

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

ENTRY

Entered in the Journal on April 23, 2021

{¶ 1} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or Company) is an electric light company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} In Case No. 16-1852-EL-SSO, et al., the Commission modified and approved a stipulation and recommendation filed by AEP Ohio, Staff, and numerous other signatory parties, which authorized the Company to implement an electric security plan for the period of June 1, 2018, through May 31, 2024. Among the commitments in the stipulation and recommendation, AEP Ohio agreed to file a base distribution rate case by June 1, 2020. *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018) at ¶ 45.

{¶ 3} On April 29, 2020, in the above-captioned cases, AEP Ohio filed a pre-filing notice of its intent to file an application for approval of an increase in its electric distribution rates, tariff modifications, and changes in accounting methods.

{¶ 4} On June 8, 2020, AEP Ohio filed its application to increase its rates pursuant to R.C. 4909.18.¹ AEP Ohio filed direct testimony in support of its application on June 15, 2020.

{¶ 5} On November 18, 2020, as amended on November 25, 2020, Staff filed a written report of its investigation (Staff Report). Pursuant to R.C. 4909.19 and Ohio Adm.Code 4901-1-28(B), objections to the Staff Report were due by December 18, 2020.

{¶ 6} Objections to the Staff Report were filed by various parties on December 18, 2020.

{¶ 7} By Entry issued on November 23, 2020, as amended by Entries issued on December 1, 2020, January 14, 2021, January 27, 2021, and February 1, 2021, the procedural schedule was established in these cases such that a public hearing was held on February 8, 2021, a prehearing conference and technology test session were held on February 11, 2021, and the evidentiary hearing commenced on March 4, 2021, all through Webex. Pursuant to the February 1, 2021 Entry, the due dates for direct expert testimony supporting objections to the Staff Report, motions to strike objections to the Staff Report, and memoranda contra motions to strike objections to the Staff Report were indefinitely extended at the request of the parties.

{¶ 8} At the February 11, 2021 prehearing conference, the parties informed the attorney examiners that they were engaged in negotiations in an attempt to reach a settlement. AEP Ohio requested that, if a stipulation was not filed before March 4, 2021, the evidentiary hearing be called and continued. AEP Ohio also agreed to provide an update on the status of negotiations at that time.

¹ Due to the closure of the Commission's offices from June 1, 2020, through June 5, 2020, the application for a rate increase, which was submitted by AEP Ohio on June 1, 2020, was accepted for filing on June 8, 2020, and deemed timely filed in accordance with R.C. 1.14 and Ohio Adm.Code 4901-1-07 and 4901-1-13. *In re the Extension of Filing Dates for Pleadings and Other Papers Due to a Building Emergency*, Case No. 20-1132-AU-UNC, Entry (June 8, 2020).

{¶ 9} On March 4, 2021, the evidentiary hearing was called and the proceedings continued to permit the parties to engage in further settlement negotiations.

{¶ 10} On March 12, 2021, as amended on April 7, 2021, a Joint Stipulation and Recommendation (Stipulation) was filed by AEP Ohio and 13 other parties to the proceedings. In a correspondence included with the Stipulation, AEP Ohio indicated that the parties had begun discussions in an effort to negotiate a separate agreement to address matters relating to the virtual hearing process, consistent with the directives discussed at the prehearing conference.

{¶ 11} By Entry issued March 17, 2021, a second prehearing conference was scheduled for March 26, 2021, via Webex, for the purpose of updating the attorney examiners on the parties' progress regarding matters relating to the virtual hearing process. The prehearing conference was held, as scheduled, and the parties offered proposals for the virtual hearing process and proposed hearing dates, as well as informed the attorney examiners regarding the availability of certain witnesses.

