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 THE STAFF REPORT BY NATURAL RESOURCES DEFENSE COUNCIL

INTRODUCTION

Natural Resources Defense Council ("NRDC") submits its Objections to the Public Utilities Commission of Ohio ("Commission") regarding the Commission's Staff Report, as filed in the above captioned cases on November 25, 2020, pursuant to R.C. 4909.19(C), Ohio Adm. Code 4901-1-28(B), and the Commission's December 10, 2020 Entry in these proceedings. These cases involve the electric base distribution charges that the Ohio Power Company ("AEP" or the "Company") proposes to collect from its customers.

NRDC's objections identify matters of the Staff Report where Staff has made, or failed to make, recommendations that are not just, reasonable, or lawful. These objections meet the specificity requirement of Ohio Adm. Code 4901-1-28. The substance of many of NRDC's objections will be supplemented through anticipated expert testimony. The lack of any objection to any aspect of the Staff Report does not preclude NRDC from cross-examination or introductions of evidence or argument related to issues where Staff reverses, modifies, or withdraws its position as contained in the Staff Report.

NRDC reserves the right to amend and/or supplement its objections in the event that the Commission Staff reverses, modifies, or withdraws its position, at any time prior to the closing of the record in any issue contained in the Staff Report. When the Commission staff has failed to take a position or indicated its position is not yet known, NRDC reserves the right to supplement its objections, file additional expert testimony, produce fact witnesses, and add additional evidence. Any witnesses called by NRDC also reserve the right to amend and/or supplement their testimony in the event that Commission Staff reverses, modifies, or withdraws its position on any issue contained in the Staff Report.

OBJECTIONS TO STAFF REPORT

I. Demand Side Management ("DSM") Plan

Objection No. 1:

NRDC objects to Staff's recommendation[1] to deny the Company's request to include the DSM Plan costs on Schedule C-3.22, as proposed. Staff alleges the framework of the DSM Plan puts unnecessary risk on customers for the following two reasons:

1. The Company would be guaranteed recovery of these expenses through distribution rates until the next rate case. However, the ability to credit (refund) customers for reduced expenses, (i.e. if the Company is under budget or chooses to eliminate programs all together), is contingent upon the availability of the EDR.

2. There is current legislative uncertainty surrounding the potential repeal of H.B. 6, which seems to make it impractical to include an EE/PDR investment of this magnitude in base rates, at this time.[2]

[1] Page 21 of the Staff Report as filed on November 25, 2020. ("Staff Report").
[2] Id.

In regards to the first proffered reason, Staff's concerns regarding the return of unspent funds can be addressed without completely disallowing the DSM costs. The funds could be included subject to conditions such that, in the event the EDR is unavailable, unspent funds would be returned to customers, with interest, at the time of the next rate case. This solution would protect customers while also encouraging the timely filing of a new rate case, when necessary, so that the Company avoids accumulating large carrying charges. The total denial of the DSM Plan, and therefore elimination of its benefits, as opposed to the modification of the Plan to protect customers is unjust and unreasonable.

In regards to Staff's second proffered reason, legislative uncertainty is an inappropriate basis to make regulatory decisions. Further, while Substitute Amended House Bill 6 ("HB 6") did eliminate the energy efficiency standards it is clear from the statements by the Majority Floor Leader that the Bill in no way limited utilities' ability to bring forth voluntary energy efficiency programs. Representative Bill Seitz expressly stated on the floor of the House of Representatives during the vote to pass HB 6, the following:

> By the way, contrary to my colleagues statements a few minutes ago, Section 4905.70 of the Ohio Revised Code, which remains 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. And I'm given to believe that at least some of them intend to pursue those opportunities just as they have so successfully done over the years with natural gas where we have a similar program and its worked quite well without any mandates at all.[3]

It is clear from Rep. Seitz' statements that the legislature did not seek to prohibit voluntary efficiency programs initiated by the utilities, despite the elimination of the *requirement* to offer efficiency programs. Therefore, any uncertainty Staff may feel regarding approving

[3] https://ohiochannel.org/video/ohio-house-of-representatives-7-23-2019 (Rep. Seitz' comments can be found from 30:57-31:37.)

