

THE PUBLIC UTILITIES COMMISSION OF OHIO

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.

CASE NO. 17-1827-EL-AEC

OPINION AND ORDER

Entered in the Journal on January 10, 2018

I. SUMMARY

{¶ 1} The Commission finds that the joint application for an economic development arrangement between Vadata, Inc. and Ohio Power Company is reasonable and should be approved.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} The Commission has the authority to approve an economic development arrangement between an electric utility and a mercantile customer or group of mercantile customers upon application by the mercantile customer or the utility, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-03. The Commission also has the authority to approve a unique arrangement between an electric utility and a customer or group of customers upon application by the customer or the utility, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05. On September 1, 2017, Vadata, Inc. (Vadata or Company) and Ohio Power Company (AEP Ohio) filed a joint application (Joint Application), which they submitted to the Commission for approval under both Ohio Adm.Code 4901:1-38-03 and 4901:1-38-05 (Co. Ex. 2 at 1; Co. Ex. 2A at 1). Vadata and AEP Ohio also filed a motion for protective order along with the Joint Application. Vadata is currently AEP Ohio's customer. AEP Ohio is an electric light company, as defined by R.C. 4905.03(A)(3), and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} Pursuant to Ohio Adm.Code 4901:1-38-05(F), interested persons had the opportunity to file comments or objections regarding the application for a unique arrangement. On September 21, 2017, the Ohio Manufacturer's Association Energy Group (OMAEG) filed comments. On September 22, 2017, the Office of the Ohio Consumers' Counsel (OCC) filed public and confidential versions of its comments, in addition to a motion for protective order. On November 8, 2017, Ohio State Senators Kevin Bacon and Stephanie Kunze filed comments.

{¶ 4} By Entry issued October 5, 2017, the attorney examiner granted motions to intervene in this proceeding filed by OCC, OMAEG, and the Industrial Energy Users-Ohio.

{¶ 5} The attorney examiner held an evidentiary hearing on November 14, 2017, in order to consider the Joint Application. At the evidentiary hearing, testimony was provided by Charles Daitch, Manager of Energy Initiatives for Amazon (Co. Ex. 1; Vadata Exhibit 1A). Testimony was also provided by Michael P. Haugh, Assistant Director of Analytical Services for OCC (OCC Ex. 1; OCC Ex. 1A). Both Vadata and OCC also filed motions for protective order and confidential testimony for both their witnesses. The attorney examiner granted all pending motions for protective order by Entry dated January 9, 2018.

A. Summary of the Joint Application

{¶ 6} In their Joint Application, Vadata and AEP Ohio (collectively, Applicants) explain that Vadata is an affiliate of Amazon Web Services, Inc. (AWS), which is a wholly owned subsidiary and operating segment of Amazon.com, Inc. (Amazon). Applicants note that AWS provides state-of-the-art cloud computing infrastructure and services, which is the on-demand delivery of information technology (IT) resources and applications via the internet with pay-as-you-go pricing. Furthermore, Applicants add that a key benefit of cloud computing is the opportunity to replace up-front capital infrastructure expenses with low variable costs that scale with enterprises of all sizes. (Co. Ex. 2 at 4.)

{¶ 7} According to Applicants, the AWS cloud provides secure and affordable computing capacity to more than one million customers across 190 countries, including fast-growing startups, large enterprises, non-profits and government agencies. Applicants also explain that the AWS cloud currently runs from data center locations in 16 geographic regions around the world, including the U.S. East Region (Ohio Region). (Co. Ex. 2 at 5.)

{¶ 8} Applicants indicate that there is already ongoing community support for Vadata's continued capital investment and job creation through the data centers, stating that Vadata has committed to invest hundreds of millions of dollars over several years in Ohio to acquire and develop three properties as campuses (Ohio Campuses) for cloud computing data centers, which are currently located in Dublin, Hilliard, and New Albany. Applicants add that AEP Ohio is already serving one data center on each campus. In order to support Vadata's investment and development of data centers in Ohio, Applicants explain that state and local governments have provided a variety of inducements and incentives, including, but not limited to, the following: variable local withholding tax rebates; a sales tax exemption on goods and materials used in the data centers pursuant to a statutory program available to qualified applicants; tax credits available by statute through the Ohio Job Creation Program; and local real property tax abatements through the Ohio Community Reinvestment Area Program as provided by statute (in lieu of CRA Program support, one location received a land acquisition incentive). Applicants also state that Vadata has received several grants, including a grant tied to payroll growth at one Ohio Campus, grants from JobsOhio for economic development and job training, and State of Ohio grants for roadwork development in local communities. (Co. Ex. 2 at 6.)

