BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the 2016 Review of the Distribution Investment Rider Contained In the Tariff of Ohio Power Company.	)))	**Case No. 17-38-EL-RDR**
In the Matter of the 2017 Review of the Distribution Investment Rider Contained In the Tariff of Ohio Power Company.	)))	**Case No. 18-230-EL-RDR**

REPLY POST-HEARING BRIEF OF OHIO POWER COMPANY IN SUPPORT OF THE JOINT STIPULATION AND RECOMMENDATION

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I. Introduction

The narrow scope of these proceedings is the Public Utilities Commission of Ohio's ("Commission") review of the costs that Ohio Power Company ("AEP Ohio" or the "Company") recovered through its Distribution Investment Rider ("DIR") in the years 2016 and 2017 for accounting accuracy, prudency, and compliance with the Company's DIR plan. *See* Case No. 17-38-EL-RDR, Entry at ¶ 4, 6 (Feb. 8, 2017); Case No. 18-230-EL-RDR, Entry at ¶ 4, 6 (Feb. 21, 2018). The Joint Stipulation and Recommendation ("Stipulation") into which AEP Ohio and Commission Staff have entered reasonably addresses and resolves each of the auditor's recommendations. The Stipulation also provides additional, significant commitments to improve reliability associated with outages caused by trees outside of the rights-of-way ("ROW") and eliminate uncertainty regarding the accounting treatment for vegetation management activities.

There is no dispute – and the Office of the Ohio Consumers' Counsel ("OCC") does not challenge – that the Stipulation is the product of serious bargaining among capable, knowledgeable parties and thus satisfies the first part of the Commission's three-part test for evaluating contested settlements. The record further demonstrates, as AEP Ohio and Staff explained in their initial briefs, that the Stipulation also satisfies the second and third prongs of that test and should be approved and adopted. (AEP Ohio Br. at 3-8; Staff Br. at 5-9.) Although purporting to address the settlement test's considerations, OCC's initial brief is devoted to repeating misleading reliability arguments and collateral attacks on the DIR that OCC presented in testimony and has or could have raised in other proceedings. OCC's focus is misplaced and untimely in the narrow context of this audit proceeding. As set forth below and in the Company's initial brief, the Commission should approve and adopt the Stipulation without modification.

II. The Stipulation Satisfies the Three-Part Test for Contested Settlements.

As noted above, AEP Ohio and Staff have established, and OCC has not challenged, that the Stipulation is the product of serious bargaining among capable, knowledgeable parties in satisfaction of the first prong of the Commission's three-part settlement test. (AEP Ohio Br. at 2-3; Staff Br. at 4.) The Stipulation also easily passes the second and third prongs of the test.

As AEP Ohio and Staff demonstrated in their initial briefs, the Stipulation satisfies the second prong of the settlement test and benefits customers and the public interest in several ways, including through significant commitments to address and improve outages caused by trees outside of ROW. (AEP Ohio Br. at 3-8; Staff Br. at 5-6, 8-9.) It also satisfies the third prong and does not violate any important regulatory principle or practice. (AEP Ohio Br. at 8; Staff Br. at 6.) OCC's arguments to the contrary are without merit, and the Commission should disregard them.

A. The Commission should disregard OCC's misleading reliability arguments and reject OCC's collateral attacks on the DIR.

OCC devotes more than half of its brief to repeating the misleading reliability arguments and collateral attacks on the DIR that it presented in testimony and has raised numerous times in other proceedings, including the Commission's pending review of the Company's Enhanced Service Reliability Rider for 2016, Case No. 17-1914-EL-RDR. (OCC Br. at 5-18, 20-22.) But the Company's reliability performance – both generally, and specifically for 2016 and 2017 – is outside the scope of this proceeding. Moreover, the record refutes OCC's reliability-related assertions.

OCC's claim that AEP Ohio's overall distribution reliability has declined is misleading. (*See id.* at 12-15.) Since implementing the DIR, AEP Ohio has met its reliability performance standards in every year except 2018, as Table 1 to OCC witness Williams' testimony reflects.

