

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power :
Company for Authority to Abandon Electric : Case No. 22-0693-EL-ABN
Service Lines, Pursuant to Ohio Revised Code :
Sections 4905.20 and 4905.21. :

APPLICATION FOR ABANDONMENT BY OHIO POWER COMPANY

Now comes Ohio Power Company (“AEP Ohio” or “the Company”) and states as follows:

1. AEP Ohio is a “public utility,” as that term is defined in Section 4905.02 of the Ohio Revised Code (“R.C.”).
2. This application is made pursuant to R.C. 4905.20 and 4905.21 for authority from the Commission to abandon distribution infrastructure currently serving existing AEP Ohio customers at the Northtowne Apartments (“Northtowne”).
3. Northtowne is an approximately 50-year-old apartment complex comprised of numerous buildings with 59 separate points of service located in the vicinity of 4621 Northtowne Blvd., Columbus, Ohio 43229.
4. AEP Ohio has exclusively provided electric distribution services to Northtowne and has invested significant distribution facilities at the property that includes distribution lines, conduit, meters, risers, and transformers (“Northtowne Distribution Assets”).
5. Currently, according to AEP Ohio’s records, there are 293 AEP Ohio accounts (including 286 residential accounts) at Northtowne that are served by the Northtowne Distribution Assets. Of those accounts, 160 of those customers are shopping for competitive generation services. Moreover, 74 of the Northtowne customers are availing themselves of the

Percentage of Income Payment Plan program administered by the Ohio Development Services Agency. And 14 customers are availing themselves of AEP Ohio's average monthly payment plan.

6. Nationwide Energy Partners ("NEP") is a large-scale third-party submetering company that engages in the resale or redistribution of public utility services in AEP Ohio's service territory in violation of Ohio law.

7. AEP Ohio opposes the practice of converting existing customers to master-metered service whereby the existing AEP Ohio customers cease to be AEP Ohio customers and instead become customers of a third-party submetering company offering electric distribution services. To that end, AEP Ohio filed a Complaint opposing NEP's conversion practices in Case No. 21-990-EL-CSS ("Complaint Case") that details NEP's violation of Ohio law.

8. Through the Complaint Case, AEP Ohio seeks an order enjoining NEP from taking over distribution services to five specific properties – (1) The Gateway Lofts at 2211 Dublin Road, Columbus, Ohio 43228, (2) Norton Park at 4657 E. Broad Street, Whitehall, Ohio 43213, (3) The Normandy at 315 E. Long Street, Columbus, Ohio 43215, (4) Arlington Pointe at 2565 Shore Line Lane and 2599 Shore Line Lane, Columbus, Ohio 43221, and (5) The Edge at Arlington at 5020 Dierker Road, Columbus, Ohio 43220 (collectively referred to as "the Five Properties").

9. On December 28, 2021, the Attorney Examiner issued an Entry in the Complaint Case granting NEP's motion for stay ordering "AEP Ohio continue to follow its tariff and past practices regarding master-metered services during the pendency of this case or until the Commission issues an order directing otherwise." While presumably not intended as

addressing issues that go beyond the scope of the Complaint Case, NEP has invoked the Attorney Examiner's Stay Entry as broadly requiring AEP Ohio to process all of NEP's subsequent requests for conversion even before the Commission reaches the merits of the Complaint Case.

10. AEP Ohio filed an interlocutory appeal of this issue on January 3, 2022 ("Interlocutory Appeal"), which remains pending before the Commission.

11. On May 19, 2022, AEP Ohio received 59 new service requests (one for each of the service points) from NEP demanding that AEP Ohio terminate service to existing Northtowne customers so that NEP can establish so-called "master-metered service" and convert the existing AEP Ohio customers to NEP electric distribution services. \

12. NEP has specifically requested that AEP Ohio provide secondary service at each of the 59 service points. As the Commission is aware, NEP advocated for specific conversion process and protocols in AEP Ohio's distribution base rate case (Case Nos. 20-585-EL-AIR *et al.*) but the Commission declined to adopt any of NEP's positions in this regard. Under its tariffs, AEP Ohio is entitled to develop a service plan in a way that makes sense and best utilizes the Company's resources.