{¶ 9} Applicants further indicate that each campus has the capacity to support four additional, similarly sized data centers for a combined potential of 15 data centers on the three Ohio Campuses. Applicants surmise that in just three years, the combined direct, indirect, and induced effects of Vadata's investment could create thousands of new jobs in Ohio and hundreds of millions of dollars in new regional income and gross domestic

product (GDP) in Ohio. Applicants expect benefits to nearly double over a five-year term, with additional increases expected beyond five years as Vadata continues to invest potentially billions in capital for construction and operation of new data centers located in Ohio. (Co. Ex. 2 at 6-7.) In support of their assertion, Applicants note that, while AWS's net sales comprised just 4% of all Amazon net sales in 2013, AWS's net sales were 9% of Amazon net sales last year, with annual sales amounting to over \$12.2 billion in 2016. Applicants assert that Vadata's data center development will directly create more than 25 new full-time or full-time equivalent jobs within three years, with the average hourly base wage rate for those jobs set at more than 150% of the federal minimum wage incorporating relatively high-paying occupations such as design, engineering, telecommunications, and IT. (Co. Ex. 2 at 7-8.) Furthermore, Applicants also explain that the development of the data centers will provide a pool of highly skilled employees in the region (Co. Ex. 2 at 9).

{¶ 10} Applicants also expect that investment in the data centers will have indirect benefits, such as the fact that new spending on data centers will likely create subcontractor job opportunities for construction workers, HVAC installers, designers, structural engineers, telecommunications workers, and IT personnel, as well as in transportation, logistics, security, office and janitorial services, among others. Applicants anticipate important induced effects, such as increases in employment, earnings, income and regional GDP resulting from purchase of goods and services in Ohio financed by the increased earnings of Ohio residents as a result of the direct and indirect effects of additional data center development. These include expenditures on goods and services, such as meals at Ohio restaurants, purchases from retail establishments including vehicles and other consumer durable goods, purchases or rental of housing, and purchases from the providers of personal services. Applicants also note that state and local tax revenues, both direct and indirect, should increase due to the resulting increase in employment and incomes from data center development and capital investment. (Co. Ex. 2 at 7-9.)

{¶ 11} Moreover, Applicants note that the data centers will support the efficient and economic operation of AEP Ohio's electrical grid because they would utilize servers that are innovatively designed to maximize energy efficiency and are operated at high utilization rates, employ highly efficient data storage devices and networking equipment, and are characterized by high infrastructure efficiency or "power use effectiveness," in contrast to traditional localized data centers. (Co. Ex. 2 at 10-11.)

{¶ 12} Applicants further note that AWS has made a long-term commitment to achieve 100% renewable energy usage for its global infrastructure footprint, which has already had a positive economic effect in Ohio. In fact, in alignment with its goal to achieve 50% renewable energy by the end of 2017, Applicants state that an affiliate of Vadata contracted to construct and operate Amazon Wind Farm U.S. Central, a 100-megawatt (MW) wind farm in Paulding County, Ohio, employing over 800 people during the construction, more than half of which were Ohio residents, and providing over \$1 million in leasing payments to Ohio landowners and approximately \$900,000 per year in new local tax revenues on a going forward basis. As Vadata grows in Ohio, Applicants assert that AEP Ohio will benefit from its sizable, steady, energy efficient demand for renewable energy with little or no additional investment in infrastructure. Moreover, Vadata has agreed to pay for a transmission level substation at each of the campuses and will be served off of AEP Ohio's 138 kV transmission system. As data centers are added to the campuses, the load will grow at each campus. AEP Ohio will be able to generate revenues from Vadata with little additional direct costs to AEP Ohio's system. (Co. Ex. 2 at 10-12.)

