

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative Energy Rider &)
Auction Cost Recovery Rider for Ohio Power) Case No. 15-1052-EL-RDR
Company.)

**MOTION TO COMPEL AEP OHIO TO RESPOND TO DISCOVERY ABOUT
ITS CHARGES TO CONSUMERS FOR RENEWABLE ENERGY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In 2008, the Ohio General Assembly created a standard for electric utilities to provide renewable energy to Ohioans, with a consumer protection that Ohioans would not pay an amount for renewable energy that is more than 3% of the cost of otherwise producing or acquiring electricity.¹ But when the Ohio Consumers' Counsel asked Ohio Power Company ("AEP Ohio") if its charges to consumers for renewable energy exceed the legislative cap, AEP Ohio replied that it "has not performed the requested calculations." And, surprisingly, AEP Ohio considers this information about the legislature's 3% limit on such charges to be "outside the scope of the case" and "neither relevant nor reasonably calculated to lead to the discovery of admissible evidence."

Since giving that answer, AEP Ohio has rejected the efforts by the Consumers' Counsel to informally resolve what is now a dispute under the pre-hearing discovery rules of the Public Utilities Commission of Ohio ("PUCO"). Accordingly, the Consumers' Counsel now asks the PUCO to compel AEP Ohio to provide the calculations regarding

¹ R.C. 4928.64(B), 4928.64(C)(3).

the 3% limit on renewable energy charges that the Ohio General Assembly intends as a primary consumer protection.

AEP Ohio charges customers for its compliance with the renewable energy benchmarks through its alternative energy rider ("Rider AER" or "renewable energy charge"). In this proceeding, AEP Ohio files quarterly updates to its renewable energy charge, subject to annual audit by the PUCO Staff.² AEP Ohio's filings, however, do not show whether the charges exceed the statutory 3% cap that provides for consumer protection.

AEP Ohio's residential customers currently pay more for renewable energy than customers of other Ohio electric distribution utilities.³ In the second quarter of 2017, a report on the PUCO's website shows the following monthly charges for renewable energy for Ohio's electric distribution utilities:⁴

Utility	Typical Monthly Renewable Charge
Cleveland Electric Illuminating	\$0.24
Dayton Power & Light	\$0.07
Duke Energy – Ohio	\$0.23
Ohio Edison Company	\$0.15
AEP Ohio (Ohio Power Co.)	\$1.31
Toledo Edison Company	\$0.20

The Office of the Ohio Consumers' Counsel ("OCC") is concerned that AEP Ohio may be charging consumers in excess of the legislature's 3% cap and that the charges to consumers may be otherwise unjust and unreasonable. In any event, the General

² Opinion & Order at 35 (Feb. 25, 2015), In re Application of Ohio Power Co. for Authority to Establish a Standard Serv. Offer Pursuant to R.C. 4928.143, in the Form of an Elec. Sec. Plan, Case No. 13-2384-EL-SSO.

³ See <https://www.puco.ohio.gov/industry-information/industry-topics/ohioe28099s-renewable-and-advanced-energy-portfolio-standard/aer-rates-2q-2017/>

⁴ Id.

Assembly's 3% cap on charges is one of the most relevant items of information in this case. Thus, under the PUCO's rules, OCC served discovery requests on AEP Ohio in an attempt to determine whether AEP Ohio's charges to customers for renewable energy are lawful under the legislative cap.

In particular, OCC asked AEP Ohio, with respect to AEP Ohio's March 1, 2017 and June 1, 2017 filings, to "provide calculations showing whether the cost of AEP Ohio's compliance with the renewable benchmarks under R.C. 4928.64(B)(2) exceeds the 3% cap provided by R.C. 4928.64(C)(3)."⁵ AEP Ohio objected to the requests and responded: "The Company has not performed the requested calculations."⁶

Despite OCC's efforts to obtain this information from AEP Ohio, AEP Ohio refuses to provide it.⁷ Accordingly, under Ohio Administrative Code ("OAC") 4901-1-12, 4901-1-19, 4901-1-20, and 4901-1-23, OCC moves the PUCO to compel AEP Ohio to perform the necessary calculations to demonstrate whether its charges to customers for renewable energy exceed the legislature's 3% cap. The PUCO should order AEP Ohio to immediately respond to OCC Interrogatories 1, 2, 3, and 4, and Requests for Production of Documents 3 and 4, which are attached to the Healey Affidavit in support of this motion.

