expert assistance, conduct discovery, develop written testimony, and fully assess the Company's proposal. Sierra Club's proposal also affords the Commission sufficient time to evaluate the Company's proposal

¹ See Attorney Examiner Entry at 5 (October 6, 2014).

² In the FirstEnergy case, the hearing is scheduled to begin 11 days after the pre-hearing conference. Eleven days after Sierra Club's proposed date for the pre-hearing conference in this case is Friday, March 20. Sierra Club proposes that the hearing not begin on a Friday. Instead, the hearing should begin on the next Monday, March 23.

³ See Application at 6-7.

and render a decision within a reasonable period of time. For these reasons and those set forth in the accompanying Memorandum in Support, Sierra Club asks that the Attorney Examiner adopt the proposed procedural schedule for these cases.

Respectfully submitted,

/s/ Christopher J. Allwein

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**MEMORANDUM IN SUPPORT OF SIERRA CLUB'S MOTION TO
ESTABLISH A PROCEDURAL SCHEDULE**

Sierra Club respectfully requests that the Attorney Examiner establish a procedural schedule that affords all the parties and the Commission adequate time to assess and evaluate the application of Ohio Power Company ("AEP" or the "Company") for approval of the four requested affiliate power purchase agreements. Sierra Club's proposed schedule assures that the Commission and the parties have sufficient opportunity to explore the many issues raised by AEP's proposal.

I. Adequate time is needed to evaluate AEP's potentially consequential proposal.

On October 3, 2014, AEP filed its application in these cases seeking approval of affiliate power purchase agreements for four coal-burning power plants. Under AEP's proposal, the costs of operating these plants minus revenues generated from them would flow through to customers on a non-bypassable basis via a "Power Purchase Agreement" ("PPA") Rider. AEP has proposed that the four affiliate purchase agreements remain in place for the life of each generation unit. The proposed PPA Rider is currently pending

in a separate set of cases involving AEP's Electric Security Plan ("ESP") proposal.⁴ The Commission has not yet issued a decision on AEP's ESP proposal. AEP's application in the instant cases offers no explanation as to why the proposed four affiliate power purchase agreements were not included in its original ESP proposal/PPA Rider filing.⁵

AEP's application is both voluminous and, if approved, consequential. In support of the application, AEP filed written testimony of ten witnesses totaling over 220 pages. This testimony addresses numerous issues, including energy market forecasts, forecasted revenues and costs for operating the four power plants at issue (Cardinal, Conesville, Stuart, and Zimmer)⁶, purported economic development benefits to the proposal, assessment of U.S. EPA greenhouse gas regulations, transmission impacts related to the proposal, and many others.⁷ If approved, AEP's affiliate power purchase agreements would provide a subsidy for 2,700 MW of generation and affect customers' rates through at least 2051.⁸ And AEP has asked for an explicit Commission finding that the

⁴ The PPA Rider is pending in PUCO Case No. 13-2385-EL-SSO, et al. (*In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Revised Code, in the Form of an Electric Security Plan; et al*).

⁵ In its ESP filing, AEP has requested a similar arrangement to the non-bypassable charge sought here for the two coal-fired power plants operated by the Ohio Valley Electric Corporation.

⁶ These four coal-fired plants are owned in whole or in part by AEP's corporate affiliate AEP Generation Resources, Inc.

⁷ Application at 5.

⁸ Application at 1; Direct Testimony of Kelly D. Pearce, Exhibit KDP 1 at page 7 (October 3, 2014).

ruling in this case be unreviewable for the decades-long life of the affected generation plants:

[T]he Company also requests that the Commission acknowledged that its up-front approval of the PPA for retail recover is a one-time prudence review that will not be revisited later during the term of the contract should economic or cost/price projections change in the future.⁹

Despite the gravity of the issues involved and the acknowledged need for a “prudence review,” AEP has proposed a schedule that does not come close to providing adequate opportunity to assess its potentially consequential proposal.¹⁰ Under its proposed schedule, AEP has called for intervenors’ testimony to be filed by November 8, 2014 (36 days after the application was filed), and a hearing to commence on December 8, 2014 (66 days after the application). The potentially affected ratepayers deserve better.

II. Sierra Club’s proposed schedule affords the Commission and all interested parties adequate opportunity to review and evaluate AEP’s Application.

The Attorney Examiner should establish a procedural schedule that affords interested parties the opportunity to meaningfully participate in this case. The parties, the Commission, and Ohio ratepayers would benefit from a procedural schedule that enables a thorough review of the myriad of issues that AEP’s application presents. Sierra Club’s proposed schedule allows adequate opportunity for the parties to engage expert assistance, conduct discovery, develop written testimony, and fully assess the Company’s

⁹ Application at 4.

¹⁰ See Application at 6-7.

proposal. To allow for such thorough review, Sierra Club requests that the Attorney Examiner adopt the following procedural schedule:

Discovery requests except for depositions due	Jan. 29, 2015 (118 days after application filed)
Intervenors' Testimony due	Feb. 19, 2015 (139 days after application)
Staff Testimony due	March 9, 2015 (18 days after intervenors' testimony)
Pre-hearing Conference	March 9, 2015 (18 days after intervenors' testimony)
Evidentiary Hearing	March 23, 2015 (14 days after pre-hearing conference)

As described in the accompanying motion, Sierra Club's proposed schedule is modeled on the schedule adopted by the Attorney Examiner in the FirstEnergy case (No. 14-1297) currently pending before the Commission. Though many parties, including Sierra Club,¹¹ sought more time to conduct discovery and develop their cases regarding FirstEnergy's proposal, the Attorney Examiner deemed this schedule adequate.¹²

The scope and breadth of AEP's proposal necessitates a similar schedule here. As described above, AEP's proposal, if approved, would impact the rates charged to AEP's retail customers for decades and would establish a lasting subsidy for four aging coal-

¹¹ See Joint Motion to Modify Discovery Time Limits and Amend the Procedural Schedule, filed Sept. 5, 2014 in PUCO Case No. 14-1297-EL-SSO, et al.

¹² Sierra Club's proposed schedule does not take into account similar cases involving proposals from FirstEnergy and Duke Energy Ohio that will likely involve many of the same parties and party representatives. Consideration of these other cases would favor adoption of a lengthier schedule than that proposed here.

fired units. A procedural schedule that allows for discovery and exploration of AEP's proposal and the economics of these four coal-fired plants is, therefore, required.

Under AEP's suggested schedule, there is simply not sufficient time for intervenors to engage expert assistance, conduct discovery, evaluate the proposal, and submit written testimony. Even a party that filed robust discovery requests the very day that AEP submitted its proposal, could not be guaranteed more than one round of discovery before intervenors' testimony is due, assuming the default 20-day response period is retained. AEP's proposed November 8, 2014 deadline for written testimony would preclude any intervenor from meaningful participating in this case.

III. Conclusion

For the foregoing reasons, Sierra Club respectfully requests that the Commission adopt the procedural schedule as set forth here.

Respectfully submitted,

/s/ Christopher J. Allwein

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Sierra Club's Motion to Establish a Procedural Schedule has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on October 16, 2014.

/s/Christopher J. Allwein
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Summary: Motion to Establish a Procedural Schedule electronically filed by Mr. Christopher J. Allwein on behalf of SIERRA CLUB