{¶ 13} As proposed by the Applicants, the arrangement would run for a 120-month term commencing with the first billing month following the Commission's approval of the Joint Application. Further, the Joint Application states that Vadata can, at its discretion, receive energy and capacity from a competitive retail electric service (CRES) provider, and will also pay the costs of receiving steady, significant and energy efficient wire services to the campuses pursuant to the proposed schedule attached to the Applicants' Joint

Application (Co. Ex. 2, Appendix C). The Applicants explain that the schedule is comprised of three components. First, due to Vadata's significant current and potential load, combined load profile, and economic development potential, Applicants note that the kWh billing determinant for Vadata's AEP Ohio account will be subject to an increasing discount depending on usage. Under that structure, Applicants state that Vadata will continue to pay transmission and distribution charges for its kWh use but at a reduced amount as its monthly kWh per account will be reduced by the discount, which will grow with additional data center investment. Second, Applicants explain that Vadata's kWh usage that would be subject to riders relating to energy supply would be capped at a mutually agreeable kWh amount due to the Company's steady and sizable load and independent support for sustainable and renewable energy generation. Third, Applicants propose, pursuant to the arrangement, to exempt Vadata from charges under the Retail Stability Rider (Rider RSR) for deferred capacity costs that remained as of May 31, 2015, which was before Vadata's first Ohio data center became operational in October 2016. Applicants assert that, collectively, the discounts and adjustments under the proposed schedule will incentivize economic development for additional data centers in Ohio and provide a rate structure that recognizes Vadata's significant load and its addition to the AEP Ohio system. (Co. Ex. 2 at 16-17.)

{¶ 14} Finally, in accordance with the proposed schedule, Vadata will continue to pay all transmission and distribution riders that are not billed on a kWh basis, including the portion of the Basic Transmission Cost Rider that is assessed on a kW basis. Applicants contend that because Vadata will make a reasonable contribution toward all riders, except Rider RSR, other AEP Ohio customers will not be asked to pay delta revenue. As such, the Applicants reiterate that the proposed arrangement will support competitive electric service costs that both recognize and incentivize Vadata's new construction on the Ohio Campuses and new investment, including in transmission substations supporting direct connection to AEP Ohio's 138 kV service. (Co. Ex. 2 at 16-17.)

B. *Summary of Comments*

{¶ 15} OMAEG states that the Joint Application does not address the revenue shortfall AEP Ohio will experience as a result of Vadata receiving a discount on non-bypassable riders and charges and how that shortfall will be recovered. OMAEG and OCC further contend that the revenue shortfall caused by the tiered discount framework will likely flow to remaining customers, including residential customers, who will continue to pay the riders and associated revenue requirement for those riders. OCC also argues that, as Vadata's kWh usage is capped for riders relating to energy supply, AEP Ohio will be entitled to seek the foregone revenues associated with the cap from other customers, as well. Moreover, OCC asserts that non-residential customers will have to pay what OCC contends should be Vadata's share, in addition to those customers' own share of the Rider RSR charge. (OMAEG Comments at 3-4; OCC Comments at 3-5.)

{¶ 16} Additionally, OMAEG indicates that the Joint Application is void of any specific information about the capital investment and employment levels made by Vadata that will provide public interest benefits or further the policy of the state. OMAEG states that the proposed unique arrangement should balance any purported benefits to the state and local economies with the costs required to achieve such benefits, with such an analysis also considering all of the Applicant's rate discounts paid for by other customers compared to the capital investment dollars, employment level commitments, and any other commitments made by the Applicants. As such, OMAEG argues that the Commission should ensure there is proper alignment between benefits received under the proposed arrangement and any commitments undertaken by Vadata. (OMAEG Comments at 5-6.) However, at the hearing, OMAEG represented that it did not object to the application (Tr. 14-15).

{¶ 17} To ensure that Ohio utility consumers pay the least amount of subsidy, OCC urges the Commission to establish caps on what customers would be charged by their utility for economic development programs. OCC notes that AEP Ohio's Economic Development

Cost Recovery Rider is set at 2.81125% of a customer's distribution charges. For an average residential customer using 1,000 kWh per month that charge equals roughly \$0.75 per month. OCC believes that if the Joint Application is approved, the subsidies paid by residential customers will increase. Moreover, OCC notes that the Joint Application includes a cap on Vadata's energy related charges but there is no corresponding protective cost cap for consumers. Thus, OCC suggests that the Commission establish a cap for utility customers in a Commission-ordered investigation or a generic docket. (OCC Comments at 6-7.)