(*Id.* at 13.) Moreover, as Exhibit TAK-1 to Company witness Kratt's testimony demonstrates, the Company's SAIDI for the majority of outage causes has <u>improved</u> by approximately 16 minutes compared to pre-DIR metrics. (AEP Ohio Ex. 2 at Ex. TAK-1, p. 3.) Those improvements would be even greater were they not offset by a significant increase in outages caused by trees outside of the Company's ROW – a key target of the Stipulation. Trees outside of ROW caused an increase in SAIDI of approximately 33 minutes since 2016, and approximately 40 minutes over the 10-year average SAIDI for that outage cause. (*Id*. at Ex. TAK-1, p. 4.) Mr. Kratt explained that this increase is due to the fact that the Company's service territory is located in heavily forested portions of Ohio, especially as compared to other EDUs, and to the proliferation of the emerald ash borer ("EAB"), which has killed a very large number of ash trees since 2013. (AEP Ohio Ex. 2 at 5-6; *id.* at Ex. TAK-1, p. 6-9.) Contrary to OCC's unfounded assertion that certain danger trees should have already been removed over the past decade (OCC Br. at 16), Mr. Kratt presented unrefuted evidence that outages related to danger trees caused by EAB did not begin until the 2017 timeframe. (AEP Ohio Ex. 2 at 6.) It should go without saying that the Company could not have effectively addressed those trees before they became danger trees.

OCC's comments regarding the impact of Major Event Days ("MEDs") on the calculation of AEP Ohio's reliability metrics are similarly unfounded. (OCC Br. at 16-18.) Although claiming that "there is no evidence that the [DIR] has resulted in fewer outage events being excluded from the reliability calculations" as a result of DIR investments reducing the number of MEDs the Company records and arguing that "it is more likely that any reduction in MEDs has more to do with the number of major storms and the severity of storms, which can change year over year" (*id.* at 17-18), OCC witness Williams admitted at hearing that he has not even analyzed the number or severity of storms that occurred each year before and after the DIR was implemented, nor has he compared how AEP Ohio's MEDs reporting compares to that of other EDUs. (Tr. at 42-44.) Thus, like OCC's other reliability-related arguments, this position, too, is without factual basis – in addition to being irrelevant to the issues presented in this case.

B. OCC's other challenges to the Stipulation are also without merit.

AEP Ohio and Staff have already fully addressed OCC's other criticisms of the Stipulation regarding "accountability and regulatory oversight," incentive pay, capitalization of spare equipment, and capitalization of vegetation management costs. (OCC Br. at 19-20, 22-30; AEP Ohio Br. at 6-8; Staff Br. at 6-8.) AEP Ohio relies upon and incorporates by reference its prior briefing on these issues.

OCC's unfounded position that "it is possible that * * * tree-trimming costs could be collected from customers * * * multiple times through different rider charges" is also belied by the record. (*See* OCC Br. at 28.) In both audits, the auditor evaluated potential double recovery and concluded that the Company properly "excluded capital additions recovered through other Commission-authorized riders from the DIR." (Staff Ex. 1 at 12; Staff Ex. 2 at 64.)

In sum, and contrary to OCC's meritless arguments otherwise, the Stipulation readily satisfies both the second and third prongs of the Commission's settlement test.

III. Conclusion

The Stipulation represents a reasonable and appropriate resolution of these contested audit proceedings. There is no dispute that it was the product of serious bargaining among capable, knowledgeable parties. And, as the Company and Staff have demonstrated, the Stipulation, as a package, benefits customers and the public interest, and it does not violate any important regulatory principle or practice. OCC's arguments otherwise are without merit. For the foregoing reasons and those set forth in the Company's initial brief, the Commission should adopt the Stipulation without modification.

Respectfully submitted,

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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 all parties of record. In addition, I hereby certify that a service copy of the foregoing *Reply Post-Hearing Brief of Ohio Power Company in Support of the Joint Stipulation and Recommendation* was sent by, or on behalf of, the undersigned counsel to the following parties of record and attorney examiners this 24th day of October, 2019, via electronic transmission.

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