AEP's proposal to include DSM costs in light of alleged legislative uncertainty is misplaced and unnecessary. If anything, Staff should be concerned AEP's proposed DSM Plan is not robust enough given the savings that are left unachieved to the detriment of AEP's customers. Denying AEP's DSM Plan based on alleged legislative uncertainty despite the statutory authorization found in R.C. 4905.70 is unjust and unreasonable.

NRDC objects to Staff's recommendation to deny the inclusion of AEP's proposed DSM Plan because the recommendation is unjust and unreasonable and in contravention of R.C. 4905.70. Further, to the extent Staff's identified concerns require consideration, there are methods of eliminating those concerns that do not require a wholesale exclusion of AEP's proposed DSM Plan.

Objection No. 2:

NRDC objects to Staff's recommendation to eliminate the proposed $3.66 million fee for AEP's administration of the DSM Plan.[4] Staff claims shared savings mechanisms are not necessary because there is no need to incentivize the Company to implement these programs to ensure reliability.[5] Staff also claims that because AEP forecasts a benefit that is three times greater than the costs it should be easy for the Company to achieve cost-effectiveness without needing incentives.[6]

Both of these arguments miss the point behind utility incentives and the DSM Plan. The DSM Plan is not needed to ensure the lights stay on but rather to lower customers' costs and limit customers' exposure to price volatility. However, there is no incentive for AEP to reduce its customers' costs through efficiency programs if it cannot make at least a modest profit off such

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[4] Staff Report at p. 21.
[5] Id.
[6] Id.

investments. Similarly, an incentive structure ensures AEP can make some profit from investments in lower cost demand side resources just as it can make profit from investments in higher cost supply side alternatives (e.g. T&D upgrades).

NRDC objects to Staff's recommendation to deny AEP's proposed DSM Plan administration fee because it is contrary to the best interests of AEP's customers and will reduce the benefits to AEP's customer and is therefore unjust and unreasonable.

Objection No. 3:

NRDC objects to Staff's recommendation that AEP's DSM proposal should be denied on the basis that the retail market should be offering energy efficiency and demand side management programs as opposed to AEP.[7] Staff presents no evidence that the retail market has or will offer demand side management programs. Moreover, the argument that retail energy suppliers could offer programs misses the vitally important point that a significant portion of utility efficiency programs are designed to influence customer decisions at the time they are already making a buying decision. This goal is best accomplished through system-wide or geography-wide initiatives with a single set of terms and conditions regarding which products are eligible for a benefit and how that benefit is calculated and delivered to the customer. Put simply, the universe of efficiency measures and programs that retail energy suppliers could effectively run are much more limited than those historically run by AEP and other utilities.

NRDC objects to Staff's denial of AEP's DSM Plan proposal on the basis the programs in the Plan are best left to the retail energy market as unjust and unreasonable because there is no evidence presented to support Staff's contention.

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[7] Id.

II. Customer Charge

Objection No. 4:

NRDC objects that Staff has unjustly and unreasonably recommended a customer charge of $8.11.[8] Although Staff's recommended customer charge of $8.11 is lower than AEP's current customer charge of $8.40 it is higher than the $6.01 supported by Staff's own calculation.[9] Staff did not provide a sufficient rationale for recommending an increase that is approximately 35% higher than Staff's own calculations support. NRDC objects to Staff's recommended customer charge of $8.11 because it is not supported by sufficient rationale, is contrary to Staff's own calculation, and is therefore unjust and unreasonable.

Respectfully submitted,

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[8] Staff Report at p. 41.
[9] Id.

CERTIFICATE OF SERVICE

I certify that this filing 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 the parties subscribed to these proceedings. Additionally, notice was provided to the parties listed below.

/s/ Robert Dove
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