{¶ 18} OCC also urges the Commission to determine a reasonable sharing of the costs of economic development between AEP Ohio and its customers, given the benefit of increased revenue AEP Ohio will receive from the new and existing data centers. Given this benefit, OCC argues that AEP Ohio should not have the opportunity to pass all costs resulting from this arrangement onto its customers and, instead, recommends a fifty-fifty sharing of the delta revenue, which OCC notes is consistent with past Commission precedent. (OCC Comments at 7-9.)

{¶ 19} Finally, to ensure public transparency and accountability for the proposed arrangement, OCC suggests that the Applicants' annual report regarding the proposed arrangement should be released to OCC. Also, OCC points out that Vadata's commitments to maintain operations in Ohio and create more than 25 new full-time or full-time equivalent jobs within three years are important commitments and should be required by the Commission for the entire term in order to approve the proposed arrangement. According to OCC, this modification would be consistent with the Commission's rules and would protect customers who fund the discount received by Vadata. (OCC Comments at 9-11.)

{¶ 20} State Senators Kevin Bacon and Stephanie Kunze support the Joint Application as the Ohio Campuses have contributed hundreds of millions of dollars of investment in central Ohio, including the creation of highly skilled and good-paying jobs for engineers, electricians, and technicians in the area. They note that electricity is one of

the highest operating costs of a data center and is an important differentiator between different data center locations. They believe the proposed arrangement will help limit Vadata's energy costs without a need to raise rates or cause an impact for other energy users, resulting in a competitive economic environment in Ohio that is attractive for data center investment in Ohio. (Senators' Comments at 1-2.)

C. Summary of the Testimony

{¶ 21} Company witness Daitch explains that the proposed arrangement will support capital investment in, and development of, additional data centers in Ohio and the Ohio Region, while also providing a competitive price for electricity service that supports the Ohio Region's ability to compete with Vadata's other data center regions (Co. Ex. 1 at 4-5).

{¶ 22} With regard to the Applicants' proposed schedule, Company witness Daitch notes that Vadata will not receive a discount for generation costs, though it will be able to shop the competitive markets for energy and capacity. Additionally, though Vadata is requesting a cap on charges for riders relating to energy supply, Mr. Daitch states that Vadata will pay these charges up to a significant cap, thereby making a reasonable contribution to reduce AEP Ohio's revenue requirements. Given Vadata and AWS' significant investment to manage energy costs to meet increasing customer demand for greater reliance on renewable energy supplies, Mr. Daitch explains that paying uncapped energy supply riders for the amount and baseload nature of Vadata's energy use could uniquely disadvantage Vadata and constrain the growth of the Ohio Region. Company witness Daitch asserts that the proposed arrangement strikes a balance, providing a cost structure that incentivizes development of additional Ohio data centers and does not competitively disadvantage the Ohio Region in comparison to Vadata's other data centers in other states, while ensuring that Vadata still pays a reasonable share of charges under energy supply-related riders. (Co. Ex. 1 at 6, 14-15.)

{¶ 23} While Vadata is exempt from the Rider RSR under the proposed arrangement, Company witness Daitch also stresses that Vadata was not operating any data centers in Ohio prior to October 2016, well after the rider's implementation. Moreover, Mr. Daitch explains that other AEP Ohio customers have benefitted over the last year from Vadata's monthly payments of Rider RSR charges for the three operational data centers, and, thus, requests exemption for Vadata from these charges moving forward. (Co. Ex. 1 at 14.)

{¶ 24} Company witness Daitch further anticipates that other AEP Ohio customers should pay less monthly with Vadata's growth versus without Vadata's growth because AEP Ohio's expected incremental revenues will exceed its expected incremental costs under the arrangement. Mr. Daitch explains that, as rider adjustments under the proposed arrangement incentivize and support expansion of the Ohio Campuses, both Vadata's total energy usage and Vadata's total rider payments for wire services will increase. He also notes that AEP Ohio will incur little additional direct cost because Vadata has paid for a transmission level substation at each Ohio Campus to take service from AEP Ohio's 138 kV transmission system regardless of the number of data centers on each campus. Therefore, Mr. Daitch argues that the revenue receipts due to Vadata's growth should exceed AEP Ohio's revenue requirements due to Vadata's growth. (Co. Ex. 1 at 15.)