⁵ See Affidavit of Christopher Healey in Support of Motion to Compel (the "Healey Affidavit"), Exhibits 1, 3.

⁶ Id., Exhibits 1, 3.

⁷ Id. ¶¶ 11-12.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey
Christopher Healey (0086027)
Counsel of Record

Office of the Ohio Consumers' Counsel
10 W. Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: 614-466-9571
christopher.healey@occ.ohio.gov
(will accept service by email)

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative Energy Rider)
& Auction Cost Recovery Rider for Ohio) Case No. 15-1052-EL-RDR
Power Company.)

**MEMORANDUM IN SUPPORT
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In this case, where AEP Ohio seeks to update its renewable energy rider, AEP Ohio has not attempted to show that its charges are lawful under the legislature's 3% limit on such charges. Through discovery, the Ohio Consumers' Counsel asked AEP Ohio to provide calculations showing whether the cost of AEP Ohio's renewable energy complies with the limit in R.C. 4928.64(C)(3). AEP Ohio objected, claiming that this information is irrelevant, and responded: "The Company has not performed the requested calculations."⁸

There is no excuse for AEP Ohio's failure to provide these calculations. AEP Ohio's provision of these calculations to other parties through discovery is critical for determining whether it is overcharging customers for renewable energy. If AEP Ohio's rates for renewable energy exceed the 3% cost cap found in R.C. 4928.64(C)(3), then those rates are unlawful. AEP Ohio bears the burden of proving that its rates are lawful, just, and reasonable.⁹

⁸ See Healey Affidavit, Exhibits 1, 3.

⁹ See *In re Duke Energy Ohio, Inc.*, 131 Ohio St. 3d, 487, 488-89 (2012) (utility bore the burden of proving that its charges to customers were reasonable); *In re Application of the Ottoville Mut. Tel. Co.*, PUCO Case No. 73-356-Y, 1973 Ohio PUCO LEXIS 3, at *4 ("the applicant must shoulder the burden of proof in every application proceeding before the Commission"). See also R.C. 4909.15(A) ("just and reasonable rates").

The PUCO should grant OCC's motion to compel.

I. THE STATE'S LEGAL STANDARDS SUPPORT THE GRANTING OF OCC'S MOTION FOR AEP OHIO TO PROVIDE THIS RATE INFORMATION.

Under the 1983 statutory reforms, parties have a right to discovery.¹⁰ This right also exists under the Ohio Administrative Code.¹¹ A party may exercise this right by filing a motion to compel after it has exhausted all other reasonable means of resolving a discovery dispute with the party from whom the discovery is sought.¹² In particular, a party may move to compel discovery with respect to any "failure of a party to answer an interrogatory under rule 4901-1-19 of the Administrative Code" and any "failure of a party to produce a document . . . requested under rule 4901-1-20 of the Administrative Code."¹³ The moving party must explain how the information sought is relevant and must respond to any objections raised by the party from whom the discovery is sought. For purposes of these rules, "an evasive or incomplete answer shall be treated as a failure to answer."¹⁴

OCC exhausted all reasonable measures of resolving its discovery dispute with AEP Ohio before filing this motion. The information that OCC seeks is, by action of the Ohio General Assembly for a rate cap, relevant to this case. AEP Ohio's objections have no merit. The PUCO should grant this motion.

¹⁰ R.C. 4903.082 ("All parties and intervenors shall be granted ample rights of discovery.").

¹¹ OAC 4901-1-16 through 4901-1-23.

¹² OAC 4901-1-23(C).

¹³ OAC 4901-1-23(A)(1), (2). See also OAC 4901-1-19(A) ("The party submitting the interrogatories may move for an order under rule 4901-1-23 of the Administrative Code with respect to any objection or other failure to answer an interrogatory."); OAC 4901-1-20(C) ("The party submitting the request may move for an order under rule 4901-1-23 of the Administrative Code with respect to any objection or other failure to respond to a request or any part thereof, or any failure to permit inspection as requested.").

¹⁴ OAC 4901-1-23(B).

II. ARGUMENT

A. The Ohio Consumers' Counsel undertook reasonable efforts to informally resolve this discovery dispute with AEP Ohio.

OCC has exhausted all other reasonable means of resolving its differences with AEP Ohio and has no choice but to file this motion to compel. Simply put, AEP Ohio refuses to provide the requested information to OCC, which OCC should have so it can review whether AEP Ohio is exceeding what it may charge to consumers for renewable energy under Ohio law.

