

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**ARMADA POWER, LLC’s MEMORANDUM CONTRA
THE JOINT MOTION TO STRIKE OBJECTIONS TO THE STAFF REPORT
OF
THE OHIO MANUFACTURERS’ ASSOCIATION ENERGY GROUP
AND THE KROGER CO.**

Armada Power, LLC files this response to the joint motion to strike filed by the Ohio Manufacturers’ Association Energy Group and The Kroger Co. (collectively “Joint Movants”), who claim that one Armada Power objection and three Armada Power major issues are inconsistent with Ohio law and not related to the application of Ohio Power Company (“AEP”) to increase its distribution rates, modify its tariff and change its accounting methods.¹ The standard for objections, however, is governed by Ohio Adm.Code 4901-1-28(B), which requires that objections

¹ The Joint Movants moved to strike Armada Power’s second objection and its major issues (c), (d), and (e), which state:

Armada Power’s Second Objection: The Staff Report’s recommendations against the Demand Side Management Plan should not be adopted.

Amada Power’s Major Issue (c): AEP’s DSM Plan should not be excluded from base rates.

Amada Power’s Major Issue (d): The water-heater-related programs in AEP’s DSM Plan should be approved and include the more cost-effective option to retrofit water heaters with smart technologies, rather than being limited to solely full water heater replacements.

Amada Power’s Major Issue (e): The water-heater-related programs in AEP’s DSM Plan should be approved and include the option for coordinating with the DIR for installation plus adoption, and should allow usage data sharing for CRES supplier use, rather than being limited solely to water heater heat pump type replacements.

must be specific and relate to the findings, conclusions, or recommendations contained in the Staff report, or to the failure of the report to address one or more specific items. And in this proceeding, AEP proposed a DSM plan in its application to which Staff responded in its Staff Report. Armada Power then presented objections and identified major issues with specificity, which is what Ohio Revised Code Section (“R.C.”) 4909.19 and Ohio Adm.Code 4901-1-28(B) require. Armada Power has complied with the Commission’s rule and the Joint Movants have no grounds to strike Armada Power’s second objection and major issues (c), (d) and (e). To the extent the Joint Movants believe that the objections are inconsistent or unrelated to the distribution case and if Armada Power pursues those objections at hearing or through briefing, the Joint Movants can raise their arguments in brief. Finally, Armada Power’s technology is not an EE or DSM program, and is not what other parties are seeking in these proceedings. Importantly, Armada Power’s technology is a behind-the-meter technology to be used as a *distribution grid asset* by AEP, as briefly described in Armada Power’s objections and further detailed in the prefiled direct testimony of Eric Rehberg. For the above reasons and the reasons set forth below, the Joint Motion to Strike as to Armada Power should be denied.

A. Armada Power’s objection and major issues are not contrary to Ohio law or Commission precedent; they are consistent with the policies of the state in R.C. 4928.02.

Ohio Adm.Code 4901-1-28 requires that objections to the Staff report of investigation in this proceeding “... relate to the findings, conclusions or recommendations contained in the report, or to the failure of the report to address one or more specific items.” The Rule also requires that objections be specific. The Joint Movants seek to impose a new standard not in the Rule by contending that Armada Power’s objection and certain of its listed major issues conflict with Ohio law and Commission precedent. For example, the Joint Movant’s argue that Amended Substitute House Bill 6 ended ratepayer-funded EE/DSM programs and therefore Armada Power’s objection

to the Staff's recommendation against AEP's DSM plan is contrary to Ohio law. The Joint Movants, however, not only ignore the fact that Armada Power's objections were specific and directly related to AEP's DSM plan in its application and Staff's recommendation about that plan, but also ignore the fact that Amended Substitute House Bill 6 did not eliminate or prohibit Commission approval of new EE programs or address proposals like the proposal presented by Armada Power. The Joint Movants also ignore R.C. 4905.70, which allows energy conservation programs. Therefore, the legislation is not a basis for striking Armada Power's objection and list of major issues.

The Joint Movants also contend that the Commission's decision on Duke Energy Ohio's recent EE/DSM proposal² supports the Motion to Strike. As noted above, the Commission's rule on objections does not impose a "Commission precedent compliance" standard. And regardless, the decision cited by the Joint Movants relates to another utility's proposal in a separate type of proceeding. It did not preclude AEP from filing its DSM proposal and does not preclude objections addressing AEP's DSM plan and Staff's recommendations on that plan.

Armada Power also notes that Ohio's energy policy supports Armada Power's unique technology. For example, R.C. 4928.02(E), (J), (L), and (O) encourage innovative technologies.³

² *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of its 2021 Energy Efficiency and Demand Side Management Portfolio of Programs and Cost Recovery Mechanism*, Case Nos. 20-1013-EL-POR, et al., Entry (June 17, 2020) at ¶ 9.

³ In particular, R.C. 4928.02 states in relevant part it is the policy of Ohio to:

(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;

(J) Provide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates;

(L) Protect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource; and

(O) Encourage cost-effective, timely, and efficient access to and sharing of customer usage data with customers and competitive suppliers to promote customer choice and grid modernization.

Armada Power offers both grid reliability and demand management options. It is a technology invented, headquartered and manufactured in Ohio contributing to Ohio's growth. Armada Power meets the technology and economic benefits of the state policy, and will enhance customers' shopping decisions to the extent those customers choose to use the technology with their supplier time-of-use options in addition to the utility-side grid benefits.

In sum, Armada Power's second objection and major issues (c), (d) and (e) comply with the Commission's standard for objections and neither House Bill 6, the Commission's order in Case No. 16-574-EL-POR nor state policy prohibit Armada Power's objections and issues being raised in these proceedings.