{¶ 25} Mr. Daitch notes that the proposed arrangement is unique because Vadata is in the position to drive highly desirable economic development in Ohio through significant capital investment in the three Ohio Campuses. As he explains in his testimony, the rider adjustments under the proposed arrangement will require Vadata to make a reasonable contribution toward AEP Ohio's distribution system costs by more closely aligning the rates for electric service to the minimal additional system costs associated with the unique load and load profile of up to 15 Ohio data centers. (Co. Ex. 1 at 8.)

{¶ 26} Moreover, according to Mr. Daitch, the proposed arrangement supports economic development because Vadata's significant capital investment in three Ohio Campuses has set a solid foundation for development of additional data centers.

Specifically, Company witness Daitch explains that 25 full-time or full-time equivalent jobs are expected to be created within the first three years of the arrangement, the average hourly base wage of which would meet or exceed the Commission's base wage rate requirements for an economic development arrangement. (Co. Ex. 1 at 8-9.)

{¶ 27} Mr. Daitch states that the proposed arrangement would equate to direct and indirect benefits to Ohio and its citizens in the future, further maintaining that additional investment beyond the initial five years could equate to billions more dollars in capital and operating expenditures spent in Ohio. Mr. Daitch explains that he also expects induced effects to arise when Ohio residents spend their increased income at state businesses, including meals at restaurants, purchases from retail establishments including vehicles and other consumer durable goods, purchases or rental of housing, and purchases from the providers of personal services. (Co. Ex. 1 at 9, 11.)

{¶ 28} Lastly, Company witness Daitch notes that the proposed arrangement does not provide Vadata any undue or unreasonable preference or advantage. He supports the discounts in the schedule, as discussed above, explaining that they will incentivize Vadata's additional investment in more data centers in Ohio and align costs of electric service with the unique load characteristics of such data centers. Additionally, Mr. Daitch notes that the proposed arrangement is in the public interest and will facilitate Ohio's effectiveness in the global economy, pursuant to R.C. 4928.02. As provided in the Joint Application, Mr. Daitch asserts that investment in the development of additional data centers could support thousands of new jobs and hundreds of millions of dollars of increased regional income and GDP in Ohio. (Co. Ex. 1 at 16-17.)

{¶ 29} OCC witness Haugh reiterates many of the same concerns noted in OCC's submitted comments. Namely, Mr. Haugh indicates that the OCC is advocating for the Commission to: (1) balance the costs and benefits of the unique economic development arrangement to ensure customers pay the least subsidy that is needed for economic development; (2) establish caps on what customers would be charged by their utility

annually and in total to subsidize economic development programs; (3) determine a reasonable sharing of the costs of the economic development between AEP Ohio and its customers; (4) ensure public transparency and accountability exists for economic development programs for Ohioans who pay subsidies to electric utilities for funding economic development rate discounts; and (5) recognize the flexibility, provided under its Ohio Adm. Code 4901-1-38-09(B), to charge Vadata part or all of the incentives provided if it does not comply with eligibility criteria or the reporting requirements. (OCC Ex. 1 at 3-4.)

III. COMMISSION CONCLUSION

{¶ 30} R.C. 4905.31 provides that a public utility may enter into a reasonable arrangement with one its customers and that a public utility may request recovery of costs incurred in conjunction with any economic development and job retention program of the utility. Ohio Adm.Code 4901:1-38-03 authorizes an electric utility, with one or more of its mercantile customers, to file an application for approval to enter into an economic development arrangement, and prescribes certain verifiable information to be included within the application. Moreover, pursuant to Ohio Adm.Code 4901:1-38-03(A)(3), the public utility and/or mercantile customer filing the application bears the burden of proof to show that the proposed arrangement is reasonable, does not directly or indirectly provide rebates, special rates, and free service in violation of R.C. 4905.33, and does not provide an unreasonable advantage or prejudice towards any party under R.C. 4905.35.