On June 8, 2017, OCC served its first set of interrogatories and requests for production of documents on AEP Ohio.¹⁵ Under the PUCO's rules, therefore, AEP Ohio's responses to OCC's discovery requests were due on June 28.¹⁶ On June 29, counsel for OCC contacted counsel for AEP Ohio to ask about AEP Ohio's failure to provide timely responses to OCC's discovery requests.¹⁷ Counsel for AEP Ohio stated: "We have draft answers that I have not yet reviewed – but we plan to get you responses later today."¹⁸ AEP Ohio provided objections and responses to OCC's discovery requests on the afternoon of June 29.¹⁹

On July 7, 2017, after reviewing AEP Ohio's responses, OCC contacted AEP Ohio, by email, regarding its failure to respond to some of OCC's discovery requests.²⁰ OCC explained that these requests are relevant because they relate to the charges that

¹⁵ Healey Affidavit ¶ 1.

¹⁶ Ohio Adm. Code 4901-1-19(A), 4901-1-20(C) (20 days to respond to discovery requests).

¹⁷ Id. ¶ 2.

¹⁸ Id. ¶ 4.

¹⁹ Id. ¶ 5.

²⁰ Id. ¶ 6.

customers pay for renewable energy, which is the subject matter of this case.²¹ OCC asked AEP Ohio to provide responses to OCC's discovery requests.²²

As of July 11, 2017, AEP Ohio had not responded to OCC's July 7, 2017 letter.²³ Counsel for OCC then contacted AEP Ohio's counsel by phone to continue to attempt to resolve the parties' discovery dispute. OCC's counsel left a voicemail for AEP Ohio's counsel at 10:30 a.m. on July 11, 2017, following up on the July 7, 2017 letter.²⁴ Around 11:30 a.m. on July 11, 2017, counsel for AEP Ohio left a voicemail for OCC's counsel.²⁵ In AEP Ohio's voicemail, its counsel reiterated and confirmed that AEP Ohio would not update or supplement any of its responses to OCC's discovery requests, stating that it has no obligation to perform the calculations that OCC requests.²⁶

The parties have reached an impasse. OCC has exhausted all other reasonable means of resolving its differences with AEP Ohio regarding this discovery dispute that involves consumer protection under the 2008 law.

B. OCC seeks information and documents that are relevant to this case where the PUCO is reviewing AEP Ohio's charges to consumers for renewable energy.

This case is about AEP Ohio's renewable energy charges to customers. AEP Ohio's renewable energy charges to customers are subject to the legislature's 3% cap.²⁷ OCC's discovery asks for information about whether AEP Ohio's renewable energy

²¹ Id. ¶ 7.

²² Id.

²³ Id. ¶ 8.

²⁴ Id.

²⁵ Id. ¶ 9.

²⁶ Id.

²⁷ R.C. 4928.64(C)(3).

charges to customers exceed this cap. But AEP Ohio objects to OCC's requests, arguing that the information sought is "outside the scope of the case and is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence."²⁸

It is unclear how OCC's requests could be outside the scope of this proceeding when OCC's requests are directly related to the exact subject matter of this proceeding. OCC's discovery requests are likewise relevant because they go to the heart of this proceeding: whether residential customers are being overcharged for renewable energy through Rider AER, which AEP Ohio updated through filings in this case on March 1 and June 1, 2017.

A discovery request that seeks information about the lawfulness of the rates charged to customers is relevant to this proceeding. The PUCO should overrule AEP Ohio's objections and conclude that the information and documents sought in each of OCC's discovery requests is relevant and discoverable.

C. AEP Ohio is required to perform the requested calculations.

AEP Ohio cannot avoid responding to OCC's discovery requests by simply stating that it has not, to date, performed the requested calculations. First, as the applicant in this case, AEP Ohio bears the burden of proving that its rates are lawful, just, and reasonable.²⁹ This includes proving that its rates do not exceed the 3% cap provided by law. OCC should not even have to ask for this information in discovery—the PUCO should require AEP Ohio to produce information about the legislature's 3% cap on

²⁸ Healey Affidavit, Exhibits 1, 3.