{¶ 12} By Entry issued April 5, 2021, as amended by Entry issued April 14, 2021, the procedural schedule was established such that testimony in support of the Stipulation on behalf of the Company, Staff, and intervenors, as well as AEP Ohio's testimony supporting objections to the Staff Report, was due by April 9, 2021; testimony in opposition to the Stipulation, testimony supporting objections to the Staff Report, and motions to strike objections to the Staff Report were due by April 20, 2021; memoranda contra motions to strike objections to the Staff Report are due by April 27, 2021; and Staff testimony in response to objections to the Staff Report is due by May 4, 2021. The April 5, 2021 Entry also scheduled a prehearing conference and technology test session on May 10, 2021, and scheduled the evidentiary hearing to reconvene on May 12, 2021. Finally, the April 5, 2021 Entry revised the response time for memoranda contra any motions filed to five business days and the response time for discovery to seven calendar days.

{¶ 13} On April 9, 2021, AEP Ohio, Staff, Ohio Consumers' Counsel, Clean Fuels Ohio, and EVgo Services, LLC filed testimony in support of the Stipulation.

{¶ 14} On April 20, 2021, testimony in opposition to the Stipulation was timely filed by Environmental Law and Policy Center, Ohio Environmental Council, Nationwide Energy Partners, LLC, Ohio Partners for Affordable Energy, and Armada Power, LLC, and the testimony of Frank Lacey was filed jointly by Interstate Gas Supply, Inc. (IGS) and Direct Energy Services, LLC and Direct Energy Business, LLC (collectively, Direct).

{¶ 15} On April 20, 2021, Ohio Manufacturers' Association Energy Group and the Kroger Company filed a joint motion to strike certain objections to the Staff Report.

{¶ 16} On April 21, 2021, IGS and Direct (Movants) filed a motion for leave to file direct testimony out of time and a request for expedited ruling pursuant to Ohio Adm.Code 4901-1-12(C). Movants state that, on April 20, 2021, counsel for Movants made multiple attempts to file the testimony of Frank Lacey, on behalf of IGS and Direct, and the testimony of Joseph Haugen, on behalf of IGS, prior to the 5:30 p.m. deadline. However, Movants state that the attempts to upload the attachments to Mr. Lacey's testimony and Mr. Haugen's testimony were unsuccessful. Further, Movants assert that attempts were made to contact the Commission's Docketing Division by phone for assistance, but Movants were unable to reach anyone. Movants state that the testimonies were emailed to Docketing prior to 5:30 p.m. Movants state that the testimony of Frank Lacey and Joseph Haugen, with all attachments and exhibits, was also emailed to the parties in the proceedings and to the attorney examiners at 6:03 p.m. and 6:12 p.m., respectively, on April 20, 2021. In addition, on April 21, 2021, Movants filed the attachments and exhibits to the testimony of Frank Lacey and the testimony of Joseph Haugen with the Commission. Movants request that the testimonies be accepted as timely filed and submit that, by doing so, there is no harm or prejudice to the parties, given that the parties received a copy of the testimony on April 20, 2021. Movants cite cases where, under similar circumstances, the Commission has accepted late-filed testimony as timely filed.

{¶ 17} Ohio Adm.Code 4901-1-12(C) provides that any motion may include a specific request for an expedited ruling and that, if the motion requests an extension of time to file pleadings or other papers of five days or less, an immediate ruling may be issued without the filing of memoranda.

{¶ 18} The attorney examiner finds, consistent with Ohio Adm.Code 4901-1-12(C), that Movants' motion to accept the attachments to the testimony of Mr. Lacey and the testimony of Mr. Haugen, as timely filed, is reasonable, in light of the fact that the parties and attorney examiners were provided the testimonies shortly after the deadline and the technical difficulties experienced.

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That Movants' motion to accept the testimonies as timely filed be granted. It is, further,

{¶ 21} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Greta See

By: Greta See
Attorney Examiner

MJA/hac

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/23/2021 10:02:02 AM

in

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

Summary: Attorney Examiner Entry ordering that Movants' motion to accept the testimonies as timely filed be granted electronically filed by Heather A Chilcote on behalf of Greta See, Attorney Examiner, Public Utilities Commission