{¶ 31} Upon our review of the requirements for an electric distribution utility to enter into an economic development arrangement with one of its mercantile customers under Ohio Adm.Code 4901:1-38-03, the Commission finds that the requirements are clearly met here. Vadata has demonstrated its status in the community and how significant economic benefits are expected to result from the proposed arrangement, furthering the state policy set forth in R.C. 4928.02. Namely, the proposed economic development arrangement will support substantial new, energy efficient electrical load while encouraging significant investments in new good paying jobs and state-of-the-art data center facilities in Ohio (Co.

Ex. 2 at 1). The anticipated economic impact is evidenced by the fact that Vadata has already constructed three existing cloud computing data centers at the Ohio Campuses and maintains the financial viability to achieve the desired expansion set forth in the Joint Application (Co. Ex. 2 at 4-6).

{¶ 32} Moreover, the Commission notes Vadata's data center development will create more than 25 new full-time or full-time equivalent jobs within three years. The average hourly base wage rate for those jobs would be more than 150% of the federal minimum wage with many in relatively high-paying and skilled occupations such as design, engineering, telecommunications, information technology (IT), and scientific and technical consulting (Co. Ex. 1 at 8-9; Co. Ex. 2 at 7-8, 18). Furthermore, as described in the Joint Application, state and local governments have supported Vadata's investment in these communities by providing it with a variety of inducements including tax rebates, sales tax exemptions, tax credits, local real property tax abatements, and grants (Co. Ex. 2 at 6). Furthermore, each campus has the potential to support four additional, data centers for a combined potential of 15 data centers on the three Ohio Campuses (Co. Ex. 2 at 6-7).

{¶ 33} The Commission also agrees that the indirect or spillover effects of Vadata's investment in the data centers will likely create additional job opportunities for construction workers, HVAC installers, designers, telecommunications workers, and IT personnel, as well as in transportation, logistics, security, office and janitorial services, among others. The Commission finds Company witness Daitch's testimony regarding the expected indirect and induced effects of the arrangement to be persuasive. We specifically point to Mr. Daitch's testimony where he explains that increased earnings of Ohio residents will lead to increased expenditures on goods and services, such as meals at Ohio restaurants, purchases from retail establishments including vehicles and other consumer durable goods, purchases or rental of housing, and purchases from the providers of personal services. The Commission also relies on Mr. Daitch's where he indicates that state and local tax revenues, both direct and indirect, will be created when data center development and capital

investment result in increased employment and incomes. (Co. Ex. 1 at 9, 11; Co. Ex. 2 at 6-7.) The Commission also notes that the proposed arrangement is not for retail purposes, consistent with Ohio Adm.Code 4901:1-38-03(A)(2)(a) (Co. Ex. 2 at 19).

{¶ 34} Applicants also aver that operations of the Ohio Campuses will be maintained during the term of the proposed arrangement and will consider additional investment and development opportunities in Ohio during that time (Co. Ex. 2 at 18-19).

{¶ 35} However, in response to the concerns raised by OCC and OMAEG, and in order to ensure that the requirements for an economic development arrangement continue to be met throughout the ten-year term of the arrangement, the Commission finds it necessary to require Vadata to file a comprehensive status report following the first five years of the arrangement, as Applicants predict there will be a pronounced increase in the anticipated capital investment and operating expenditures beyond the first five years (Co. Ex. 2 at 7-8). The status report should include: the status of data center construction; the economic development impact of the data center construction, including an economic analysis of the multiplier effect, either submitted via IMPLAN or comparable study; the net savings to Vadata over the five-year timeframe versus the costs Vadata would have to pay for electric service without the arrangement; and whether the arrangement is still necessary. Vadata may also file a motion for protective order requesting the protection of any confidential or trade secret information contained in the comprehensive status report, if necessary.

{¶ 36} The Commission finds that floors and ceilings on cost recovery, or other such protections, are not required at this time. We agree with the Applicants that the schedule of discounts will act as a continuing incentive for Vadata to increase its investment in new and existing data centers in Ohio, furthering the state policy set forth in R.C. 4928.02, and align costs of electric service with the unique load characteristics of the data centers. Further, the Commission believes that the proposed agreement strikes an appropriate balance between ensuring that Vadata pays a reasonable share of its electricity charges and providing a cost

incentive that encourages development of additional Ohio data centers, while at the same time maintaining the competitiveness of the Ohio Region with Vadata's other data centers in other states. The Commission, however, reserves the right to solicit additional feedback from interested parties regarding the use of, and to impose, additional restrictions on the reasonable arrangement after its review of the comprehensive status report.

