

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Power Company for New Tariffs Related) Case No. 24-508-EL-ATA
to Data Centers and Mobile Data Centers)

**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT
OF SIDECAT LLC, AN AFFILIATE OF META PLATFORMS, INC.**

In accordance with R.C. 4903.221 and Ohio Adm.Code 4901-1-11, Sidecat LLC, an affiliate of Meta Platforms, Inc. (Meta), moves to intervene in the above-captioned proceeding, in which Ohio Power Company (AEP Ohio) has requested approval of a proposed “Data Center Power” tariff, which would create a new customer classification in AEP Ohio’s service territory applicable to data centers with monthly demand of more than 25 MW that begin commercial operation or expansion of their existing load after the effective date of the tariff. As set forth in the attached Memorandum in Support, Meta has a real and substantial interest in the issues raised by AEP Ohio’s application and tariff proposals, and the Commission’s disposition of this proceeding may impact or impede Meta’s ability to protect that interest. Accordingly, Meta respectfully requests that the Commission grant its request to intervene in this proceeding.

Dated: June 10, 2024

Respectfully submitted,

/s/ Christopher T. Kennedy
Christopher T. Kennedy (0075228)
Vernita E. Cockrell (103173)
WHITT STURTEVANT LLP
The KeyBank Building, Suite 1590
88 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 224-3912
kennedy@whitt-sturtevant.com
cockrell@whitt-sturtevant.com

(Counsel willing to accept service by email)

ATTORNEYS FOR SIDECAT LLC, AN
AFFILIATE OF META PLATFORMS, INC.

MEMORANDUM IN SUPPORT

I. BACKGROUND

AEP Ohio initiated this proceeding by filing for Commission approval of changes to its tariffs to create two new customer classifications. (App. ¶ 2.) AEP Ohio specifically proposes (1) a Data Center Power tariff for new data center customers that will use a monthly maximum demand of 25 MW or greater at a single location; and (2) a Mobile Data Center tariff for new mobile data center customers (e.g., cryptocurrency miners) that will use a monthly maximum demand of 1 MW. (*Id.*)

AEP Ohio further proposes that data center and cryptocurrency mining customers that have signed service agreements with the Company prior to the proposed tariffs being effective will continue to be served (for the time being) under the Company's existing General Service tariffs. (*Id.*) However, as part of its next base distribution rate case "or some other appropriate proceeding in the future," AEP Ohio "reserves the right to migrate those grandfathered customers to the new tariffs (or some other applicable tariff at that time)." (*Id.*)

AEP Ohio claims that its service territory is experiencing unprecedented load growth from data centers, that future load growth under contract will leave minimal amounts of reserve capacity for non-data center load growth for existing and future customers, and that its proposed tariffs "balance the interests of data center customers and other current and future customers of AEP Ohio." (*Id.* ¶¶ 12–15.) AEP Ohio further claims that existing processes and tariffs do not address the load growth of data center customers, that significant transmission investments will be needed to accommodate future data center load, and that there needs to be "solutions" to ensure new data center customers "follow through with their plans to justify the time and costs associated with the associated transmission investment." (*Id.* ¶¶ 16–18.)

In the interim, AEP Ohio discloses that it has implemented “a temporary moratorium or pause on taking new service requests in Central Ohio from data center customers and executing agreements to move forward with serving that load.” (*Id.* ¶ 20.) During this moratorium, which AEP Ohio says needs to remain in place “while this tariff application remains pending and until the solution is implemented to move forward,” prospective customers are being placed in a “first come, first served” queue. (*Id.* ¶ 21.) Until there is resolution of issues identified in the application, AEP Ohio states that it is unable to commit to servicing additional data center load. (*Id.* ¶ 22.)

AEP Ohio’s proposed solution to data center load growth is a minimum billing demand. (*Id.* ¶ 26.) The Data Center Tariff, as proposed, would apply a minimum billing demand of no less than 90% of the greater of (a) the customer's contract capacity, or (b) the customer’s highest previously established monthly transmission billing demand during the past 11 months. (*Id.*). It also would require contracts to be made for an initial term of not less than 10 years, include an “exit fee” if the customer chooses to leave early, and require significant collateral at the time of signing the contract. (*Id.* ¶¶ 27–28.)

