

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY TO ADJUST ITS
2014 BASELINE FOR COMPLIANCE WITH
R.C. 4928.64.

CASE No. 15-332-EL-ACP

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY TO ADJUST ITS
2015 BASELINE FOR COMPLIANCE WITH
R.C. 4928.64.

CASE No. 16-746-EL-ACP

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY TO ADJUST ITS
2016 BASELINE FOR COMPLIANCE WITH
R.C. 4928.64.

CASE No. 17-935-EL-ACP

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY TO ADJUST ITS
2017 BASELINE FOR COMPLIANCE WITH
R.C. 4928.64.

CASE No. 18-610-EL-ACP

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY TO ADJUST ITS
2018 BASELINE FOR COMPLIANCE WITH
R.C. 4928.64.

CASE No. 19-814-EL-ACP

FINDING AND ORDER

Entered in the Journal on June 2, 2021

I. SUMMARY

{¶ 1} The Commission approves the applications of Ohio Power Company dba AEP Ohio to adjust the 2014, 2015, 2016, 2017, and 2018 baselines used to determine its annual alternative energy portfolio benchmarks.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} Ohio Power Company dba AEP Ohio (AEP Ohio or the Company) is an electric distribution utility (EDU) as defined in R.C. 4928.01(A)(6), an electric utility as

defined in R.C. 4928.01(A)(11), and a public utility as defined in R.C. 4905.02. As such, AEP Ohio is subject to the jurisdiction of this Commission.

{¶ 3} In 2008, the General Assembly enacted Amended Substitute Senate Bill 221 (SB 221), which created an alternative energy portfolio standard (AEPS), as outlined in R.C. 4928.64. Specifically, R.C. 4928.64(B) establishes benchmarks for EDUs to acquire a portion of their electricity supply for retail customers in Ohio from renewable energy resources. The statute provides that the baseline for determining an EDU's compliance with the benchmarks shall be the average of such total kilowatt hours that the utility sold in the preceding three calendar years, except that the Commission may reduce the utility's baseline to adjust for new economic growth in the utility's certified territory. In addition to the AEPS, SB 221 adopted a new energy efficiency/peak demand reduction (EE/PDR) mandate, as found in R.C. 4928.66.

{¶ 4} With respect to the baseline for determining compliance with the renewable energy resource requirements, Ohio Adm.Code 4901:1-40-03(B)(3) provides that an electric utility may file an application requesting a reduced baseline to reflect new economic growth in its service territory or service area. The rule requires that any such application include a justification indicating why timely compliance based on the unadjusted baseline is not feasible, a schedule for achieving compliance based on its unadjusted baseline, quantification of a new change in the rate of economic growth, and a methodology for measuring economic activity, including objective measurement parameters and quantification methodologies.

{¶ 5} On February 19, 2015, AEP Ohio filed an application to adjust its 2014 baseline, as used to calculate the Company's annual alternative energy portfolio benchmarks, as set forth in Exhibit A attached to the application. AEP Ohio filed an accompanying request for waiver on June 5, 2019.

{¶ 6} On April 14, 2016, AEP Ohio filed an application to adjust its 2015 baseline, as used to calculate the Company's annual alternative energy portfolio benchmarks, as set

forth in Exhibit A attached to the application. AEP Ohio filed an accompanying request for waiver on June 5, 2019.

{¶ 7} On April 7, 2017, AEP Ohio filed an application to adjust its 2016 baseline, as used to calculate the Company's annual alternative energy portfolio benchmarks, as set forth in Exhibit A attached to the application. AEP Ohio filed an accompanying request for waiver on June 5, 2019.

{¶ 8} On April 13, 2018, AEP filed an application to adjust its 2017 baseline, as used to calculate the Company's annual alternative energy portfolio benchmarks, as set forth in Exhibit A attached to the application. AEP filed an accompanying request for waiver on June 5, 2019.

{¶ 9} On February 20, 2019, in Case No. 14-559-EL-ACP, the Commission approved applications to adjust AEP Ohio's 2012 and 2013 baselines used to determine alternative energy portfolio benchmarks. The Commission adopted Staff's recommendation that AEP Ohio be allowed to adjust its baseline for economic development customers receiving discounts through AEP Ohio's Economic Development Rider (EDR).

{¶ 10} On April 12, 2019, AEP Ohio filed an application and request for waiver to adjust its 2018 baseline, as used to calculate the Company's annual alternative energy portfolio benchmarks, as set forth in Exhibit A attached to the application.

{¶ 11} Regarding the applications filed by AEP Ohio to adjust its 2014–2018 baselines, AEP Ohio seeks approval to reduce the 2014–2018 baselines by excluding the portion of its load associated with the EDR. AEP Ohio acknowledges that, in Case No. 10-486-EL-ACP, et al., the Commission modified a stipulation and recommendation between Staff and the Company, determining that an economic development load baseline adjustment should only be extended from 2009 through 2011, in order to coincide with the term of the Company's first electric security plan (ESP). *In re Columbus Southern Power Co.*,

Case No. 10-486-EL-ACP, et al., Opinion and Order (Aug. 21, 2013) at 5. In support of its application in the cases designated in the caption of this Finding and Order, AEP Ohio asserts that the same baseline calculation methodology has been approved with respect to its 2012-2014 EE/PDR Action Plan, which extends well beyond the term of the first ESP. *In re Columbus Southern Power Co.*, Case Nos. 11-5568-EL-POR, et al., Opinion and Order (Mar. 21, 2012).