²⁹ See *In re Duke Energy Ohio, Inc.*, 131 Ohio St. 3d, 487, 488-89 (2012) (utility bore the burden of proving that its charges to customers were reasonable); *In re Application of the Ottoville Mut. Tel. Co.*, PUCO Case No. 73-356-Y, 1973 Ohio PUCO LEXIS 3, at *4 ("the applicant must shoulder the burden of proof in every application proceeding before the Commission"). See also R.C. 4909.15(A) ("just and reasonable rates").

charges as a matter of course, in advance of AEP Ohio's quarterly filings. Indeed, in a similar case involving the FirstEnergy utilities, the PUCO ordered the utilities to perform the 3% calculation "early in each compliance year to identify their maximum available compliance funds for the year" and found that if the utility reached the 3% threshold, "it should not incur any additional compliance costs for that year absent Commission direction."³⁰

Second, under the PUCO's rules, an interrogatory may elicit "facts, data, or other information known or readily available to the party upon whom" the interrogatory is served.³¹ Thus, the fact that AEP Ohio has not already performed the calculations is irrelevant. What matters is that AEP Ohio has readily available to it the information necessary to perform the requested calculations. AEP Ohio does not dispute that it has the necessary information.

The PUCO should order AEP Ohio to perform the requested calculations.

III. CONCLUSION

AEP Ohio is updating the rates that it charges its 1.2 million residential customers for compliance with renewable energy benchmarks. Under the 2008 law, those charges are subject to a 3% cap for consumer protection. Yet AEP Ohio refuses to respond to discovery asking whether AEP Ohio's charges to customers comply with the law. There is no basis for AEP Ohio's refusal to respond to OCC's discovery requests. To protect consumers and for PUCO decision-making consistent with the 2008 law, the PUCO

³⁰ See Opinion & Order at 34 (Aug. 7, 2013), In re Review of the Alternative Energy Rider Contained in the Tariffs of Ohio Edison Co., the Cleveland Elec. Illuminating Co., & the Toledo Edison Co., Case No. 11-5201-EL-RDR.

³¹ OAC 4901-1-19(B) (emphasis added).

should compel AEP Ohio to immediately respond to OCC interrogatories 1 through 4 and requests for production of documents 3 and 4.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey

Christopher Healey (0086027)
Counsel of Record

Office of the Ohio Consumers' Counsel

10 W. Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: 614-466-9571
christopher.healey@occ.ohio.gov
(will accept service by email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Compel was served on the persons stated below via electronic transmission, this 12th day of July 2017.

/s/ Christopher Healey
Christopher Healey
Energy Resource Planning Counsel

SERVICE LIST

William.wright@ohioattorneygeneral.gov stnourse@aep.com

Attorney Examiners:
Sarah.parrot@puc.state.oh.us
Greta.see@puc.state.oh.us

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative Energy)
Rider & Auction Cost Recovery Rider for) Case No. 15-1052-EL-RDR
Ohio Power Company.)

**AFFIDAVIT OF CHRISTOPHER HEALEY IN SUPPORT OF
MOTION TO COMPEL RESPONSES TO DISCOVERY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I, Christopher Healey, attorney for the Office of the Ohio Consumers' Counsel ("OCC") in the above-captioned case, submit this affidavit based upon my personal knowledge in my capacity as attorney for OCC and based on my review of relevant documents.

1. On June 8, 2017, OCC served its first set of interrogatories and requests for production of documents on Ohio Power Company ("AEP Ohio").
2. On June 29, 2017, I contacted AEP Ohio's counsel in this case, Steven Nourse, to ask about AEP Ohio's failure to provide timely responses to OCC's discovery requests.
3. The discovery requests in dispute at this time are OCC interrogatories 1, 2, 3, and 4, and OCC requests for production of documents 3, and 4. These discovery requests, and AEP Ohio's objections and responses, are attached hereto as Exhibits 1 through 6.
4. In response to my June 29, 2017 email, Mr. Nourse did not explain why AEP Ohio's responses were late but replied only: "We have draft answers that I have not yet reviewed – but we plan to get you responses later today." A true and correct copy of

my June 29, 2017 email to Mr. Nourse and his response to me is attached hereto as Exhibit 7.

5. AEP Ohio provided objections and responses to OCC's discovery requests on the afternoon of July 29, 2017.

6. On July 7, 2017, after reviewing AEP Ohio's responses, I contacted Mr. Nourse regarding AEP Ohio's failure to respond to some of OCC's discovery requests.

7. I explained that OCC's requests were relevant because they relate to the charges that customers pay through Rider AER, which is the subject matter of this case. I asked Mr. Nourse to provide responses to OCC's discovery requests. A true and correct copy of my July 7, 2017 email to Mr. Nourse is attached hereto as Exhibit 8.

