


**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of)
Vadata, Inc. and Ohio Power Company for) Case No. 17-1827-EL-AEC
Approval of a Unique Economic)
Development Arrangement for Ohio Data)
Center Campuses)

**MOTION TO INTERVENE AND COMMENTS OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

Pursuant to Section 4903.221, Revised Code, and Rules 4901-1-11 and 4901:1-38-05(F), Ohio Administrative Code (O.A.C.), the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene and submit comments in this matter with the full powers and rights granted to intervening parties. OMAEG has real and substantial interests that this proceeding may adversely affect and no existing parties adequately represent those interests. The Commission should grant this motion because OMAEG satisfies the standard for intervention set forth by statute and in the Commission's rules. A memorandum in support is attached.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

On September 1, 2017, Vadata, Inc. (Vadata) filed a Joint Application for a Unique Economic Development Arrangement (Joint Application) with the Ohio Power Company (AEP) seeking approval of a ten-year unique economic development arrangement (unique arrangement).¹ Vadata seeks this unique arrangement in order to construct and operate “cloud computing centers,” or data centers, at three properties in Central Ohio.² The Joint Application provides that Vadata will receive a number of incentives that are not available to other AEP customers in order to provide the data centers with “competitive power pricing.”³ The Joint Application asserts that these incentives will allow Vadata to develop its existing three data centers and construct up to twelve additional data centers. To accomplish the expansion, Vadata is asking the Commission to approve this unique arrangement that will lower its overall costs for its electric service.

¹ See *In the Matter of the Joint Application of Vadata, Inc. and Ohio Power Company for Approval of a Unique Economic Development Arrangement for Ohio Data Center Campuses*, Joint Application for a Unique Economic Development Arrangement at 1, 3 (September 1, 2017) (Joint Application).

² Id. at 2.

³ Id. at 15, 17.

The unique arrangement authorizes Vadata to receive a tiered rate discount on all kWh based riders assessed by AEP for each of Vadata's AEP accounts.⁴ Vadata's kWh billing determinant per AEP account will be subject to the tiered rate discount, which will increase as the number of data centers constructed in Ohio increases.⁵ Additionally, Vadata's consumption that would be subject to riders relating to energy supply would be capped per each AEP account.⁶ The Joint Application explains that the riders subject to the consumption cap are riders that "support renewable energy, new or legacy gas/coal/nuclear generating plants or any other rider intended to provide generation services, rate stability in energy supply and/or fuel costs, and shall include the Power Purchase Agreement Rider."⁷ Furthermore, the unique arrangement completely exempts Vadata's accounts from the Retail Stability Rider.⁸

To support the unique arrangement, Vadata states that there are many regions besides Ohio vying to be home to these data centers.⁹ According to the Joint Application, Ohio needs to offer these types of incentives in order to be competitive with these other regions from an operating cost perspective.¹⁰

Although Vadata states that this unique arrangement will bring about benefits to Ohio without resulting in the recovery of any delta revenue from other AEP customers, the Joint Application does not address the revenue shortfall to AEP that will result from Vadata's accounts receiving a discount on AEP's non-bypassable riders and charges and how that shortfall will be

⁴ Id. at 16 and Appendix C.

⁵ Id.

⁶ Id.

⁷ Id. at Appendix C.

⁸ Id. at 16 and Appendix C.

⁹ Id. at 14-15.

¹⁰ Id. at 15.

recovered.¹¹ Presumably, the revenue shortfall created by providing Vadata with the incentives will be flowed through to other customers (likely in the same rate class) that will continue to pay the riders and the associated revenue requirement for those riders.

Rules 4901-1-11 and 4901:1-38-05(F), O.A.C., permit intervention by an affected party who has a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party. Similarly, Section 4903.221, Revised Code, authorizes intervention where a party: may be adversely affected by the proceeding; will contribute to a full development and equitable resolution of factual issues; and will not unduly prolong or delay the proceedings.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. OMAEG members purchase electric services from AEP and may be responsible for any revenue shortfall or costs arising from this unique arrangement.

OMAEG has been a participant in other cases involving unique arrangements,¹² and has an interest in ensuring that any benefits accruing to customers, and the resultant discounted rates

¹¹ Id. at 2-3.

¹² See, e.g., *In the Matter of the Application of Globe Metallurgical, Inc. for Approval of a Unique Arrangement Between Ohio Power Company and Globe Metallurgical, Inc.*, Case No. 16-737-EL-AEC, Entry at 1 (August 4, 2016) (granting OMAEG's Motion to Intervene); *In the Matter of the Application of the TimkenSteel Corporation for Approval of a unique Arrangement for the Timken Steel Corporation's Stark County Facilities*, Case No. 15-1857-EL-AEC, Entry at 2 (November 24, 2015) (granting OMAEG's Motion to Intervene).

that are funded by other AEP customers, are just and reasonable.¹³ OMAEG also has an interest in ensuring that the unique arrangement furthers the policy of the state of Ohio prescribed by Section 4928.02, Revised Code.¹⁴ Finally, OMAEG has an interest in ensuring that no unreasonable or anticompetitive effects arise from the unique arrangement.

The lack of public information provided in the Joint Application makes it difficult to quantify the impacts of the unique arrangement on other customers, as well as the benefits. For example, although Vadata requests a tiered rate discount on all kWh based riders for all of its AEP accounts, the level of the discount and for how many data centers and for what duration are unknown. Additionally, the revenue shortfall that will be created from the tiered rate discount that will be collected from other customers will increase over the ten-year period of the unique arrangement as more data centers are constructed. The level of revenue responsibility that will be shifted to other customers over the course of the unique arrangement is unknown and not limited or capped.

Moreover, the Joint Application is void of any specific commitments by Vadata regarding capital investment and employment levels that may provide public interest benefits or further the policy of the state.¹⁵ A proposed unique arrangement should balance any purported benefits to the state and local economies with the costs required to achieve such benefits. The cost-benefit analysis should consider all of the applicant's rate discounts paid for by other customers and compare that to the capital investment dollars, employment level commitments,

¹³ Rule 4901:1-38-05(B)(1), O.A.C. ("Each customer applying for a unique arrangement bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code"); Section 4905.35, Revised Code ("No public utility shall give any undue or unreasonable preference or advantage to any . . . firm . . . or subject any . . . firm to any undue or unreasonable prejudice or disadvantage.").

¹⁴ Rule 4901:1-38-05(C), O.A.C. ("Each applicant applying for approval of a unique arrangement . . . shall describe how such arrangement furthers the policy of the state of Ohio embodied in section 4928.02 of the Revised Code.").

¹⁵ Joint Application at 2, 15-19.

and any other commitments made by the applicant. The Commission should ensure there is proper alignment between benefits received under the proposed arrangement and any commitment(s) undertaken by Vadata.

OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. OMAEG is regularly and actively involved in Commission proceedings and, as in previous proceedings, OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the issues in this proceeding. OMAEG's interest will not be adequately represented by other parties to the proceeding and its timely intervention will not unduly delay or prolong the proceeding.

As discussed above, OMAEG satisfies the criteria for intervention set out in Section 4903.221, Revised Code, and Rules 4901-1-11 and 4901:1-38-05(F), O.A.C. OMAEG, therefore, respectfully requests that the Commission grants this motion, allows OMAEG to intervene with the full powers and rights granted by the Commission to intervening parties, and makes OMAEG a full party of record. OMAEG further requests that the Commission give due consideration to the comments articulated herein.

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 September 21, 2017.



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