

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates.)	Case No. 20-585-EL-AIR
)	
In the Matter of the Application of Ohio Power Company for Tariff Approval.)	Case No. 20-586-EL-ATA
)	
In the Matter of the Application of Ohio Power Company for Approval to Change Accounting Methods.)	Case No. 20-587-EL-AAM
)	

OBJECTIONS TO PUCO STAFF REPORT OF INVESTIGATION FILED BY THE ENVIRONMENTAL LAW & POLICY CENTER

I. INTRODUCTION

Pursuant to Ohio Admin. Code 4901-1-28, the Environmental Law & Policy Center (“ELPC”) submit the following to the Staff Report filed on November 18, 2020.

These cases address the electric distribution charges that the Ohio Power Company (“AEP” or “Company”) proposes to collect from its customers. ELPC’s objections identify matters in the Staff Report where Staff has either made, or failed to make, recommendations or made conclusions that are contrary to sound policy or are otherwise unreasonable. ELPC may supplement or support the substance of many of these objections with the testimony of anticipated witnesses. Further, the lack of an objection to any aspect of the Staff Report does not preclude ELPC from cross-examination or introduction of evidence or argument on related issues on which Staff reverses, modifies or withdraws its position on any issue contained in the Staff Report. ELPC also reserves the right to amend and/or to supplement its objections in the event that the PUCO Staff reverses, modifies, or withdraws its position, at any time prior to the closing of the record on any issue contained in the Staff Report.

Where the PUCO Staff has indicated that its position on a particular issue is not known at the date of the Staff Report, ELPC reserves the right to later supplement its objections once Staff's position is made known. ELPC also reserves the right to file additional expert testimony, produce fact witnesses and introduce additional evidence. Moreover, any witness called by ELPC also reserves the right to amend and/or supplement testimony in the event that Staff reverses, modifies, or withdraws its position on any issue contained in the Staff Report.

II. OBJECTIONS

Objection 1: The Staff Report unreasonably bases its recommendation for the PUCO to deny the proposed Demand-Side Management (“DSM”) Plan on its prospective views of legislative action rather than existing law.

The Staff Report recommends that the Commission eliminate the Company's proposed DSM Plan from base rates on the grounds that “the framework for the DSM Plan puts unnecessary risk on rate payers” due to the “current legislative uncertainty surrounding the potential repeal of H.B. 6.” Staff Report at 21. ELPC objects to this recommendation as unreasonable because current law—which the Commission and Staff must apply—does not place restrictions on voluntary energy efficiency programs such as the proposed DSM Plan. Nothing in current law prevents the Company from including energy efficiency programs in base rates. For example, at the July 23, 2019 Ohio House Session, the Majority Floor Leader Bill Seitz explained that “section 4905.70 of the Ohio Revised Code, which will remain in effect when we pass this bill, will allow utilities to file for voluntary energy efficiency programs at the Public Utilities Commission of Ohio so it is not true that we are prohibiting voluntary energy efficiency programs initiated by the utilities.”¹ Statutory language is clear that promoting energy waste

¹ *Ohio House of Representatives 7-23-2019* at 30:57-31:37, Ohio Channel, <https://ohiochannel.org/video/ohio-house-of-representatives-7-23-2019>.

reduction is a policy priority for the state and this Commission. *See* Ohio Rev. Code 4905.70.

The presence of perceived legislative uncertainty does not alter the existing law, nor does it follow that rate payers face unnecessary risk from energy efficiency programs that, by definition, must save more money than they cost. The Staff Report failed to apply existing law, instead unreasonably basing its recommendation on predictions about future legislative action.

Objection 2: The Staff Report unreasonably ignores the benefits of energy efficiency through its recommendation that the Commission deny the inclusion of the DSM Plan in base rates.

Though Staff Report expresses general support for energy efficiency programs, it nevertheless recommends rejecting the Company's proposed DSM Plan. Staff Report at 21. ELPC objects to this recommendation as unreasonable because it ignores well-established benefits of energy efficiency programs. The Staff Report's characterization of the DSM Plan as placing an "unnecessary risk on rate payers" does not consider the money that effective energy efficiency programs can save all rate payers. *Id.* The Commission has stated previously that additional energy efficiency provides benefits to customers and "to the extent the Companies accelerate the delivery of cost-effective energy savings opportunities to their customers, they will also accelerate the net savings which customers enjoy." *In re FirstEnergy ESP IV*, Case No. 14-1297 EL-SSO, Opinion and Order (Mar. 31, 2016) at 95 (citing Case No. 09-1947, Entry on Rehearing (Sept. 7, 2011) at 6). Indeed, the Commission has explained that "every kWh of energy that can be displaced through cost-effective energy efficiency programs is a savings, not a cost to the Companies' customer." *Id.* Each unit of saved energy is cheaper to produce than generating a unit of electricity, and thus customers save the more energy efficiency is created. The true risk to customers is not including an energy efficiency plan, which would require more generation and higher bills.

Objection 3: The Staff Report should have recommendations to scale up and modify the DSM Plan to produce significant benefits for rate payers.

The Staff Report is unreasonable in not recommending a larger DSM Plan that is targeted at highly cost-effective energy efficiency programs. The Company has requested to include \$36.6 million in the test year for forecasted program costs of the proposed DSM Plan, which it explains is cost effective because it would generate “avoided costs [that] are less than the DSM Plan’s costs for programs.” Direct Testimony of Jon F. Williams at 5. That \$36.6 million includes not only energy efficiency programs, but also funding for the Company’s proposed Electric Transportation program. However, a truly cost-effective plan requires significantly greater investment in energy efficiency to see the type of energy savings that benefit customers in a meaningful way. A cost-effective plan—one that prioritizes the programs that reduce energy use the most at the lowest cost to customers—will provide the most benefit to all customers through lower energy bills and a reduced demand for electricity. In comparison to the Company’s programs of the past, the DSM Plan is quite small, and greater investment in energy efficiency is necessary to implement the most cost-effective programs.

Objection 4: The Staff Report unreasonably fails to challenge the presence of the Electric Transportation program costs in the proposed DSM Plan.

The Environmental Law & Policy Center object that the Staff Report’s discussion of the DSM Plan does not address the Company’s addition of the Electric Transportation program as part of that Plan. The Company proposes a \$4 million program to enable electric vehicle (“EV”) adoption. *See* Direct Testimony of Jeffrey W. Lehman on Behalf of the Ohio Power Company at 3. ELPC supports programs that promote EV adoption, but they do not help customers use less electricity consistent with energy efficiency in the traditional sense.

Respectfully submitted,

/s/ Robert Kelter

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document submitted on behalf of the Environmental Law & Policy Center was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on December 18, 2020. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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Case No(s). 20-0585-EL-AIR, 20-0586-EL-ATA, 20-0587-EL-AAM

Summary: Objection to PUCO Staff Report of Investigation electronically filed by Mr. Robert Kelter on behalf of Environmental Law & Policy Center