

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company for Authority to Establish a)	Case No. 13-2385-EL-SSO
Standard Service Offer Pursuant to R.C.)	
4928.143, in the Form of an Electric Security)	
Plan.)	
)	
In the Matter of the Application of Ohio)	
Power Company for Approval of Certain)	Case No. 13-2386-EL-AAM
Accounting Authority.)	

**MEMORANDUM CONTRA OHIO POWER COMPANY'S
MOTION FOR ORAL ARGUMENT
FILED BY THE
OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. BACKGROUND AND INTRODUCTION

On November 4, 2014, four months after the completion of the hearing on its electric security plan (ESP) application, the Ohio Power Company (AEP or the Company) filed a motion for oral argument and request for expedited ruling, and a memorandum in support in the above-captioned docket. Due to the length of time that has expired since the completion of the Company's ESP hearing, the extensive exploration of the various proposals included in AEP's ESP during the course of the hearing and thereafter, and the potential for another opportunity for oral argument on legal and policy issues implicated in AEP's hearing may provide the Company with another unwarranted opportunity to advocate the positions at issue in its ESP case, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully requests that the Commission deny the Company's motion.

II. ARGUMENT

In support of its motion for oral argument, AEP cites interested parties' "dramatically different views on the legality of specific aspects of the Company's proposed Electric Security Plan as well as policy decisions that may well impact the competitiveness of Ohio and its businesses for many years to come." Although interested parties may have divergent opinions regarding the legality or appropriateness of certain proposals in AEP's ESP, the various interested parties are aligned on some of the fundamental issues, such as the Company's proposal concerning Rider PPA. Regardless, all of the parties, including AEP, have already had the opportunity, through filed testimony, live testimony, and cross-examination at the ESP hearing, and through advocacy in their written briefs, to fully express their concerns about the legality or appropriateness of AEP's proposal and the policy issues implicated therein. The Commission should not, therefore, create an additional opportunity through oral argument for AEP or others to assert new bases for approval or disapproval of AEP's proposal, or to reiterate the same positions as those it previously advanced in connection with the hearing on AEP's ESP application.

A. The lengthy hearing on AEP's proposed ESP and the numerous briefs filed in the docket support arguments for and against Rider PPA, as well as all other issues in the proceeding, that have previously been established, developed, and comprehensively addressed.

In spite of the suggestion that "one issue under review that potentially could benefit from oral argument is the Company's request for approval of a purchased power agreement rider and application of that rider to the Company's OVEC entitlement[,]"¹ OMAEG submits that the parties to this proceeding have thoroughly addressed the legal implications, as well as the policy-related virtues, shortcomings, and potential pitfalls associated with Rider PPA. The hearing on

¹ Ohio Power Company's Memorandum in Support of the Motion for Oral Argument (Memorandum in Support) at 3.

the Company's proposed ESP produced well over 3,000 pages of transcript testimony, exclusive of any exhibits. A conservative estimate is that at least half of these pages are devoted to discussion, in some manner, of Rider PPA. Moreover, it appears that approximately 22 parties submitted either initial or reply briefs on AEP's proposed ESP. The vast majority of these briefs address proposed Rider PPA. Given the volume of testimony devoted to discussion of proposed Rider PPA and its foundations, as well as the numerous responsive briefs filed by the parties discussing Rider PPA, OMAEG contends that the issues surrounding the proposed rider have previously been examined methodically and meticulously, and that no additional opportunity for argument on Rider PPA is necessary or warranted. Similarly, several other issues in the case have been extensively examined and positions have been advocated through testimony, cross examination, and initial and reply briefs. Further advocacy regarding those issues is also unnecessary. The Commission has an extensive record in which to make its decision.

B. Given the volumes of transcripts and numerous briefs submitted on the various proposals included in AEP's ESP, the time required to scrupulously evaluate the Company's proposals is likely (and understandably) extensive.