Meta operates data centers in Ohio and across the country, including in the AEP Ohio service territory. With respect to AEP Ohio’s proposed tariff, Meta currently owns and operates a data center in AEP Ohio’s service territory in the New Albany area, through its affiliate Sidecat LLC, which uses a monthly maximum demand of 25 MW or greater at that specific location, and Sidecat LLC is the customer of record for the accounts with AEP Ohio for that data center. In addition, in the future, Meta may also seek to operate new data centers in AEP Ohio’s service territory that would use a monthly maximum demand of 25 MW or greater at a single location. The applicable electricity rates and corresponding electric service

tariffs for AEP Ohio will be a significant consideration for Meta when evaluating possible sites for new facilities, expansions at existing facilities, and otherwise operating its data center assets.

II. LEGAL STANDARD

R.C. 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” R.C. 4903.221 and Ohio Adm. Code 4901-1-11(B) set forth the criteria for the Commission to consider when deciding whether to permit intervention by a prospective intervenor:

1. The nature and extent of the prospective intervenor’s interest;
2. The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
3. Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
4. Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues; and
5. The extent to which the person’s interest is represented by existing parties.

The Ohio Supreme Court has instructed that “intervention ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission].” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶ 20.

III. ARGUMENT

Each of these five criteria supports Meta’s intervention in this proceeding. With respect to the first and second criteria, both the nature of Meta’s interest and its legal position warrant intervention. Meta already owns and operates one data center in the New Albany area that use a monthly maximum demand of 25 MW or greater at that location. Meta may seek to

increase its load at that location, or develop additional data centers in AEP Ohio's service territory. Any new data center development by Meta would be subject to AEP Ohio's Data Center Tariff, if approved by the Commission as proposed. In addition, AEP Ohio's proposal reserves the right to transfer existing data center customers to the new proposed customer class. Accordingly, Meta's present and future interests will be directly impacted by the Commission's resolution of AEP Ohio's application in this proceeding.

With respect to the third and fourth criteria, Meta's intervention will not unduly prolong or delay the proceeding, as its representatives have extensive experience in Commission proceedings. Moreover, Meta's familiarity with utility regulation, electric tariffs, and operating data centers will only contribute to the full development and equitable resolution of issues in the proceeding. Finally, no existing party to this proceeding adequately represents Meta's interest in ensuring sufficient and affordable electric supply for its existing and future data center facilities.

IV. CONCLUSION

For the foregoing reasons, good cause exists to grant Meta's motion to intervene.

Dated: June 10, 2024

Respectfully submitted,

/s/ Christopher T. Kennedy
Christopher T. Kennedy (0075228)
Vernita E. Cockrell (103173)
WHITT STURTEVANT LLP
The KeyBank Building, Suite 1590
88 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 224-3912
kennedy@whitt-sturtevant.com
cockrell@whitt-sturtevant.com

(Counsel willing to accept service by email)

ATTORNEYS FOR SIDECAT LLC, AN
AFFILIATE OF META PLATFORMS,
INC.

CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail this 10th day of June, 2024, to the following:

Ambrosia.Wilson@OhioAGO.gov
Ashley.Wnek@OhioAGO.gov
stnourse@aep.com
mjschuler@aep.com
mkurtz@BKLawfirm.com
jkylercohn@BKLawfirm.com
Stacie.Cathcart@igs.com
Natalia.Messenger@igs.com
dproano@bakerlaw.com
cpirik@dickinsonwright.com
todonnell@dickinsonwright.com
cgrundmann@spilmanlaw.com
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com
dparram@brickergraydon.com
dborchers@brickergraydon.com
kherrnstein@brickergraydon.com
rmains@brickergraydon.com
trent@hubaydougherty.com
bojko@carpenterlipps.com
easley@carpenterlipps.com

Robert.eubanks@occ.ohio.gov
John.varanese@occ.ohio.gov
jdunn@oneenergyllc.com
ktreadway@oneenergyllc.com
mpritchard@mcneeslaw.com
awalke@mcneeslaw.com
stephanie.chmiel@thompsonhine.com
vanessa.boddy@thompsonhine.com
khelfrich@ohioec.org
lkaleps@ohioec.org
mjsettineri@vorys.com
glpetrucci@vorys.com
jreckert@vorys.com
jlang@calfee.com
mbarbara@calfee.com

Attorney Examiners:

David.hicks@puco.ohio.gov
greta.see@puco.ohio.gov

/s/ Christopher T. Kennedy

One of the Attorneys for Sidecat LLC, an affiliate
of Meta Platforms, Inc.

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Summary: Motion Motion to Intervene and Memorandum in Support of Sidecat LLC, an affiliate of Meta Platforms, Inc. electronically filed by Mr. Christopher T. Kennedy on behalf of Sidecat LLC.