

In the Matter of the 2018 Long-Term)
Forecast Report on behalf of Ohio Power) Case No. 18-501-EL-FOR
Company and Related Matters.)

I. INTRODUCTION

Ohio Power Company (“AEP”) is taking the first step toward government approval of consumer subsidies for 900 monopoly megawatts of renewable energy power plants despite the General Assembly’s deregulation of power plants in Ohio. AEP proposes a rush to judgment,¹ to require parties to file testimony less than three weeks from today, followed by a hearing just four weeks after that.² The Public Utilities Commission of Ohio (“PUCO”) should reject AEP’s schedule outright.

The PUCO’s own Staff recognized that AEP’s proposal requires much more analysis as it “would potentially have very significant consequences, financial and environmental, for decades.”³ The PUCO Staff concluded that “the Commission itself

¹ Amendment to the 2018 Long-Term Forecast Report of Ohio Power Company at 11 (Sept. 9, 2018). AEP did not file a motion for a procedural schedule under Ohio Adm. Code 4901-1-12, which requires all motions to be filed along with a memorandum in support. Instead it requested an “expedited procedural schedule” in its amended forecast report. In addition to the reasons explained below, the PUCO should deny AEP’s request for an expedited schedule as procedurally improper in violation of Ohio Adm. Code 4901-1-12.

² *Id.* at 11.

³ Motion for a Hearing and Memorandum in Support Submitted on Behalf of the Public Utilities Commission of Ohio Staff at 2 (Sept. 21, 2018) (the “Motion”).

and all parties would benefit by a full development of the facts of the situation” and that it would not be feasible to accomplish this within a compressed time frame like that proposed by AEP. The PUCO Staff recommended that the PUCO set a hearing in compliance with the statutory 90-day hearing requirement⁴ (by December 18, 2018), and then call and continue that hearing. The hearing would be continued to a later date “to allow the time needed to fully develop the record in this complicated and relatively novel case.”⁵

II. RECOMMENDATIONS

A. **The hearing should be called and continued to await a highly relevant ruling by the Federal Energy Regulatory Commission that will affect the power plant market and electric consumers.**

The Federal Energy Regulatory Commission (“FERC”) is considering proposals to limit subsidized power plants (including to limit subsidized renewable generation) from distorting the wholesale electricity market and increasing the charges consumers pay for electricity. PJM has asked FERC to issue a final order in the case by March 15, 2019.⁶ The Office of the Ohio Consumers’ Counsel (“OCC”) recommends that any hearing on the “need” for these renewable power plants await a final order in the FERC proceeding.

FERC’s decision could materially impact the revenue that AEP would ultimately derive from the PJM market, if the PUCO allows AEP to proceed with the renewable energy power plants (and such a decision withstands appeal). Under AEP’s proposal, the

⁴ See R.C. 4935.04(D)(3) (requiring the PUCO to hold a public hearing not later than 90 days after a long-term forecast report is filed upon the showing of good cause).

⁵ Motion at 2.

⁶ FERC Docket No. EL18-178-000, EL16-49-00, EL18-1314-000, Answer of PJM Interconnection, L.L.C. at 3 (Aug. 9, 2018).

revenues would be netted against the cost to operate the renewable energy power plants. It is the netting of the costs and revenues from the renewable power plants that would determine whether AEP's consumers receive a credit or a charge under AEP's proposed renewable generation rider. According to AEP, the cost of the renewable power to customers is a crucial element in determining whether it is reasonable for the utility to charge AEP customers to subsidize renewable power.

To properly evaluate the cost to consumers for the proposed renewable power plants, the PUCO will need to consider FERC's ruling, which will affect revenues received under the PJM wholesale market. AEP argues (incorrectly in our view) that if the renewable power can be developed "within a reasonable price range" it supports a "need" for large scale development of renewable generation resources. FERC's ruling will affect the price range for renewable projects.

As the PUCO Staff recommends, the PUCO should schedule a hearing within ninety days of September 19, 2018, but that hearing should be called and continued. The hearing should be continued until after FERC's ruling. The PUCO should order that within 30 days after FERC's ruling, AEP should file updates to its application and testimony to account for FERC's decision. An evidentiary hearing should be set no sooner than 90 days after AEP files its updates. This measured approach is necessary in this case to protect consumers from paying unjust and unreasonable rates for monopoly, instead of market, megawatts.

If FERC adopts PJM's recommended timing, the FERC order would be issued around March 15, 2019. AEP's updated filings in this case would be due around April 14, 2019. And the hearing would begin no sooner than July 13, 2019. This approach would

give parties more opportunity to develop a factual record on which the PUCO can base its decision.

B. The magnitude of charges to consumers and recent experience in a similar case warrant a deliberative approach to this case—not an expedited rush to judgment.

If the PUCO does not await FERC’s ruling, it should reject the unfair process requested by AEP. In that instance, the PUCO should call and continue the hearing as recommended by the PUCO Staff.⁷ And then early in 2019, after time for review and initial discovery, the PUCO should invite proposals from the parties for a case schedule and fair process. Adoption of a fair process—in this case involving hundreds of millions of dollars of power plant subsidies to be paid by 1.5 million captive monopoly customers—is imperative for the viability of Ohio’s deregulated power plant market and the millions of Ohioans who benefit from it with lower prices and higher innovation.

In AEP’s 2010 long-term forecast case, AEP sought approval of charges to customers for solar energy, commonly referred to as the “Turning Point” project.⁸ That case involved a proposal for less than 50 MW of solar energy resources—less than 6% of the 900 MW for which AEP now seeks to charge customers.⁹ And in that case, testimony was filed by intervenors more than 15 months after AEP’s long-term forecast report.¹⁰

The current case, which could involve hundreds of millions of dollars of power plant subsidies to be paid by 1.5 million captive monopoly customers over the next

⁷ Motion at 1.

⁸ *In re Long-Term Forecast Report of Ohio Power Co.*, Case No. 10-501-EL-FOR.

⁹ *Id.*, Opinion & Order at 2 (Jan. 9, 2013).

¹⁰ See Case No. 10-501-EL-FOR, Docket Card (supplement to long term forecast report filed December 20, 2010 and testimony filed March 21, 2012).

twenty years, cannot reasonably be expected to be resolved in a mere 90 days, as AEP proposes.

Under no circumstances should the PUCO set a hearing in this case in November 2018, as AEP recommends. AEP's proposed expedited hearing process in an important case like this would be an unfair process for consumers.

III. CONCLUSION

The PUCO should reject AEP's request for an unfair PUCO process that would not allow parties a reasonable opportunity to develop a factual record and make recommendations to the PUCO. The PUCO should find, as the PUCO Staff suggests, that AEP's proposal warrants a deliberative process involving research, discovery, and due process for all parties. And the PUCO should set a procedural schedule that allows parties to evaluate how changes in wholesale markets intended to address subsidized generation (which includes solar power) will impact the amount that customers might be forced to pay for the next twenty years under AEP's proposed monopoly solar power plants.

As the PUCO Staff said, the issues raised in this case could have "very significant consequences, financial and environmental, for decades."¹¹ Ohio consumers deserve a fair process that allows meaningful participation by all parties and the development of a complete record of all relevant facts and opinions to be considered by the PUCO.

¹¹ Motion at 2.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Maureen R. Willis

Maureen R. Willis, Counsel of Record
Senior Counsel (0020847)
William J. Michael (0070921)
Christopher Healey (0086027)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor
Columbus, Ohio 43215
Telephone [Willis]: (614) 466-9567
Telephone [Michael]: (614) 466-1291
Telephone [Healey]: (614) 466-9571
Maureen.willis@occ.ohio.gov
William.michael@occ.ohio.gov
Christopher.healey@occ.ohio.gov
(Willing to accept service by e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Pleading was served on the persons stated below via electronic transmission, this 9th day of October 2018.

/s/ Maureen R. Willis

Maureen R. Willis
Counsel of Record

SERVICE LIST

Thomas.mcnamee@ohioattorneygeneral.gov
kboehm@BKLLawfirm.com
jkylercohn@BKLLawfirm.com
mpritchard@mwncmh.com
fdarr@mwncmh.com
paul@carpenterlipps.com
Bojko@carpenterlipps.com
Dressel@carpenterlipps.com
mleppla@theOEC.org

stnourse@aep.com
cmblend@aep.com
tony.mendoza@sierraclub.org
rsahli@columbus.rr.com
cmooney@ohiopartners.org
mnugent@igsenergy.com
joliker@igsenergy.com
rdove@attorneydove.com
whitt@whitt-sturtevant.com
glover@whitt-sturtevant.com

Attorney Examiners

Sarah.parrot@puc.oh.us.gov
Greta.see@puc.oh.us.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/9/2018 5:13:06 PM

in

Case No(s). 18-0501-EL-FOR

Summary: Memorandum Opposition to AEP's Proposed Schedule and Memorandum in Response to the PUCO Staff's Motion for a Hearing by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Willis, Maureen R Mrs.