8. As of the morning of July 11, 2017, Mr. Nourse had not responded to my July 7, 2017 email. I contacted Mr. Nourse by phone around 10:30 am on July 11 and left a voicemail following up on my July 7, 2017 email.

9. Around 11:30 am, Mr. Nourse left me a voicemail. In his voicemail, he confirmed that AEP Ohio would not update or supplement any of its responses to OCC's discovery requests, stating that AEP Ohio has no obligation to perform the calculations that OCC requests.

10. Shortly thereafter, I sent Mr. Nourse an email, confirming receipt of his voicemail, acknowledging AEP Ohio's position that it would not provide any further responses to OCC's discovery requests, and reiterating that OCC disagreed with AEP Ohio's positions. Mr. Nourse replied with a "thank you" email. A true and correct copy of my July 11, 2017 email to Mr. Nourse regarding his voicemail, and his email in response, is attached hereto as Exhibit 9.

11. Accordingly, as of July 11, 2017, the parties had reached an impasse. I have exhausted all reasonable means of resolving OCC's and AEP Ohio's differences regarding this discovery dispute.

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

The undersigned, being of lawful age and duly sworn on oath, hereby certifies,
deposes and states the following:

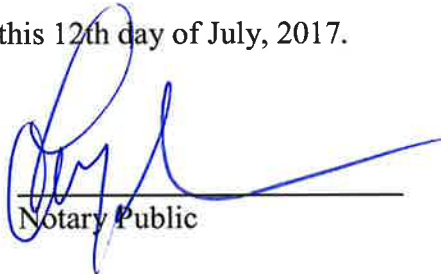
I have caused to be prepared the attached written affidavit for OCC in the above-
referenced case. This affidavit is true and correct to the best of my knowledge,
information, and belief.

Further affiant sayeth naught.



Christopher Healey, Affiant

Subscribed and sworn to before me this 12th day of July, 2017.



Notary Public



LARRY STEVEN SAUER, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.63 R.C.

**OHIO POWER COMPANY'S RESPONSE TO
OHIO CONSUMER COUNSEL'S
DATA REQUEST
PUCO CASE NO. 15-1052-EL-RDR
FIRST SET**

INTERROGATORY

INT-1. With respect to the March 1, 2017 Filing, please provide calculations showing whether the cost of AEP Ohio's compliance with the renewable benchmarks under R.C. 4928.64(B)(2) exceeds the 3% cap provided by R.C. 4928.64(C)(3). Include all assumptions, methodologies, data, and calculations.

RESPONSE:

The Company objects to the extent the request seeks information which is outside the scope of the case and is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection(s) or any general objection the Company may have, the Company states as follows. The Company has not performed the requested calculations.

**OHIO POWER COMPANY'S RESPONSE TO
OHIO CONSUMER COUNSEL'S
DATA REQUEST
PUCO CASE NO. 15-1052-EL-RDR
FIRST SET**

INTERROGATORY

INT-2. With respect to the calculations provided in your response to INT-1, did AEP Ohio perform such calculations before March 1, 2017? If so, please state when those calculations were performed.

RESPONSE:

See the response to question OCC Set 1-001.

**OHIO POWER COMPANY'S RESPONSE TO
OHIO CONSUMER COUNSEL'S
DATA REQUEST
PUCO CASE NO. 15-1052-EL-RDR
FIRST SET**

INTERROGATORY

INT-3. With respect to the June 1, 2017 Filing, please provide calculations showing whether the cost of AEP Ohio's compliance with the renewable benchmarks under R.C. 4928.64(B)(2) exceeds the 3% cap provided by R.C. 4928.64(C)(3). Include all assumptions, methodologies, data, and calculations.

RESPONSE:

The Company objects to the extent the request seeks information which is outside the scope of the case and is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection(s) or any general objection the Company may have, the Company states as follows. The Company has not prepared the requested calculation.

**OHIO POWER COMPANY'S RESPONSE TO
OHIO CONSUMER COUNSEL'S
DATA REQUEST
PUCO CASE NO. 15-1052-EL-RDR
FIRST SET**

INTERROGATORY

INT-4. With respect to the calculations provided in your response to INT-4, did AEP Ohio perform such calculations before June 1, 2017? If so, please state when those calculations were performed.

RESPONSE:

See the response to question OCC Set 1-003.

