

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power Company for Approval of its Temporary Plan for Addressing the COVID-19 State of Emergency	)	)	Case No. 20-602-EL-UNC
In the Matter of the Application of Ohio Power Company for Waiver of Tariffs and Rules Related to the COVID-19 State of Emergency	)	)	Case No. 20-603-EL-WVR
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority	)	)	Case No. 20-604-EL-AAM
In the Matter of the Application of Ohio Power Company for Approval of A Reasonable Arrangement	)	)	Case No. 20-734-EL-AEC

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**APPLICATION FOR REHEARING OF OHIO POWER COMPANY**

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Pursuant to Section 4903.10 of the Ohio Revised Code and Rule 4901-1-35 of the Ohio Administrative Code, Ohio Power Company (“AEP Ohio” or the “Company”) respectfully files this Application for Rehearing of the Public Utilities Commission of Ohio’s (“Commission”) May 6, 2020 Finding and Order (the “Finding and Order”) in this proceeding. The Finding and Order is unreasonable and unlawful in the following respects:

- A. Paragraph 30 of the Finding and Order incorrectly references a notification that did not occur and should be clarified or modified to confirm that the Company does not have to go back and rebill late fees that were already foregone during the emergency period in order to defer/recover the costs.
- B. The finding in Paragraph 51 of the Finding and Order should be clarified or modified to confirm that the Company does not have to go back and rebill credit card fees already foregone from the customers who made credit card payments without being charged during the emergency period in order to defer/recover the costs.

The grounds for this application for rehearing are set forth more fully in the accompanying memorandum in support.

Respectfully Submitted,

*/s/ Steven T. Nourse*

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## MEMORANDUM IN SUPPORT

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### I. Introduction

In response to Governor DeWine's March 9, 2020 declaration of emergency regarding the COVID-19 pandemic, the Commission issued a series of Entries in Case No. 20-591-AU-UNC (*Emergency Case*) starting on March 12, 2020. In response to the Commission's initial Entry in the *Emergency Case*, AEP Ohio quickly filed an Application in the above-captioned cases to a comprehensive COVID-19 emergency plan on March 17, 2020. The Company ended up filing two Amended Applications to adjust its proposals (due in part to subsequent Commission Entries in the *Emergency Case*), with the final one being submitted on April 9, 2020. For example, on March 20, 2020, in the *Emergency Case*, the Commission directed all utility companies to suspend in-person, actual meter readings in circumstances where a meter is located inside a customer's home or similar location, as well as all other non-essential functions that may create unnecessary COVID-19 risks associated with social contact.

After Staff filed its review and recommendations and intervenors filed comments regarding the Company's Second Amended Application, the Commission issued its Finding and Order on May 6, 2020 approving the Second Amended Application subject to Staff's recommendations and modifications and consistent with the Finding and Order. *In the Matter of the Application of Ohio Power Company for Approval of Its Temporary Plan for Addressing the COVID-19 State of Emergency*, Case Nos. 20-602-EL-UNC et al., May 6, 2020 Finding and Order (Finding and Order), at ¶ 69. As part of the Finding and Order, the Commission directed AEP Ohio to take all necessary steps to carry out the terms of the Finding and Order. (Finding and Order at ¶ 70.) And the Commission granted the Company accounting authority to defer

both expenses and foregone revenues associated with the emergency plan, subject to certain caveats stated in the Finding and Order. (*Id.* at ¶ 61.)

The Finding and Order directed the Company to work with Staff to develop a plan for the resumption of meter reading and of service disconnections, including timelines and provisions for extended payment plans for both residential and non-residential customers impacted by this emergency. (*Id.* at ¶ 25.) As an alternative to the Company's reasonable arrangement proposal to forego minimum demand charges for non-residential customers affected by the emergency, the Finding and Order also directed the Company to file, for Staff's review, an opt-in extended payment plan mechanism for non-residential customers to pay over a reasonable period of time bill payment arrearages accumulated for service rendered on or after March 9, 2020. (*Id.* at ¶40.)

