

**BEFORE 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 Section 4928.143, Revised Code, in the Form of an Electric Security Plan.	:	Case No. 23-23-EL-SSO
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In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority.	:	Case No. 23-24-EL-AAM
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**POST-HEARING BRIEF OF THE
THE OHIO ENERGY GROUP**

The Ohio Energy Group (“OEG”) submits this Post-Hearing Brief in support of its recommendations to the Public Utilities Commission of Ohio (“Commission”) in these proceedings. Those recommendations are set forth below.

INTRODUCTION

On September 6, 2023, Ohio Power Company (“AEP Ohio” or “Company”) submitted the Joint Stipulation and Recommendation (“Stipulation”) that is now before the Commission for consideration. The Stipulation resolves these proceedings in a manner that is supported by Commission Staff and the vast majority of parties in this case, including the Company, Armada Power, Citizens’ Utility Board of Ohio, Direct Energy Business LLC and Direct Energy Services LLC, Enel North America, Inc., Environmental Law & Policy Center, Interstate Gas Supply, LLC, The Kroger Co, OEG, Ohio Energy Leadership Council, Ohio Environmental Council, Ohio Hospital Association, Ohio Manufacturers’ Association Energy Group, Ohio Partners for Affordable Energy, Retail Energy Supply Association, and Walmart, Inc., and is not opposed by the Ohio Cable Telecommunications Association or the Ohio Telecom Association.

The Stipulation not only enjoys widespread support among the parties, but it also satisfies the Commission's traditional standard for reviewing proposed settlements. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings.¹ While not binding on the Commission, the terms of stipulations are accorded substantial weight.² The ultimate issue for the Commission's consideration is whether the agreement, which embodies significant time and effort by the Signatory Parties, is reasonable, and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?³

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to customers and public utilities.

As discussed below, the Stipulation satisfies this three-pronged test and the Commission should approve the Stipulation without modification.

¹ Opinion and Order, Case No. 22-900-EL-SSO (August 9, 2023) ("AES ESP Order") at 45-46; Case No. 20-585-EL-AIR (November 17, 2021) ("AEP Rate Case Order") at 32; Opinion and Order, Case No. 12-1230-EL-SSO (July 18, 2012) ("FirstEnergy ESP Order") at 24; Opinion and Order, Case No. 11-3549-EL-SSO (November 22, 2011) ("Duke ESP Order") at 41 (citing *e.g. Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989), *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985)).

² Duke ESP Order at 41; FirstEnergy ESP Order at 24 (citing *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992) and *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978)).

³ AES ESP Order at 46; AEP Rate Case Order at 32-33; Duke ESP Order at 41; FirstEnergy ESP Order at 24 (citing *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, (68 Ohio St.3d 559, 629 N.E.2d 423 (1994) and *Consumers' Counsel* at 126).

ARGUMENT

I. The Stipulation Satisfies the Commission's Three-Prong Test For Determining Whether A Settlement Is Reasonable And Should Be Adopted.

A. The Stipulation Is The Product Of Serious Bargaining Among Capable And Knowledgeable Parties.

The parties supporting the Stipulation represent a variety of diverse interests, including the interests of the utility, low-income residential customers, commercial customers, industrial customers, hospitals, competitive retail electric service suppliers, renewable energy developers, and environmental advocates. Those parties have extensive experience in Commission matters and were represented by competent counsel. Parties had months to review and analyze AEP Ohio's proposals prior to the series of settlement discussions resulting in the Stipulation. And significant compromises were made on behalf of many of the parties in order to reach a reasonable settlement in these proceedings. The Stipulation therefore satisfies the first prong of the Commission's test.

B. The Stipulation As A Package Benefits Customers And The Public Interest.

In several ways, the Stipulation is superior to AEP Ohio's litigation position in these proceedings. The Stipulation significantly reduces the amounts recovered as compared to the Company's initial proposal, including the amounts proposed to be recovered under the Distribution Investment Rider,⁴ Enhanced Service Reliability Rider,⁵ Electric Transportation Plan,⁶ Energy Efficiency Rider,⁷ and Rural Access Rider.⁸ As a result of the Stipulation, the

⁴ Joint Ex. 1 (Joint Stipulation and Recommendation) at 18-20.

⁵ Joint Ex. 1 at 11.

⁶ Joint Ex. 1 at 12-15; AEP Ohio Ex. 2 (Direct Testimony of Jamie L. Mayhan in Support of the Joint Stipulation and Recommendation) at 7; Staff Ex. 1 (Testimony of Christopher Healey in Support of the Joint Stipulation and Recommendation) at 7:19-8:4.

⁷ Joint Ex. 1 at 25-27.

⁸ Joint Ex. 1 at 27.

typical residential customer increase resulting from the proposed Electric Security Plan is estimated to be 2.0% in 2024 (followed by annual increases of around 0.5% per year) as compared to the 5.15% increase in 2024 (followed by annual increases of nearly 2.0%) proposed in the Application.⁹

In addition to lowering overall customer rate impacts, the Stipulation provides other important benefits to AEP Ohio's customers. It preserves AEP Ohio's long-standing interruptible rate program, which requires participating customers to curtail their usage at times when the grid is stressed, "*enhancing reliability*" consistent with R.C. 4928.02(A), encourages demand-side management in accordance with R.C. 4928.02(D), and promotes economic development in Ohio consistent with state policy set forth in R.C. 4928.02(N).¹⁰ It continues and expands AEP Ohio's Basic Transmission Cost Rider Pilot, which better aligns participants' transmission rates with cost causation, helping to maintain competitive electric rates for manufacturers in Ohio, with the goal of reducing AEP Ohio's total transmission investment for all customers.¹¹ It establishes a residential smart thermostat demand response program to help reduce grid stress during times of peak usage.¹² It encourages developing technologies by facilitating the installation of electric vehicle charging infrastructure and establishing new pricing options for battery energy storage systems.¹³ And it promotes Ohio's economic health by providing funding for the Company's Economic Development Plan.¹⁴

Given the substantial benefits to customers and the public interest outlined above, the Stipulation satisfies the second prong of the Commission's test.

⁹ Joint Ex. 1; Staff Ex. 1 at 5:15-6:8.

¹⁰ Joint Ex. 1 at 15-18; Staff Ex. 1 at 9-11; AEP Ohio Ex. 2 at 8-10.

¹¹ Joint Ex. 1 at 27-32.

¹² Joint Ex. 1 at 21-24; Staff Ex. 1 at 10:1-5.

¹³ Joint Ex. 1 at 12 and 30-33; Company Ex. 2 at 7:13-8:2, 14:9-12 and 15:4-7; Staff Ex. 1 at 7:19-8:4.

¹⁴ Joint Ex. 1 at 24-25; Staff Ex. 1 at 11:1-3.

C. The Stipulation Does Not Violate Any Important Regulatory Principle Or Practice.

None of the individual provisions of the Stipulation is inconsistent with or violates any important Commission principle or practice. Rather, the Stipulation advances important policies and principles, including ensuring the availability to consumers of adequate, reliable, safe, effective, nondiscriminatory, and reasonably priced retail electric service, ensuring the diversity of electricity supplies and suppliers, encouraging the development of distributed generation facilities, encouraging innovation and market access for cost-effective supply- and demand-side retail electric service, including demand-side management and time-differentiated pricing, protecting at-risk populations, and facilitating the state's effectiveness in the global economy. The Stipulation therefore satisfies the third prong of the Commission's test.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission should approve the Stipulation without modification.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the POST HEARING BRIEF OF THE OHIO ENERGY GROUP was sent to the following parties of record this 1st day of December, 2023, via electronic transmission.

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