13. Terminating and converting service at 59 separate service points on equipment that was never designed to be converted to submetered service injects an unprecedented level of complexity to submetering conversions (which were already few and far between prior to the Five Properties at issue the Complaint Case). Submetering conversions, that are taking place while Ohio law is unsettled in the wake of the Supreme Court of Ohio's December 2020 *Wingo*,¹ are already draining valuable AEP Ohio resources that were never designed for such

¹ See *In re Complaint of Wingo v. Nationwide Energy Partners, L.L.C.*, 163 Ohio St.3d 208, 2020-Ohio-5583.

requests. The complexity of the Northtowne conversion would increase the demands on AEP Ohio's resources that are otherwise charged with the responsibility of ensuring AEP Ohio provides safe and reliable service.

14. To the extent AEP Ohio ends up being required to relinquish its long-standing customers and convert them to submetered distribution service offered by NEP (which AEP Ohio believes it should not), it intends to provide a single point of primary service to the perimeter of the Northtowne property line at a mutually agreed location. This will reduce the resources AEP Ohio must commit to the Northtowne conversion and will also provide the master-meter customer a lower rate than would otherwise be charged for providing 59 secondary service points.

15. Processing NEP's request to convert Northtowne's existing residential customers to master meter service would result in AEP Ohio abandoning the numerous distribution lines and removing other distribution assets currently installed on the property.

16. R.C. 4905.20 and 4905.21 (The Miller Act) "was enacted to protect consumers from having their service terminated because of the whims of a public utility or a rogue municipality." Here, the whims of NEP's desire to expand its "big business" submetering footprint demands the termination of service and abandonment of distribution lines to the Northtowne consumers. AEP Ohio opposes the conversion altogether – whether temporary or permanent – for the reasons stated in the Complaint Case but seeks the Commission's ruling under the Miller Act on whether the conversion should go forward.

17. Although AEP Ohio does not desire to permanently abandon its infrastructure and customers at Northtowne; given the novel circumstances at issue, AEP Ohio files this Application to seek the Commission's ruling under the Miller Act. The resolution of the

Complaint Case can materially impact the permanence of AEP Ohio's abandonment of the Northtowne Distribution Assets. AEP Ohio would seek to reestablish service to Northtowne if, as part of the Complaint Case, the Company were to prevail on its Interlocutory Appeal, the merits, or a ruling by the Supreme Court of Ohio. Until further clarity in the Complaint Case, however, AEP Ohio intends to permanently abandon the Northtowne Distribution Assets unless otherwise ordered by the Commission.

18. AEP Ohio also does not agree that abandonment of the Northtowne Distribution Assets, which currently serve AEP Ohio customers, in exchange for NEP offering submetered distribution service, is in the welfare of the public or the current AEP Ohio customers that reside at Northtowne. AEP Ohio's Northtowne customers will lose enumerable rights if AEP Ohio's distribution lines were abandoned and NEP replaces the Company's facilities with their own in order to distribute power to the submetered customers, including but not limited to:

- The ability to choose a competitive retail electric service provider (over 52% of the Northtowne customers are currently shopping and will lose their chosen generation providers);
- The ability to participate in AEP Ohio's Budget Plan and Average Monthly Plan;
- The ability to participate in the PIPP program (over 25% of the Northtowne residents will be removed from the PIPP program afforded to them as a result of their income status);
- The myriad of statutorily required disconnection and reconnection protections contained on Ohio Adm. Code 4901:1-18;
- Regulated and transparent rates for electric distribution services;

- Regulated processes for resolving disputes regarding pricing and services;
and
- Numerous rights contained in Ohio Adm. Code 4901:1-10

19. Upon establishment of a hearing date by the Commission, AEP Ohio proposes to publish newspaper notice in the Columbus Dispatch as required by R.C. 4905.21.

20. A courtesy copy of this Application will be provided to Northtowne and NEP contemporaneous with this filing.

WHEREFORE, AEP Ohio respectfully asks the Commission, upon deciding the merits of the Complaint Case, to rule on the contested abandonment of the Northtowne Distribution Assets.

Respectfully submitted,

/s/ Steven T. Nourse

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**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

7/11/2022 12:47:34 PM

in

Case No(s). 22-0693-EL-ABN

Summary: Application FOR ABANDONMENT BY OHIO POWER COMPANY
electronically filed by Michael J. Schuler on behalf of Ohio Power Company