

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION
OF OHIO POWER COMPANY FOR
AUTHORITY TO ABANDON ELECTRIC
SERVICE LINES, PURSUANT TO
OHIO REVISED CODE SECTIONS 4905.20
AND 4905.21.

CASE NO. 22-693-EL-ABN

ENTRY

Entered in the Journal on March 12, 2024

{¶ 1} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is a “public utility,” as that term is defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} AEP Ohio has been granted a service territory under the Certified Territory Act (CTA) within which AEP Ohio has the exclusive right to provide electric distribution service and other noncompetitive electric services.

{¶ 3} On July 11, 2022, AEP Ohio filed an application, pursuant to R.C. 4905.20 and 4905.21 (the Miller Act), for authority from the Commission to abandon distribution infrastructure currently serving existing AEP Ohio customers at the Northtowne Apartments (Northtowne). AEP Ohio explains that it has exclusively provided electric distribution services to Northtowne and has invested in significant distribution facilities at the property that includes distribution lines, conduit, meters, risers, and transformers (Northtowne Distribution Assets). Further details concerning the Northtowne Distribution Assets and service at Northtowne are outlined within the application.

{¶ 4} AEP Ohio alleges that Nationwide Energy Partners, LLC (NEP) is a large-scale third-party submetering company that engages in the resale or redistribution of public utility service in AEP Ohio’s service territory in violation of the CTA and other Ohio law.

{¶ 5} AEP Ohio states that it opposes converting existing customers to master-meter service whereby AEP Ohio customers cease to be AEP Ohio customers and become customers of a third-party submetering company such as NEP. In support of this position, AEP Ohio filed, on September 24, 2021, a complaint against NEP in Case No. 21-990-EL-CSS, opposing NEP's conversion practices and alleging that NEP would be engaging in the illegal resale of public utility services at five apartment complexes that are the subject of that case. *Ohio Power Company v. Nationwide Energy Partners, LLC*, Case No. 21-990-EL-CSS (*Complaint Case*).

{¶ 6} In the application in this proceeding, AEP Ohio alleges that on May 19, 2022, NEP requested that AEP Ohio terminate service to the Company's existing Northtowne customers so that NEP can establish master-meter service and convert the Northtowne tenants to "NEP electric distribution services." Specifically, AEP Ohio states that NEP requested that AEP Ohio provide secondary service at each of the 59 service points within the vicinity of the Northtowne property. AEP Ohio states that to the extent that it is required to convert Northtowne to submetered services from NEP, it intends to provide a single point of primary service to the perimeter of the Northtowne property line rather than providing 59 secondary service points. AEP Ohio further states that processing NEP's request for conversion to master-meter service would result in AEP Ohio abandoning the Northtowne Distribution Assets currently installed on the property.

{¶ 7} AEP Ohio declares that it does not desire to permanently abandon the Northtowne Distribution Assets but, given its position regarding submetering and NEP's requests, it filed this application to seek a Commission ruling under the Miller Act as to whether the conversion should go forward and a determination as to the proposed abandonment.

{¶ 8} On September 6, 2023, the Commission issued an Opinion and Order in the *Complaint Case* which, among other things, found that with respect to the properties at issue in that complaint, NEP is not engaged in the business of supplying electricity, is not an

“electric light company” under R.C. 4905.03(C), nor a “public utility” under R.C. 4905.02(A); and that NEP is not operating as an “electric supplier” within AEP Ohio’s certified territory in violation of R.C. 4933.83(A). *Complaint Case*, Case No. 21-990-EL-CSS, Opinion and Order (Sept. 6, 2023). On October 6, 2023, AEP Ohio filed an application for rehearing of the Opinion and Order. On December 13, 2023, the Commission issued its Second Entry on Rehearing, denying AEP Ohio’s application for rehearing.

{¶ 9} On September 9, 2022, the Office of the Ohio Consumers’ Counsel (OCC) filed a motion to intervene. On December 4, 2023, NEP filed a motion to intervene. No memoranda contra the motions to intervene were filed. Upon review, the Commission finds that OCC’s and NEP’s motions to intervene satisfy the requirements in R.C. 4903.221 and Ohio Adm.Code 4901-1-11(A) and (B) and should be granted.

{¶ 10} On November 2, 2023, the attorney examiner issued an Entry, establishing a procedural schedule whereby motions to intervene were due by December 4, 2023, initial comments were due by December 4, 2023, and reply comments were due by December 19, 2023.

{¶ 11} On December 4, 2023, NEP, OCC, and AEP Ohio each filed initial comments. On December 19, 2023, NEP, OCC, and AEP Ohio filed reply comments.

{¶ 12} On December 4, 2023, NEP also filed a motion to dismiss. On December 19, 2023, AEP Ohio filed a memorandum contra the motion to dismiss. On December 26, 2023, NEP filed its reply in support of the motion to dismiss.

{¶ 13} At this time, the Commission exercises its discretion to hold a hearing in this matter. Accordingly, the attorney examiner finds that the following procedural schedule is established for this proceeding:

- a. Discovery requests (except as to notices of deposition) shall be permitted until May 13, 2024.

- b. Parties shall file testimony by June 10, 2024.
- c. Any motions to strike testimony should be filed by June 17, 2024. Arguments in response to such motions may be filed prior to the start of the evidentiary hearing and/or made orally at the evidentiary hearing.
- d. An evidentiary hearing in this matter should be scheduled to commence on June 24, 2024, at 10:00 a.m. at the office of the Commission, Hearing Room 11-A, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215. The parties should register at the lobby desk and then proceed to the 11th Floor in order to participate in the hearing.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That OCC's and NEP's motions to intervene should be granted.
It is, further,

{¶ 16} ORDERED, That the parties observe the procedural schedule set forth in Paragraph 13. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Matthew J. Sandor

By: Matthew J. Sandor
Attorney Examiner

MJA/dr

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

Summary: Attorney Examiner Entry granting OCC's and NEP's motions to intervene and establishing the following procedural schedule: discovery requests shall be permitted until May 13, 2024, parties' testimony shall be filed by June 10, 2024, motions to strike testimony due by June 17, 2024, arguments in response to such motions may be filed prior to start of the evidentiary hearing, and an evidentiary hearing shall commence on June 24, 2024, at 10:00 a.m. at the office of the Commission, Hearing Room 11-A, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215 electronically filed by Debbie S. Ryan on behalf of Matthew J. Sandor, Attorney Examiner, Public Utilities Commission of Ohio.