

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR AUTHORITY
TO ESTABLISH A STANDARD SERVICE
OFFER PURSUANT TO R.C. 4928.143, IN
THE FORM OF AN ELECTRIC SECURITY
PLAN.

CASE NO. 23-23-EL-SSO

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR APPROVAL
OF CERTAIN ACCOUNTING AUTHORITY.

CASE NO. 23-24-EL-AAM

ENTRY

Entered in the Journal on May 30, 2023

{¶ 1} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric distribution utility, as defined in R.C. 4928.01(A)(6), and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} R.C. 4928.141 mandates that an electric distribution utility shall provide to all consumers within its certified territory, a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation service. The SSO may be either a market rate offer, in accordance with R.C. 4928.142, or an electric security plan (ESP), in accordance with R.C. 4928.143.

{¶ 3} On January 6, 2023, AEP Ohio filed an application that, if approved, would establish the Company's fifth ESP for a period to commence on June 1, 2024, and continue through May 31, 2030. AEP Ohio also filed an application for approval of certain accounting authority to implement aspects of the proposed ESP. In its application, AEP Ohio proposes a procedural schedule including that the hearing commence on July 10, 2023.

{¶ 4} A technical conference on AEP Ohio's ESP application was held on February 7, 2023.

{¶ 5} By Entry issued March 2, 2023, the procedural schedule was established for the Commission's consideration of AEP Ohio's ESP application and related matters, such that motions to intervene were due by March 31, 2023, intervenor testimony is due by June 2, 2023, discovery requests, except for notices of deposition, are to be served by June 16, 2023, a prehearing conference is scheduled for June 22, 2023, Staff testimony is due by June 30, 2023, and the evidentiary hearing is scheduled to commence on July 10, 2023.

{¶ 6} Timely motions to intervene were filed by and intervention was granted to Ohio Energy Group; Armada Power, LLC; The Ohio Manufacturers' Association Energy Group (OMAEG); Citizens' Utility Board of Ohio; Ohio Partners for Affordable Energy (OPAE); Calpine Retail Holdings, LLC (Calpine); Nationwide Energy Partners; Ohio Hospital Association; ChargePoint, Inc.; Walmart Inc.; Interstate Gas Supply, LLC (IGS); Environmental Law & Policy Center; The Kroger Company; One Energy Enterprises Inc. (One Energy); Ohio Environmental Council (OEC); Ohio Consumers' Counsel; Retail Energy Supply Association (RESA); Ohio Energy Leadership Council f.k.a. Industrial Energy Users-Ohio; jointly by Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (collectively, Constellation); Ohio Telecom Association (OTA); Ohio Cable Telecommunications Association; Northeast Ohio Public Energy Council; and Enel North America, Inc.

{¶ 7} On April 5, 2023, Direct Energy Business LLC and Direct Energy Services, LLC (collectively, Direct Energy) filed a joint motion for leave to intervene out of time. Direct Energy argues that it will be affected by several proposals in the ESP, if approved, for multiple years. Direct Energy states that its motion was inadvertently late, due to inadvertent oversight because of multiple pressing matters including other Commission proceedings and filed only three business days after the deadline. Direct Energy avers its participation will not unduly delay the proceeding or prejudice another party, Direct Energy can significantly contribute to the resolution of facts and issues, and its interests are not represented by any other party.

{¶ 8} On April 20, 2023, AEP Ohio filed a memorandum contra Direct Energy’s motion. AEP Ohio argues that Direct Energy’s claim of inadvertent oversight and other Commission proceedings fails to meet the definition of “extraordinary circumstances” or “good cause shown” for the Commission to grant intervention in accordance with Ohio Adm.Code 4901-1-11(F) or R.C. 4903.221. Indeed, AEP Ohio points out that 23 parties timely filed motions to intervene. Further, AEP Ohio notes that there are existing parties—Constellation, Calpine, IGS and RESA—that represent the interest of competitive retail suppliers.

{¶ 9} On April 27, 2023, Direct Energy filed a joint reply in support of the motion for leave to intervene.