**OHIO POWER COMPANY'S RESPONSE TO
OHIO CONSUMER COUNSEL'S
DATA REQUEST
PUCO CASE NO. 15-1052-EL-RDR
FIRST SET**

RPD-3. Please provide all documents in support of your response to INT-1.

RESPONSE:

The requested documents, if any, are included in the response to INT-001.

**OHIO POWER COMPANY'S RESPONSE TO
OHIO CONSUMER COUNSEL'S
DATA REQUEST
PUCO CASE NO. 15-1052-EL-RDR
FIRST SET**

RPD-4. Please provide all documents in support of your response to INT-3.

RESPONSE:

The requested documents, if any, are included in the response to INT-003.

Healey, Christopher

From: Steven T Nourse <stnourse@aep.com>
Sent: Thursday, June 29, 2017 9:40 AM
To: Healey, Christopher
Subject: RE: 15-1052 - Response to OCC 1st Discovery Set

We have draft answers that I have not yet reviewed – but we plan to get you responses later today.

Thanks,

Steven T. Nourse

Chief Ohio Regulatory Counsel
American Electric Power Service Corporation
Legal Department, 29th Floor
1 Riverside Plaza
Columbus, Ohio 43215-2373
Phone: (614) 716-1608 Audinet: 8-200-1608
Fax: (614) 716-2014 Audinet: 8-200-2014
Email: stnourse@aep.com



From: Christopher.Healey@occ.ohio.gov [<mailto:Christopher.Healey@occ.ohio.gov>]
Sent: Thursday, June 29, 2017 8:29 AM
To: Steven T Nourse <stnourse@aep.com>
Subject: [EXTERNAL] 15-1052 - Response to OCC 1st Discovery Set

This is an EXTERNAL email. STOP. THINK before you CLICK links or OPEN attachments.

Steve,

Just checking in on the status of your responses to this discovery set. They were due yesterday (20 days under Ohio Adm. Code 4901-1-19(A)), but I did not receive anything. Please let me know.

Thank you,
Chris

From: Williams, Jamie
Sent: Thursday, June 08, 2017 4:02 PM
To: stnourse@aep.com; Wright, William
Subject: 15-1052-EL-RDR OCC's 1st Set of Discovery to Ohio Power

Attached please find OCC's First Set of Interrogatories and Request for Production of Documents Propounded Upon Ohio Power Company by The Office of the Ohio Consumers' Counsel in the above mentioned case.

If you have any questions, please contact our office.

Thank you,
Jamie

Jamie Williams
Administrative Assistant – Legal Dept.
Office of the Ohio Consumers' Counsel
10 W. Broad St., Ste. 1800
Columbus, OH 43215
(614) 466-9547
jamie.williams@occ.ohio.gov

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Healey, Christopher

From: Healey, Christopher
Sent: Friday, July 07, 2017 11:07 AM
To: 'Steven T Nourse'
Subject: RE: OPC 1st Set of Responses to OCC 15-1052-EL-RDR
Attachments: 1st Set of Responses to OCC 15-1052-EL-RDR.PDF

Steve,

Thank you for your responses to OCC's discovery requests. I see that in your responses to INT-1 and INT-3, you state that AEP Ohio has not calculated whether its renewable compliance costs exceed the 3% cap under R.C. 4928.64(C)(3). OCC's request is reasonable, given that residential customers pay for AEP Ohio's compliance through Rider AER and have a right to know whether those charges exceed the 3% cap. Please reconsider your response and provide the requested calculations for INT-1 and INT-3 (as well as updated responses to the related INT-2 and INT-4). Otherwise, we will consider filing a motion to compel early next week.

I also disagree with your objections to INT-1 and INT-3. These requests are within the scope of this case, are relevant, and are reasonably calculated to lead to the discovery of admissible evidence because they relate to the charges that customers pay through Rider AER, which is the subject matter of this case.

Finally, by asking for a response to these interrogatories, we do not waive the right to follow up on other discovery requests in this set upon further review.

Thank you,
 Chris

From: Dawn Clark [<mailto:dclark1@aep.com>] **On Behalf Of** Steven T Nourse
Sent: Wednesday, July 05, 2017 2:51 PM
To: Andrea E Moore; 'Annie.Baas@puco.ohio.gov'; Bremer, Dorothy; David B Weiss; Dawn Clark; Bremer, Dorothy; John Pulsinelli; Snider, Matthew; Michael W McCulty; Steven T Nourse; Healey, Christopher
Subject: OPC 1st Set of Responses to OCC 15-1052-EL-RDR

Please find attached Ohio Power Company's 1st Set of Responses to OCC in case 15-1052-EL-RDR. Confidential attachments will be provided to parties who have executed a protected agreement.