B. Armada Power specifically addressed AEP's DSM request and responded to the Staff Report, and thus its objection and major issues are related to these proceedings.

Armada Power's objection and major issues (c), (d) and (e) relate to this proceeding. AEP proposed a DSM plan in the application filed in these proceedings and Staff addressed the DSM plan in its Staff Report. Armada Power's objection and major issues responded to the Staff Report complying with the Commission's rule for objections. Following the Commission's rule for objections, it is clear that Armada Power's objections are specific and relate to the findings, conclusions or recommendations contained in the Staff Report. For example, in its second objection, Armada Power stated in part:

Staff recommended that the entire cost of the DSM plan and the proposed administration fee not be included in base rates, and proposed no mitigation measures for Staff's two stated concerns about the plan. Staff Report at 21. Armada objects to the recommended exclusion of the DSM plan from base rates. Moreover, Armada further objects to Staff's recommendation to exclude the DSM plan in light of Staff acknowledgement that the DSM plan is projected to be beneficial (three times more beneficial than costs.) *Id.*

While the Joint Movants attempt to say that a DSM plan does not belong in a distribution rate proceeding, they cannot erase the fact that AEP included a DSM plan in its application and

that the Staff Report addressed that plan. Indeed to not submit objections would result in a waiver of the objections. Given that Armada Power's second objection and major issues (c), (d) and (e) comply with R.C. 4909.19 and Ohio Adm.Code 4901-1-28(B), the Joint Movants have not shown adequate grounds to support the Motion to Strike as to Armada Power.

C. Conclusion

The Joint Movants misconstrue Ohio law and AEP's application in these proceedings, and are attempting to restrict the Commission's authority to rule on the issues raised through a properly submitted objection. Armada Power's objection and major issues are not contrary to Ohio law or Commission precedent and specifically relate to an issue in these proceedings. The Joint Movants' motion to strike Armada Power's objection and major issues should be denied.

Respectfully Submitted,

/s/Michael J. Settineri
Michael J. Settineri (0073369), Counsel of Record
Gretchen L. Petrucci (0046608)
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
Columbus, OH 43215
Telephone 614-464-5462
Facsimile 614-719-5146
msettineri@vorys.com
glpetrucci@vorys.com

Drew Romig (0088519)
Armada Power, LLC
230 West Street, Suite 150
Columbus, OH 43215
614-918-2064
dromig@armadapower.com

Counsel for Armada Power, LLC

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Armada Power, LLC	mjsettineri@vorys.com glpetrucci@vorys.com dromig@armadapower.com
ChargePoint, Inc.	dborchers@bricker.com eakhbari@bricker.com
Citizens' Utility Board of Ohio	mfleisher@dickinsonwright.com cpirik@dickinsonwright.com wvorys@dickinsonwright.com
Clean Fuels Ohio	mfleisher@dickinsonwright.com
Constellation NewEnergy, Inc.	mjsettineri@vorys.com glpetrucci@vorys.com
Direct Energy Business, LLC and Direct Energy Services, LLC	whitt@whitt-sturtevant.com fykes@whitt-sturtevant.com
Environmental Law & Policy Center	ccox@elpc.org rkelter@elpc.org
EVgo Services LLC	jschlesinger@keyesfox.com lmckenna@keyesfox.com
Greenlots (Zeco Systems, Inc.)	todonnell@dickinsonwright.com mfleisher@dickinsonwright.com tom@greenlots.com jcohen@greenlots.com
Industrial Energy Users-Ohio	mpritchard@mcneeslaw.com rglover@mcneeslaw.com bmckenney@mcneeslaw.com
Interstate Gas Supply, Inc.	bethany.allen@igs.com joe.oliker@igs.com michael.nugent@igs.com evan.betterton@igs.com fdarr2019@gmail.com
The Kroger Company	paul@carpenterlipps.com

Nationwide Energy Partners, LLC	mjsettineri@vorys.com glpetrucci@vorys.com
Natural Resources Defense Council	rdove@keglerbrown.com
Ohio Consumers' Counsel	angela.obrien@occ.ohio.gov christopher.healey@occ.ohio.gov john.finnigan@occ.ohio.gov
Ohio Energy Group	mkurtz@BKLawfirm.com kboehm@BKLawfirm.com jkylercohn@BKLawfirm.com
Ohio Environmental Council	ctavenor@theOEC.org tdougherty@theOEC.org mleppla@theOEC.org
Ohio Hospital Association	dparram@bricker.com rmains@bricker.com
Ohio Manufacturers' Association Energy Group	bojko@carpenterlipps.com donadio@carpenterlipps.com
Ohio Partners for Affordable Energy	rdove@keglerbrown.com
Ohio Power Company	stnourse@aep.com cblend@aep.com christopher.miller@icemiller.com egallon@porterwright.com
One Energy Enterprises LLC	ktreadway@oneenergyllc.com dstinson@bricker.com mwarnock@bricker.com hogan@litohio.com little@litohio.com
Staff of the Public Utilities Commission of Ohio	werner.margard@ohioattorneygeneral.gov kyle.kern@ohioattorneygeneral.gov thomas.shepherd@ohioattorneygeneral.gov
Walmart, Inc.	cgrundmann@spilmanlaw.com dwilliamson@spilmanlaw.com

/s/ Michael J. Settineri

Michael J. Settineri

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Summary: Memorandum Memorandum Contra the Joint Motion to Strike Objections to the Staff Report of The Ohio Manufacturers' Association Energy Group and the Kroger Co. electronically filed by Mr. Michael J. Settineri on behalf of Armada Power, LLC