{¶ 10} Given that the motion was filed three business days after the deadline, the attorney examiner finds Direct Energy’s motion for leave to intervene to be reasonable under the circumstances and, therefore, the motion should be granted. Based upon this timing, the attorney examiner finds that granting Direct Energy’s intervention will not prejudice any parties or unduly prolong the proceedings.

{¶ 11} By Entries issued March 21, 2023, and April 17, 2023, five in-person local public hearings and a virtual public hearing were scheduled to provide customers a reasonable opportunity to provide testimony in these proceedings. The six hearings were held as scheduled.

{¶ 12} On May 19, 2023, RESA, OMAEG, OTA, Constellation, OPAE, One Energy, OEC, and IGS (jointly, Movants) filed a joint motion for an extension of time, until June 16, 2023, to file intervenor testimony and a request for expedited ruling. Movants state that no settlement meetings with all the parties have occurred. To that end, Movants request the extension to facilitate negotiations before intervenor testimony is filed. Movants believe that their request will not “introduce any risk to the remainder of the procedural schedule.” Movants note that all of the parties have been contacted regarding the request for expedited ruling and OCC objects to the request.

{¶ 13} On May 24, 2023, AEP Ohio filed a memorandum contra Movant's motion. AEP Ohio notes that it is only eight of the 23 intervening parties that have requested the extension and alleges that Movants request the extension because they disagree with the majority of parties who set up a process and scheduled multiple meetings to negotiate settlement immediately following the filing of intervenor testimony. Despite Movants' claims otherwise, AEP Ohio contends the request for an extension indirectly affects the existing procedural schedule including discovery, Staff testimony, and the hearing. If Movants are granted an extension, AEP Ohio asks that the Commission avoid undue prejudice to AEP Ohio resulting from extending the due date for intervenor testimony.

{¶ 14} Taking into consideration the Movants' request, the remaining parties' plans to engage in settlement discussions, and the existing procedural schedule, the attorney examiner find that Movants' request for an extension of time to file intervenor testimony should be granted for no more than a week, until June 9, 2023. In fairness, sua sponte, the attorney examiner further revises the procedural schedule as follows: (a) Testimony on behalf of intervenors is due by June 9, 2023; (b) Discovery requests, except for notices of deposition, should be served by June 21, 2023. In all other respects, the procedural schedule remains as established in the Entry issued March 2, 2023.

{¶ 15} The attorney examiner directs that, in the event that any motion is made in these proceedings prior to the issuance of the Commission's order, any memorandum contra shall be filed within five business days after the service of such motion, and a reply memorandum to any memorandum contra shall be filed within three business days. Parties shall provide service of pleadings via hand delivery, facsimile, or e-mail. In addition, the attorney examiner finds that, for all discovery requests served after the issuance of this Entry, responses should be provided no later than ten calendar days after service of the requests. Discovery requests and replies shall be served by hand delivery, e-mail, or facsimile (unless otherwise agreed by the parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by

the parties). To the extent that a party has difficulty responding to a particular discovery request, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That Direct Energy's joint motion to intervene be granted. It is, further,

{¶ 18} ORDERED, That the joint motion for an extension of time to file intervenor testimony be granted, in part, and denied, in part and the procedural schedule revised as set forth in Paragraph 14. It is, further,

{¶ 19} ORDERED, That all persons comply with the procedural directives as set forth above in Paragraph 15. It is, further,

{¶ 20} ORDERED, That a copy of this Entry be served upon all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Greta See

By: Greta See
Attorney Examiner

PAS/mef

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Case No(s). 23-0023-EL-SSO, 23-0024-EL-AAM

Summary: Attorney Examiner Entry granting the motion to intervene and revising the procedural schedule: intervenor testimony due June 9, 2023, and discovery requests by June 21, 2023; and directing compliance with procedural directives in paragraph 15 electronically filed by Ms. Mary E. Fischer on behalf of Greta N. See, Attorney Examiner, Public Utilities Commission of Ohio.