Steven T. Nourse
 Senior Counsel
 Legal Regulatory
 American Electric Power Service
 Corporation
 1 Riverside Plaza, 29th Floor
 Columbus, Ohio 43215
 (T) 614-716-1608
 (F) 614-716-2950
 Email: stnourse@aep.com

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Healey, Christopher

From: Steven T Nourse <stnourse@aep.com>
Sent: Tuesday, July 11, 2017 11:53 AM
To: Healey, Christopher
Subject: RE: OPC 1st Set of Responses to OCC 15-1052-EL-RDR

OK, thanks Chris.

Thanks,

Steven T. Nourse

Chief Ohio Regulatory Counsel

American Electric Power Service Corporation

Legal Department, 29th Floor

1 Riverside Plaza

Columbus, Ohio 43215-2373

Phone: (614) 716-1608 Audinet: 8-200-1608

Fax: (614) 716-2014 Audinet: 8-200-2014

Email: stnourse@aep.com



From: Christopher.Healey@occ.ohio.gov [<mailto:Christopher.Healey@occ.ohio.gov>]
Sent: Tuesday, July 11, 2017 11:49 AM
To: Steven T Nourse <stnourse@aep.com>
Subject: [EXTERNAL] RE: OPC 1st Set of Responses to OCC 15-1052-EL-RDR

This is an EXTERNAL email. STOP. THINK before you CLICK links or OPEN attachments.

Steve,

Apologies for missing your call just now – I had stepped out for a meeting. Thank you for your voicemail. I understand your position that AEP Ohio has no obligation to provide the calculations that OCC requests and that AEP Ohio will not provide any supplement or additional response to OCC's discovery requests. OCC continues to believe that its discovery requests are not objectionable and that AEP Ohio should respond to them. We will proceed accordingly.

Thank you again,
Chris

From: Healey, Christopher
Sent: Friday, July 07, 2017 11:07 AM
To: 'Steven T Nourse'
Subject: RE: OPC 1st Set of Responses to OCC 15-1052-EL-RDR

Steve,

Thank you for your responses to OCC's discovery requests. I see that in your responses to INT-1 and INT-3, you state that AEP Ohio has not calculated whether its renewable compliance costs exceed the 3% cap under R.C. 4928.64(C)(3). OCC's request is reasonable, given that residential customers pay for AEP Ohio's compliance through Rider AER and have a right to know whether those charges exceed the 3% cap. Please reconsider your response and provide the requested calculations for INT-1 and INT-3 (as well as updated responses to the related INT-2 and INT-4). Otherwise, we will consider filing a motion to compel early next week.

I also disagree with your objections to INT-1 and INT-3. These requests are within the scope of this case, are relevant, and are reasonably calculated to lead to the discovery of admissible evidence because they relate to the charges that customers pay through Rider AER, which is the subject matter of this case.

Finally, by asking for a response to these interrogatories, we do not waive the right to follow up on other discovery requests in this set upon further review.

Thank you,
Chris

From: Dawn Clark [<mailto:dclark1@aep.com>] **On Behalf Of** Steven T Nourse
Sent: Wednesday, July 05, 2017 2:51 PM
To: Andrea E Moore; 'Annie.Baas@puco.ohio.gov'; Bremer, Dorothy; David B Weiss; Dawn Clark; Bremer, Dorothy; John Pulsinelli; Snider, Matthew; Michael W McCulty; Steven T Nourse; Healey, Christopher
Subject: OPC 1st Set of Responses to OCC 15-1052-EL-RDR

Please find attached Ohio Power Company's 1st Set of Responses to OCC in case 15-1052-EL-RDR. Confidential attachments will be provided to parties who have executed a protected agreement.

Steven T. Nourse
Senior Counsel
Legal Regulatory
American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
(T) 614-716-1608
(F) 614-716-2950
Email: stnourse@aep.com

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7/12/2017 5:23:35 PM

in

Case No(s). 15-1052-EL-RDR

Summary: Motion Motion to Compel AEP Ohio to Respond to Discovery About Its Charges to Consumers for Renewable Energy by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Healey, Christopher Mr.