The Company was the first utility to file a COVID-19 compliance and waiver plan in response to the Commission's Entries in the *Emergency Case* and is actively working with Staff to develop the compliance filing related to the Finding and Order, but there are two aspects of the decision that need to be clarified or modified in order to prevent an unreasonable and unlawful result pending the submittal and approval of the compliance filing. Both requested clarifications relate to rebilling customers for fees avoided during the emergency where the Company incurred costs (that it should be able to defer under the accounting authority approved as part of the emergency plan). Consequently, the Company requests that the Commission adopt these modifications and/or clarifications on rehearing, in order to ensure a reasonable and lawful outcome to these proceedings.

## **II. ARGUMENT**

- B. Paragraph 30 of the Finding and Order incorrectly references a notification that did not occur and should be clarified or modified to confirm that the Company does not have to go back and rebill late fees that were already foregone during the emergency period in order to defer/recover the costs.**

In its Second Amended Application, AEP Ohio stated that it would suspend late fees to commercial and industrial customers in response to the emergency, with the amount of those foregone charges being deferred as a regulatory asset for subsequent recovery. (Second Amended Application at 5 (Section II.B).) In the same Section of the Second Amended Application, the Company separately addressed customer deposits and reconnection fees for customers that have been recently disconnected – including a planned notification for customers that call in to be reconnected. (*Id.* at 4.) In the Finding and Order, the Commission stated:

The Commission finds that AEP Ohio’s proposal for the temporary avoidance of customer deposits, reconnection fees, and certain late fees is reasonable and consistent with the Commission’s directives in the *Emergency Case*. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. *Under AEP Ohio’s proposal, customers will be notified that any fee or deposit that is postponed may be assessed on a future bill when payment terms are determined.* We find that this plan component will provide immediate bill relief, while affording flexibility to AEP Ohio and each customer to enter into an extended payment plan that includes payment of the fee or deposit at a later date. Any fee or deposit that is not subsequently recovered from the customer, or through other means such as Neighbor-to-Neighbor bill assistance, should be deferred, with the issue of recovery to be addressed by the Commission in a future proceeding, as discussed further below.

Finding and Order at ¶ 30 (emphasis added). Although the Commission correctly characterized the Company’s proposals under Section II.B of the emergency plan in ¶ 27 (where no such notice was referenced), the Finding and Order inaccurately references a planned notification in the second sentence of ¶ 30, which should be modified or clarified on rehearing.

The Company neither committed to nor implemented any customer notification process for the temporary late fee suspension program. As referenced above, the only notification mentioned in this section was for recently disconnected customers that contact the Company for reconnection:

As an additional Plan component to minimize any service continuity hardship or service restoration hardship on customers while avoiding unnecessary COVID-19

risks associated with social contact, the Company has begun to temporarily forego customer deposits and reconnection fees for customers that have been recently disconnected. Upon getting a customer contact to the call center, AEP Ohio will begin reconnection for customers that are currently disconnected for nonpayment. The reconnection fee will not be charged on such accounts. The customer will be notified that reconnection fees, as well as deposits, may be assessed on a future bill when payment terms are determined.

Second Amended Application at 4 (Section II.B). Thus, the notification referenced in Section II.B of the plan relates strictly to reconnection fees and deposits, not late fees. When the Company's billing system was quickly modified to suspend late fees on a temporary basis starting with bills rendered on after March 27, 2020, there was no customer notice given that such fees were being avoided and could be charged to the customer on a future bill.

The Company pursued the late fee suspension (which the Commission found to be reasonable) as a means of avoiding disconnections and service restoration hardships in response to the Commission's March 12 Entry and March 13 Entry in the *Emergency Case*. The customers that avoided late fees during this period were not informed that a subsequent late fee would be charged and there would doubtless be complaints (certainly informal and potentially formal complaints) about the practice of going back to charge those fees now. It is equally unreasonable to restrict the Company's recovery of such costs – especially since the Company was able to successfully track and defer the foregone late fees as indicated in its (now approved) plan. Retroactively collecting late fees from customers that avoided the fees during the emergency and only permitting the Company to collect the re-billed fees if not paid by those customers is unreasonable and unlawful, especially since the primary way such fees would not be recovered from customers once billed is through disconnection of the customer's service.