{¶ 12} AEP Ohio contends that there is no substantive or logical distinction between the EE/PDR baseline and the AEPS baseline and that the same rationale for excluding new economic growth load applies to both the EE/PDR and AEPS requirements. AEP Ohio emphasizes that both the AEPS and EE/PDR mandates became effective with calendar year 2009, involve calculations of annual benchmark requirements based on the average retail sales from the preceding three years, and allow the Commission to reduce the baseline and benchmark requirements for new economic growth. AEP Ohio asserts that both R.C. 4928.64 and R.C. 4928.66 contain the same baseline adjustment concept and further the goal of avoiding the adverse side effects of promoting economic development in Ohio, such as more burdensome and costly EE/PDR and AEPS mandates. According to AEP Ohio, approval of its requested baseline adjustment will reduce projected compliance costs to the benefit of customers, as reflected in Exhibit B attached to the applications.

{¶ 13} Additionally, AEP Ohio submits that, because economic development is beneficial for Ohio, reducing the AEPS baseline for the portion of the load associated with the EDR would be a benefit to the public. AEP Ohio points out that, in approving rate discounts for certain customers under R.C. 4905.31 based on economic development considerations, the Commission has already determined that such discounts attract and retain new load growth that promotes the public interest and advances economic development in the state. AEP Ohio adds that its EE/PDR baselines and its AEPS baselines for 2009 through 2018 used substantially the same set of economic development criteria, which currently track with the load associated with the discounts recovered from all customers through the EDR.

{¶ 14} Finally, AEP Ohio contends that approval of its requested baseline adjustment for 2014-2018 will reduce projected compliance costs and save customers money. To the extent the foregoing reasons supporting the 2014-2018 baseline adjustment do not fully satisfy the requirements of Ohio Adm.Code 4901:1-40-03(B)(3), AEP requests a waiver of the rule in accordance with Ohio Adm.Code 4901:1-40-02(B).

{¶ 15} Accordingly, AEP Ohio requests that the Commission approve its applications, grant any waivers, and confirm that the adjusted AEPS baseline in AEP's 2014-2018 compliance reports are consistent with, and approved under, R.C. 4928.644.

{¶ 16} On December 24, 2019, Staff filed findings and recommendations regarding AEP Ohio's baseline adjustment applications for compliance years 2014-2018. According to Staff, the Company asserts that the Commission approved the adjusted baseline in *In re Columbus Southern Power Co.*, Case No. 08-917-EL-SSO, et al., Opinion and Order (Mar. 18, 2009), and that the Company seeks continued approval for compliance years 2014-2018. In each of the cases, Staff adds, AEP Ohio requested a waiver for Ohio Adm.Code 4901:1-40-03(B)(3), to the extent that that the baseline adjustment application does not satisfy the rule. AEP Ohio observes that the Company contends the Commission has approved its EE/PDR Action plan for 2012-2014, which includes an adjustment in the EE/PDR baseline. As the Company sees no substantive or logical distinction between the EE/PDR baseline and the RPS baseline, Staff notes, AEP Ohio argues that the Commission should approve the requested reduction of its RPS baseline. AEP Ohio further notes the Company's claim that, because economic development is beneficial for Ohio, reducing the RPS baseline for the portion of its load of customers receiving discounts through the Company's EDR is also beneficial for Ohio and the public.

{¶ 17} Staff notes that reducing the RPS baseline for the portion of the load of customers receiving discounts through the Company's EDR is permitted by R.C. 4928.644(B). Staff disagrees with the Company's contention that that its Application substantiates the proposed baseline adjustment and reconciles the proposal with the

controlling statutes, Commission's rules and prior rulings. Staff further observes, however, that AEP Ohio requested a waiver of Ohio Adm.Code 4901:1-40-03(B)(3), to the extent that its applications do not fully satisfy the requirements of Ohio Adm.Code 4901:1-40-03(B)(3). Staff adds that the Company's proposed baselines for 2014-2018 include adjustments for economic development customers receiving discounts through the Company's EDR.

{¶ 18} Staff recommends that the following four requirements of Ohio Adm.Code 4901:1-40-03(B)(3) should be waived. First, a justification indicating why timely compliance based on the unadjusted baseline is not feasible. Second, a schedule for achieving compliance based on its unadjusted baseline. Third, quantification of a new change in the rate of economic growth. Fourth, a methodology for measuring economic activity, including objective measurement and quantification methodologies. Staff concludes that, with Commission approval of the specified waivers, AEP Ohio should be allowed to adjust its 2014-2019 baselines for economic development customers receiving discounts through the Company's EDR.

{¶ 19} Upon review of AEP Ohio's applications and Staff's findings and recommendations, the Commission finds that the Company's application to adjust its baselines 2014-2018 baselines, as well as the Company's waiver requests for 2014-2018, should be approved.

III. ORDER

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That AEP Ohio's applications for baseline adjustment, as filed on February 19, 2015, April 14, 2016, April 7, 2017, April 13, 2018, and April 12, 2019, be approved. It is, further,

{¶ 22} ORDERED, That AEP Ohio's requests for waiver be approved.

{¶ 23} ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JML/hac

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Case No(s). 15-0332-EL-ACP, 16-0746-EL-ACP, 17-0935-EL-ACP, 18-0610-EL-ACP, 19-0814-EL-ACP

Summary: Finding & Order approving the applications of Ohio Power Company dba AEP Ohio to adjust the 2014, 2015, 2016, 2017, and 2018 baselines used to determine its annual alternative energy portfolio benchmarks electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio