

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2018 Long-Term)
Forecast Report on behalf of Ohio Power)
Company and Related Matters.) Case No. 18-0501-EL-FOR

In the Matter of the Application Seeking)
Approval of Ohio Power Company’s)
Proposal to Enter into Renewable Energy)
Purchase Agreements for Inclusion in the)
Renewable Generation Rider.) Case No. 18-1392-EL-RDR

In the Matter of the Application of Ohio)
Power Company to Amend its Tariffs.) Case No. 18-1393-EL-ATA

**OBJECTION TO OHIO POWER COMPANY’S NOTICE TO PRESENT
ADDITIONAL WITNESSES**

**BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
AND
THE OHIO MANUFACTURERS' ASSOCIATION
AND
THE KROGER CO.**

Ohio consumers -- who are at risk of paying hundreds of millions or more to monopoly AEP for renewable power plants – are legally entitled to a fair process at the PUCO. But the PUCO has created an unfair, expedited process that disserves customers’ and the PUCO’s interest in developing a complete record with recommendations for PUCO decision-making.¹

In essentially granting AEP’s request for expedited hearings, the PUCO has unfairly limited the time for case preparation by parties opposing subsidies for AEP. The PUCO has required parties to file testimony by November 21st and to begin the first

¹ See Entry (Oct. 22, 2018) (“Entry”).

phase of PUCO hearings on December 4th regarding AEP's proposed renewable power plants to be developed under state regulation instead of market competition.

Compounding this unfairness, AEP filed a notice that it will present the testimony of two additional witnesses at the December 4th hearing.²

That hearing is supposed to be about the statutory standard of whether there is a “need” for AEP to build renewable power plants at the expense of its monopoly customers. Building government-regulated power plants is contrary to the Ohio way of building deregulated plants in the competitive power market. Additionally, constructing customer-funded power plants is contrary to the policy of the state of Ohio to “ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates.” *See* R.C. 4928.02(H).

Specifically, AEP has notified the PUCO of the following for the December 4th hearing: AEP intends to offer the economic impact study performed by The Ohio State University Professor Stephen Buser and co-authored by Regionomics LLC's Bill LaFayette, or associated testimony.

But, as the PUCO previously determined,³ the purported economic impact of the renewable generation plants is irrelevant to the alleged “need” for the renewable

² Notice of AEP (Oct. 24, 2018).

³ *In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters*, Case Nos. 10-501-EL-FOR *et seq.*, Opinion and Order at 25-27 (Jan. 9, 2013).

generation facilities.⁴ In AEP's previous request concerning the need for renewable generating facilities (the Turning Point plant) the PUCO, citing to the legislature's words in R.C. 4928.143(B)(2)(c), narrowly defined "need." The PUCO tied need to resource planning projections submitted by the utility during the long-term forecast planning period.⁵

The PUCO rejected arguments by AEP and the University of Toledo Innovation Enterprises that need involves consideration of factors such as job creation and economic investment.⁶ Instead, after finding that there was no need for the Turning Point project, the PUCO noted that such factors ("project region benefits") could warrant AEP pursuing the project through a different mechanism, outside of R.C. 4928.143(B)(2)(c).⁷

The PUCO's approach in the prior case was appropriate under the law and should be followed here. The need for power plants should not be holistically defined as anything and everything under the sun. Rather need is tied to resource planning projections submitted by the utility in its long-term forecast, as the words of R.C. 4928.143(B)(2)(c) convey –"no surcharge shall be authorized unless the commission first determines in the proceeding that *there is a need for the facility based on resource planning projections* submitted by the electric distribution utility." (Emphasis added).

Otherwise, R.C. 4928.143(B)(2)(c) could be rendered meaningless, allowing utilities to circumvent Ohio's 1999 law deregulating power plants. The limited exception that AEP seeks to rewrite and expand was intended to be a protection for consumers (not

⁴ See Entry at 11-12.

⁵ *In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters*, Case Nos. 10-501-EL-FOR et seq., Opinion and Order at 25-27 (Jan. 9, 2013).

⁶ *Id.* at 19.

⁷ *Id.* at 27.

utilities) if and only if their needs for electricity are not being met in the competitive market.⁸ AEP's intended additional testimony is irrelevant to the determination of need. Worse, allowing the additional AEP testimony in Phase I of this proceeding would exacerbate an already unfair process, by requiring parties to address the additional testimony and present opposing testimony all within the next six weeks. As a result, parties would be denied a fair legal process and the PUCO would be deprived of a complete, accurate record for making a decision that would be in the public interest.

The PUCO should follow its precedent. The PUCO should prohibit AEP from offering testimony related to the economic impact study in Phase I of the December 4th hearing that is about the alleged need for renewable power plants that AEP proposed under state regulation instead of the competitive market.

Giving the utility (AEP) nearly unfettered control over preparing and filing its case but forcing intervenors to prepare their cases at the mercy of the utility, should not be countenanced. As the PUCO's own Staff said:

The question presented is relatively novel, complex, and is likely to attract considerable public interest. Such [renewable] facilities would potentially have very significant consequences, financial and environmental, for decades.⁹

As always, and in light of these comments from the PUCO's own Staff, Ohioans deserve PUCO decisions based on complete, accurate records with all parties having had the opportunity to adequately and fully prepare their case as enabled by PUCO rule and Ohio law. See R.C. 4903.082; Ohio Adm. Code 4901-1-16 et seq. Allowing the

⁸ See *In the Matter of Ohio Power Company*, Case No. 11-346-EL-SSO, Opinion at 39,40 (Dec. 14, 2011) (finding that new generation projects under R.C. 4928.143(B)(2)(c) will only be authorized when generation needs cannot be met through the competitive market).

⁹ See Staff Motion at 2.

economic impact study and associated testimony in Phase I of this proceeding would put Ohioans at the mercy of utilities. That is wrong. The PUCO should not permit it.

AEP's attempt to have the PUCO consider information and testimony that is irrelevant to the issue of need to be determined in Phase I of this proceeding should be rejected. To prevent an unfair legal process by the PUCO and to serve PUCO decision-making in the public interest, AEP's attempted circumvention of law and reason should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Objection to Ohio Power Company's Notice to Present Additional Witnesses by The Office of the Ohio Consumers' Counsel, The Ohio Manufacturers' Association, and The Kroger Co. was served upon the persons listed below via electronic transmission this 5th day of November 2018.

/s/ William J. Michael

William J. Michael
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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/5/2018 3:11:11 PM

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Summary: Objection Objection to Ohio Power Company's Notice to Present Additional Witnesses by the Office of the Ohio Consumers' Counsel and the Ohio Manufacturers' Association and the Kroger Co. electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.