Accordingly, the Company requests that the Commission clarify or modify its finding in Paragraph 30 of the Finding and Order to permit the Company to defer as part of its accounting

authority the late fees that were suspended during the emergency, or otherwise recover the foregone late fees through the net uncollectible expense recovery – without the need to first go back and try and recover the fees from the customer that paid late. Alternatively, if the Commission would like to prospectively charge late fees only after notice is given, that process should be clarified along with the provision for deferral of foregone late fees prior to the prospective process becomes effective.

- B. The finding in Paragraph 51 of the Finding and Order should be clarified or modified to confirm that the Company does not have to go back and rebill credit card fees already foregone from the customers who made credit card payments without being charged during the emergency period in order to defer/recover the costs.**

The Finding and Order acknowledged that as part of the Company's COVID-19 plan, AEP Ohio is seeking a solution with its vendors to avoid credit card fees for customers that pay with a credit card in order to encourage online payment and help minimize social contact through in-person payments at more than 300 physical payment centers operated within the Company's service territory. (Finding and Order at ¶ 49.) The Commission approved this component of the emergency plan and specifically found as follows with reference to credit card fees:

With regard to the avoidance of credit card fees associated with the reconnection of service, we find that any such fee that is not subsequently recovered from the customer should be deferred, with the issue of recovery to be addressed by the Commission in a future proceeding, as discussed in more detail below.

(Finding and Order at ¶ 51.) To the extent this finding requires that the Company has to go back to try and recover foregone credit card fees from the customers that made credit card payments without fees during the emergency period, the Company requests that the Commission clarify or modify this finding and directive.

As AEP Ohio indicated in its Second Amended Application and acknowledged in the Finding and Order, the Company pursued the credit card fee reduction and implemented the plan

to avoid customer fees when using credit cards as a further means of avoiding social contact. Indeed, the Company was successful in reducing the per transaction fees and overall cost of this measure – but as long as the Company pays the fees and they are not collected from customers for each transaction. This action was done as part of the emergency plan to facilitate reduce social contact consistent with the directives in the March 13 Entry in the *Emergency Case*. The customers that used credit cards to make payments were not informed at that time that a subsequent fee would be charged and there would doubtless be complaints (likely informal and formal complaints) about the practice of going back to charge those fees when customers were not informed of the fees when making the credit card payments. It is equally unreasonable to preclude the Company from recovering these costs – especially since the Company was able to successfully reduce the underlying fees of those payments and has tracked/deferred the costs. The Company also is pursuing a general proposal in its pending base rate case to avoid transaction fees when a customer makes payments with a credit card, with the underlying costs being recovered in base rates. If the Commission prefers that the fees be charged to customers using credit cards going forward, that could be done going forward – although that is not the Company’s recommendation. But retroactively collecting the fees from customer that used credit cards during the emergency to avoid social contact is unreasonable and unlawful, especially since the primary way such fees would not be recovered if billed is through disconnection of the customer’s service.

Accordingly, the Company requests that the Commission clarify or modify its finding in Paragraph 51 of the Finding and Order to permit the Company to defer as part of its accounting authority to underlying costs associated with credit card payments during the emergency –

without the need to first go back and try and recover the fees from the customer that made such payments during the emergency.

### **III. Conclusion**

The Commission should modify or clarify these aspects of its decision on rehearing as outlined above. If needed, the Commission should at least grant additional time to consider the rehearing request until the compliance filings are made in this case to resolve the related components of the plan.

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 the following parties. In addition, I hereby certify that a service copy of the foregoing *Application for Rehearing* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 5<sup>th</sup> day of June, 2020, via electronic transmission.

/s/ Steven T. Nourse  
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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/5/2020 3:49:09 PM**

**in**

**Case No(s). 20-0602-EL-UNC, 20-0603-EL-WVR, 20-0604-EL-AAM, 20-0734-EL-AEC**

Summary: Application -Application for Rehearing of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company