AEP repeatedly calls attention to the fact that its ESP application has been pending at the Commission for more than ten months.² OMAEG respectfully contends that the issues pending in this proceeding require time for proper consideration, reflection, and ultimately, determination of a proper course. In view of this circumstance, as well as the extensive transcript of the hearing and the thousands of pages of briefs submitted for the Commission's consideration in this matter, it appears reasonable that the review of the Company's application has taken time. If, however, timing is of the utmost concern to AEP, scheduling an oral argument on various aspects of its proposed ESP is more likely to compound the Company's concern than bring the

² Memorandum in Support at 1, 4.

case to a rapid resolution. To the extent, therefore, that AEP is requesting oral argument to speed the path to a Commission decision, OMAEG believes that the Company's request is misplaced.

C. Granting AEP's motion for oral argument would impermissibly provide the Company with a "second bite at the apple" in relation to its arguments for approval of Rider PPA.

While couched in concern regarding the "complexity and difficulty that may attend certain issues in this proceeding[,]" AEP's motion for oral argument in the above-captioned case is, at base, a request by the Company for an additional opportunity to present arguments supporting proposed Rider PPA. OMAEG objects to this request, given that AEP and all other parties of record in this proceeding had the opportunity to fully explore concerns related to the components of AEP's application, and to assert any concerns about or objections to, or support for, such components from the period beginning with the filing of the Company's application through the time for submission of post-hearing reply briefs in this matter. The Company's present attempt, more than four months after the conclusion of the hearing on its proposed ESP, to encourage the Commission to grant its motion for oral argument belies its desire for a "second bite at the apple" in order to try to convince the Commission to approve Rider PPA. The Company should also not be afforded the opportunity to bring its new application that relates to Rider PPA into this proceeding through oral argument.³ The Commission should not be persuaded by the Company's request.

³ See generally *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case No. 14-1693-EL-RDR, et al.

D. The opportunity for oral argument in this matter would unreasonably provide parties of record who chose not to actively or extensively participate in the hearing to bolster or attack previously asserted arguments.

In further support of the arguments advanced herein, OMAEG submits that providing an opportunity for oral argument at this phase of the proceeding would present parties of record who decided not to extensively participate in the hearing on the proposed ESP with an opportunity to either bolster or attack arguments advanced by those parties who did participate at length in the hearing process. This is an undesirable but avoidable outcome. Although Rule 4901-1-32, Ohio Administrative Code, provides that the Commission may hear oral arguments at any time during a proceeding, the attending risk of scheduling oral arguments at this phase of the proceeding, after all evidentiary material has been submitted, significantly outweighs any benefit that the Commission may gain from holding said arguments. Further, given the significant overlap in the components of various electric distribution utilities' proposed ESPs which are under consideration at this point, the Commission runs the risk of parties using oral arguments scheduled in the context of AEP's ESP proceeding to advance their positions vis-à-vis other ESP applications. This risk has become real as another distribution company with a pending ESP that contains a proposal similar to Rider PPA filed a letter in support of the oral argument, specifically stating that the legal arguments are related to multiple proposals pending before the Commission and may affect three pending applications.⁴ This outcome would be undesirable in the context of AEP's ESP proceeding, as well as any other ESP proceeding which is presently pending. As such, the Commission should deny the company's motion.

⁴ Duke Energy Ohio Correspondence (November 12, 2014).

III. CONCLUSION

As explained at length above, OMAEG opposes AEP's motion for oral argument on the following grounds: (1) the issues that may be considered in oral argument have already been explored at length; (2) a request for oral argument is not likely to truncate the amount of time needed for the Commission to arrive at a decision on the Company's ESP; (3) an opportunity for oral argument would impermissibly provide AEP with a "second bite at the apple;" (4) oral arguments at this phase of the proceeding run the risk of clouding, rather than clarifying, the issues under consideration herein; and (5) parties may try to expand the scope of AEP's ESP proceeding and attempt to advocate for positions in other pending PUCO proceedings. Accordingly, OMAEG respectfully requests that the Commission deny AEP's motion for oral argument.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on November 12, 2014.

/s/ Rebecca L. Hussey
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Summary: Memorandum Contra Ohio Power Company's Motion for Oral Argument electronically filed by Ms. Rebecca L Hussey on behalf of OMAEG