

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking)	
Approval of Ohio Power Company's)	Case No. 14-1693-EL-RDR
Proposal to Enter into an Affiliate Power)	
Purchase Agreement for Inclusion in the)	
Power Purchase Agreement Rider.)	

In the Matter of the Application of Ohio)	
Power Company for Approval of Certain)	Case No. 14-1694-EL-AAM
Accounting Authority.)	

**REPLY TO THE COMMENTS OF AEP OHIO
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The language proposed by Ohio Power Company ("AEP") to modify its Purchase Power Agreement Rider ("PPA Rider") should be rejected. It does not sufficiently protect consumers from paying unreasonable and unlawful charges. On behalf of AEP's 1.2 million residential consumers, the Office of the Ohio Consumers' Counsel ("OCC") recommends a more clear, concise, and understandable modification to AEP's PPA Rider tariff that will protect consumers from paying unreasonable, imprudent, or unlawful charges. OCC's proposed modification should be adopted.

The Comments of AEP Ohio Opposing Tariff Language Proposed by The Office of the Ohio Consumers' Counsel ("AEP Comments") regarding OCC's recommendation ring hollow and are wrong and misleading. While the language AEP proposes may be

consistent with what it has proposed in other rider cases,¹ that has no bearing on whether the language is sufficient to protect consumers. It is not.² Further, AEP may have “coordinated” the language with Staff.³ But AEP should not be permitted to separately negotiate with any individual party, including Public Utilities Commission of Ohio (“PUCO”) Staff, about language to include in these tariffs that is allegedly sufficient to protect consumers from being overcharged without refund. The PUCO, and Ohioans, can benefit from input from all stakeholders – including OCC. And the PUCO has not approved AEP’s proposed language over OCC’s objections. Case No. 17-1156-EL-RDR is subject to rehearing, and OCC did not address *FirstEnergy* in Case No. 14-1696-EL-RDR.

Most notably, AEP admits that one of the primary grounds for OCC’s objection – that AEP’s proposed language does not address what happens when the PUCO approves a charge, and that charge is found to be unlawful, imprudent, or unreasonable by the Supreme Court of Ohio (“Court”) – is well-founded.⁴ It says that OCC is trying to “expand reconciliation” to cover that situation.⁵

By arguing that OCC seeks to “expand reconciliation,” AEP concedes that “reconciliation” is not sufficient to protect consumers in a situation where the PUCO approves a charge that is later found unlawful, imprudent, or unreasonable by the Court.

¹ AEP Comments at 1. Importantly, the filings to which AEP cites are either uncontested, subject to rehearing, or undecided. See 18-96-EL-RDR (uncontested); 17-1156-EL-RDR (subject to rehearing); 14-1696-EL-RDR (refund language necessary to address *FirstEnergy*’s implications not at issue); 15-1052-EL-RDR (undecided); 18-440-EL-ATA (uncontested); 18-441-EL-ATA (uncontested); 18-375-EL-RDR (undecided); 18-191-EL-RDR (undecided).

² See OCC’s Objection.

³ AEP Comments at 1-2.

⁴ See *id.* at 3.

⁵ *Id.*

Consumers should not be faced with the prospect of the Court finding a charge unlawful, imprudent, or unreasonable and not getting a refund. That is exactly the position that AEP's proposed language puts consumers in, and it is exactly why its proposed language should be rejected and OCC's proposed language adopted.

Contrary to AEP's assertions, OCC is not trying to circumvent the PUCO's existing rulings or "end run" the controlling process governing Supreme Court appeals.⁶ One of the issues before the Court is the legality of the PPA Rider.⁷ Here the issue is dealing with *FirstEnergy's* implications and protecting consumers when charges that they pay are later found unlawful, unreasonable, or imprudent (either by the Court or the PUCO). Those unlawful, unreasonable, or imprudent charges should be refunded to customers and not retained by AEP's shareholders. As AEP acknowledges, its proposed language in various rider cases, and its collaboration with Staff on that language, is aimed at just that goal.⁸ The efforts of AEP and Staff are welcome and appreciated. However, OCC is simply pointing out that those efforts do not sufficiently protect consumers.⁹

Further, OCC is not attempting to circumvent the established requirements under R.C. 4903.16.¹⁰ As AEP itself describes, that statute deals with *staying* a PUCO order pending appeal.¹¹ OCC's objection has nothing to do with staying any PUCO order.

Instead, it simply points out that the language proposed by AEP to address *FirstEnergy's*

⁶ See *id.*

⁷ See, e.g., Supreme Court Case No. 2017-752.

⁸ See, e.g., AEP Comments at 2 ("The proposed tariff language already addresses the issue presented by the Supreme Court's decision in" *FirstEnergy*.)

⁹ See OCC's Objection.

¹⁰ See AEP Comments at 4.

¹¹ See *id.*; see also R.C. 4903.16 ("Stay of Execution").

implications – as mentioned earlier, a goal shared (it seems) by AEP, Staff, and certainly OCC – simply does not sufficiently protect consumers.¹²

If consumers pay charges later found to be unlawful, imprudent, or unreasonable, they deserve their money back. To bring about that undisputable principle and protect consumers, the PUCO should require AEP to state it in clear, concise, understandable language in its PPA Rider tariff. The PUCO should reject AEP's proposed modification and adopt OCC's recommended tariff language.

Respectfully submitted,

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¹² See OCC's Objection.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Reply was served on the persons stated below
via electronic transmission, this 27th day of March 2018.

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Summary: Reply Reply to the Comments of AEP Ohio by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.