

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)	
of the Purchase of Receivables)	Case No. 15-1507-EL-EDI
Implementation Plan for Ohio Power)	
Company.	

**MEMORANDUM CONTRA APPLICATION FOR REHEARING
OF
IGS ENERGY AND DIRECT ENERGY**

I. INTRODUCTION

On February 25, 2015, the Commission issued an Opinion and Order authorizing Ohio Power Company ("AEP Ohio") to establish a purchase of receivables ("POR") program, subject to the resolution of implementation details in a subsequent proceeding. This is that subsequent proceeding. The Office of Ohio's Consumers' Counsel ("OCC") has sought rehearing. For the reasons discussed below, the Commission should deny OCC's application for rehearing.

II. BACKGROUND AND ARGUMENT

In AEP Ohio's third electric security plan proceeding,¹ AEP Ohio proposed to implement a POR program such that AEP Ohio would assume responsibility for collecting the competitive supply charges on the customer's consolidated bill.² The Commission approved the POR program in principle and ordered that implementation details be addressed and resolved in this proceeding.

¹ *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case Nos. 13-2385-EL-SSO et al. ("ESP III").

² *ESP III*, AEP Ohio Ex. 11 (Direct Testimony of Gabbard).

Following the submission of comments, the Commission issued its Finding and Order (“Order”) establishing specific parameters regarding the POR program, including the ability of a supplier to not participate. The Order ensures a balanced approach to billing given the new product offerings companies like Direct Energy and IGS Energy are willing to offer which do not fit within a POR program. At the same time, the Commission acknowledged that from a policy perspective, supplier consolidated billing is the preferred future method of billing for purposes of delivering innovative products and services. The Suppliers appreciate the Commission’s efforts to continue to move the competitive market forward.

Regarding specific program details, the Commission determined that AEP Ohio may commence the program with a discount rate determined on an annual basis. Further, the Commission authorized AEP Ohio to utilize the bad debt rider (authorized separately in an electric security plan case) “as a recovery mechanism of last resort, as well as to facilitate the Company’s recovery of CRES receivables when economic conditions overwhelm the discount rate or viability of the POR program in general.”³

OCC’s application for rehearing challenges the Order’s authorization to utilize the bad debt rider in conjunction with the POR program. OCC alleges that R.C. 4928.02(B), which requires suppliers to post credit and demonstrate financial wherewithal, should provide sufficient protection to obviate the necessity of the bad debt rider in the event of default. OCC previously raised this argument in initial comments and the Commission rejected it in the Order. Therefore, OCC has offered no new argument for the Commission to consider.

³ Finding and Order at ¶ 67 (Sept. 27, 2017).

Moreover, OCC's arguments regarding credit requirements are a collateral attack on issues being addressed in AEP's current ESP proceeding. That case addresses AEP's credit requirements in the context of a joint stipulation. Therefore, it would be inappropriate to relitigate AEP's credit requirements in this case.

In any event, OCC's claim that AEP should not need the bad debt rider if credit requirements are appropriately set ignores the fact that the bad debt rider will only be used as a last resort, just as recommended in the Staff Report. OCC claims that the Commission misinterpreted the Staff Report, but that is not true. OCC claims:

The PUCO stated that it "agrees with Staff's position that AEP Ohio's [Bad Debt Rider] should be utilized as a recovery mechanism of last resort, as well as to facilitate the Company's recovery of [marketers'] receivables when economic conditions overwhelm the discount rate or the viability of the POR program in general." The PUCO appears to allow AEP Ohio to collect money from customers for two purposes related to the POR program: first, as a collection mechanism of last resort, and second, when certain economic conditions apply. This is a misinterpretation of the PUCO Staff's actual position.⁴

Any "misinterpretation" clearly lays with OCC. Indeed, the Staff Report includes nearly identical language to the Order, as well as additional examples for inclusion in the bad debt rider:

As an option of last resort, the BDR could be used to recover CRES receivables **when the economic conditions overwhelm the discount rate or the viability of the POR program in general**. Such conditions may include: supplier default (bankruptcy), a large customer bad debt that would itself raise the customer class discount rate 10%, or overall economic conditions that would raise the discount rate significantly in a single year (after the first year). AEP specifically requested to use the BDR when there is a supplier default as AEP is responsible to PJM for defaulted suppliers PJM costs for 15 days. One of the benefits of this cost avoidance to the CRES suppliers would be reduced collateral requirements. The BDR would be calculated annually and reviewed by the PUCO Staff.⁵

⁴ OCC Application for Rehearing at 5 (Oct. 27, 2017).

⁵ Staff Report at 8 (Nov. 16, 2015).

The Order specifically states, “AEP Ohio’s BDR should be utilized as a recovery mechanism of last resort, as well as to facilitate the Company’s recovery of CRES receivables when economic conditions overwhelm the discount rate or the viability of the POR program in general.”⁶ This language is substantially similar to the Staff Report. The order gives no reason to believe that the Commission meant something different than Staff.

R.C. 4903.09 requires the Commission to issue written opinions of fact and conclusions of law based upon the record. In this order, the Commission issued the reasoning for its determination in writing based upon the explicit recommendation in the Staff Report. Therefore, the basis for the Commission’s determination is understandable and based upon the evidence. That is all the statute requires. Accordingly, OCC’s application for rehearing should be denied.

⁶ Finding and Order at ¶ 67.

Dated: November 6, 2017

Respectfully submitted,

/s/ Joseph Oliker

Joseph Oliker (0086088)
Email: joliker@igsenergy.com
Counsel of Record
IGS Energy
6100 Emerald Parkway
Dublin, Ohio 43016
Telephone: (614) 659-5000
Facsimile: (614) 659-5073

Attorney for IGS Energy

/s/ Rebekah J. Glover

Mark A. Whitt (0067996)
Rebekah J. Glover (0088798)
WHITT STURTEVANT LLP
The KeyBank Building, Suite 1590
88 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 224-3946
Facsimile: (614) 224-3960
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
glover@whitt-sturtevant.com
(Counsel willing to accept service
by email)

***Attorneys for Direct Energy
Services, LLC and Direct
Energy Business, LLC***

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum Contra was served by electronic mail this 6th day of November 2017 to the following:

terry.etter@occ.ohio.gov
kevin.moore@occ.ohio.gov
stnourse@aep.com
cmblend@aep.com
mjsettineri@vorys.com
glpetrucci@vorys.com
mdortch@kravitzllc.com
joliker@igsenergy.com
william.wright@ohioattorneygeneral.gov

/s/ Rebekah J. Glover

Rebekah J. Glover

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/6/2017 5:15:27 PM

in

Case No(s). 15-1507-EL-EDI

Summary: Memorandum Contra Office of Ohio Consumers' Counsel's Application for Rehearing electronically filed by Ms. Rebekah J. Glover on behalf of Interstate Gas Supply, Inc. and Direct Energy Services, LLC and Direct Energy Business, LLC