

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application</b>	)	
<b>of Ohio Power Company</b>	)	<b>Case No. 17-1156-EL-RDR</b>
<b>to update its gridSMART Phase 2</b>	)	
<b>Rider rates.</b>	)	

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**REPLY COMMENTS OF OHIO POWER COMPANY**

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**I. Introduction**

On January 29, 2018, Ohio Power Company (“AEP Ohio” or the “Company”) filed an update to its gridSMART Phase 2 rider, which updates the rider to reflect actual Phase 2 O&M spending and capital carrying charges from October through December 2017. Pursuant to the Public Utilities Commission of Ohio’s (“Commission”) February 1, 2017 Opinion and Order in Case No. 13-1939-EL-RDR (“*gridSMART Phase 2 Order*”), the Company’s quarterly update filing is automatically approved 30 days after filing, on February 28, 2018, unless otherwise determined by the Commission.

On February 5, 2018, the Office of the Ohio Consumers’ Counsel (“OCC”) filed comments regarding the Company’s January 29, 2018 update. In light of the Ohio Supreme Court’s recent decision in *In re Rev. of Alternative Energy Rider Contained in Tariffs of Ohio Edison Co.*, Slip Opinion No. 2018-Ohio-229 (“*FirstEnergy*”), OCC recommends that the Commission should: (1) “not allow quarterly rider updates to be automatically approved;” (2) only approve a rider “with the condition expressed in the tariff that it is subject to refund;” (3) “order that tariffs for riders that are subject to prudence reviews include language that the approved rate is subject to refund;” and (4) “investigate the riders of Ohio utilities that are affected by the Court’s *FirstEnergy* decision.” (OCC Comments at 4-5.) With regard specifically to AEP Ohio’s January 29 quarterly update filing in this proceeding, OCC

recommends that the Commission approve the Company's proposed new rates but make the approval subject to refund language that OCC proposes. (*Id.* at 5.) AEP Ohio hereby submits the following reply comments in response to OCC's recommendations.

## **II. AEP Ohio's Reply Comments**

The Commission should not suspend or modify the automatic approval process that applies to AEP Ohio's quarterly gridSMART Phase 2 rider update filings. As OCC recognizes, its concerns about the effect of the *FirstEnergy* decision on AEP Ohio's gridSMART Phase 2 rider rates can be addressed through tariff language. (*Id.* at 5.) Although the Company disagrees with the specific language that OCC's comments propose, the Company continues to work cooperatively with Staff to craft tariff language that will make clear that the gridSMART Phase 2 rider is subject to reconciliation as a result of the annual prudence review ordered in the *gridSMART Phase 2* Order and over/under accounting for recovery of costs flowing through the rider. OCC's proposed tariff language is overly broad, vague, and ambiguous, and the suggested use of the phrase "subject to refund" is both technically inaccurate and does not contemplate that future reconciliation of the rider after audit could result in an upward or downward adjustment to rider rates. Moreover, it is not appropriate to convert the Company's rider rates to being "subject to refund" categorically and without incorporating the terms and conditions approved by the Commission when it approved the gridSMART Phase 2 rider.<sup>1</sup> Nonetheless, AEP Ohio believes that it is possible to come to agreement regarding tariff language that is acceptable to it and Staff before the new rates go into effect on February 28, 2018.<sup>2</sup> In the interim, it is unnecessary for

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<sup>1</sup> AEP Ohio also opposes OCC's general suggestion that all riders include "subject to refund" language in tariffs for this reason as well. (*See* OCC Comments at 4.)

<sup>2</sup> For example, AEP Ohio supports tariff language that is similar to that which AEP Ohio proposed – without prejudice to any position AEP Ohio is taking in any other proceeding and while fully reserving AEP Ohio's position in other proceedings – and Staff approved regarding

the Commission to suspend or modify the rider's automatic approval process. AEP Ohio commits to file new tariff language to address this issue prior to February 28.

The remainder of OCC's comments are outside the narrow scope of this proceeding and AEP Ohio's rider update filing. It is unnecessary, and would be inappropriate and prejudicial to AEP Ohio and other utilities, for the Commission to consider OCC's request that the Commission investigate utility riders in this docket. Other utilities may not have notice of OCC's request, and in any event, the Commission should not broadly address numerous utility riders in this proceeding whose narrow focus is AEP Ohio's gridSMART Phase 2 rider. Moreover, the Commission may determine, in its broad discretion over the management of its dockets, that issues of application of the Court's *FirstEnergy* decision are best addressed through other processes outside of a generic investigation docket. *Weiss v. Pub. Util. Comm.*, 90 Ohio St.3d 15, 19, 734 N.E.2d 775 (2000). Finally, in addition to being overly broad and inaccurate, as discussed above, OCC's recommendations that all utility riders include "subject to refund" language in tariffs (*see* OCC Comments at 4) are outside the narrow scope of this proceeding and should not be considered here, where the sole topic before the Commission is the fourth quarter 2017 update to AEP Ohio's gridSMART Phase 2 rider rates.

### **III. Conclusion**

There is no need for the Commission to suspend or modify automatic approval of AEP Ohio's January 29, 2018 gridSMART Phase 2 rider quarterly update filing to address the impacts of the *FirstEnergy* decision on the rider's mechanics. That issue can and should be addressed between Staff and the Company before the new rates are automatically approved later this

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the Company's Distribution Investment Rider. *See In the Matter of the Distribution Investment Rider for Ohio Power Company*, Case No. 14-1696-EL-RDR ("*DIR* Docket"), Correspondence (Feb. 15, 2018); *DIR* Docket, Staff Review and Recommendation (Feb. 16, 2018).

month. The Commission should decline to consider in this proceeding OCC's remaining comments and recommendations regarding more general issues that do not apply to the rider update filing at issue here.

Respectfully submitted,

*/s/ Christen M. Blend*

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## **CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Reply Comments* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 20th day of February 2018, via electronic transmission.

*/s/ Christen M. Blend*  
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Christen M. Blend

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Summary: Comments - Reply Comments of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company