{¶ 37} Accordingly, we find that the Joint Application satisfies the requirements set forth in R.C. 4905.31 and Ohio Adm.Code 4901:1-38-03 for the approval of an economic development arrangement and should, therefore, be approved, as modified by this Opinion and Order. Vadata and AEP Ohio are directed to file a final contract implementing the arrangement in this docket as soon as possible.

{¶ 38} Finally, as we have found that the Joint Application satisfies the requirements set forth in Ohio Adm.Code 4901:1-38-03 for an economic development arrangement, we do not find it necessary to determine whether it also satisfies the requirements under Ohio Adm.Code 4901:1-38-05 for a unique arrangement, although, based on the information provided in the Joint Application and supporting testimony, we have no reason to believe that it would not.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 39} AEP Ohio is an electric light company, as defined by R.C. 4905.03(A)(3), and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 40} Vadata is currently AEP Ohio's customer and qualifies as a mercantile customer, as defined by R.C. 4928.01(A)(19).

{¶ 41} R.C. 4905.31 provides that a electric distribution utility may enter into a reasonable arrangement with one of its mercantile customers and that the utility may request recovery of costs incurred in conjunction with any economic development and job retention program of the utility. Ohio Adm.Code 4901:1-38-03 authorizes an electric utility,

with one or more of its mercantile customers, to file an application for approval to enter into an economic development arrangement.

{¶ 42} On September 1, 2017, Vadata and AEP Ohio filed their Joint Application requesting that the Commission approve a proposed economic development arrangement, pursuant to R.C. 4905.31, Ohio Adm.Code 4901:1-38-03, and Ohio Adm.Code 4901:1-38-05.

{¶ 43} Pursuant to Ohio Adm.Code 4901:1-38-03(E), interested persons had the opportunity to file comments or objections regarding the Joint Application. Comments were submitted by OMAEG, OCC, and State Senators Kevin Bacon and Stephanie Kunze.

{¶ 44} Based on the comments, the attorney examiner set this matter for hearing.

{¶ 45} The hearing in this matter occurred on November 14, 2017.

{¶ 46} Vadata and AEP Ohio's Joint Application to enter into an economic development arrangement, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-03, is reasonable, does not violate R.C. 4905.35 or 4905.33, and, thus, should be approved, consistent with this Opinion and Order.

V. ORDER

{¶ 47} It is, therefore,

{¶ 48} ORDERED, That the Joint Application for an economic development arrangement between Vadata and AEP Ohio be approved, as set forth in this Opinion and Order. It is, further,

{¶ 49} ORDERED, That Vadata and AEP Ohio take all necessary steps to carry out the terms of this Opinion and Order. It is, further,

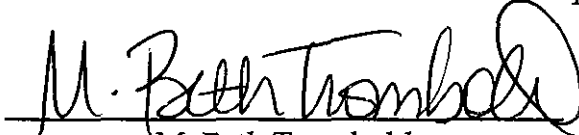
{¶ 50} ORDERED, That nothing in this Opinion and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 51} ORDERED, That a copy of this Opinion and Order be served upon each party of record.

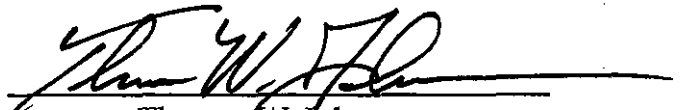
THE PUBLIC UTILITIES COMMISSION OF OHIO



Asim Z. Haque, Chairman



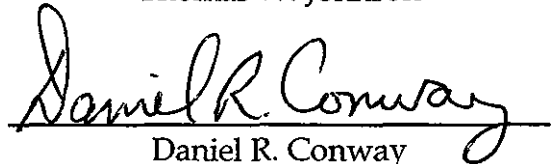
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman



Daniel R. Conway

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Barcy F. McNeal
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