

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
OHIO POWER COMPANY D/B/A AEP  
OHIO FOR APPROVAL OF A REASONABLE  
ARRANGEMENT.

CASE NO. 24-734-EL-AEC

## FINDING AND ORDER

Entered in the Journal on September 4, 2024

### I. SUMMARY

{¶ 1} The Commission finds that the joint application for a reasonable arrangement between Ohio Power Company d/b/a AEP Ohio and Intel Corporation is reasonable and should be approved.

### II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} The Commission has the authority to approve a reasonable arrangement between an electric utility and a customer or group of customers upon application by the customer or the utility, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05.

{¶ 3} On July 19, 2024, Intel Corporation (Intel or Company) and Ohio Power Company d/b/a AEP Ohio (AEP Ohio) filed a joint application (collectively, Joint Applicants), which they submitted to the Commission for approval of a reasonable arrangement under R.C. 4905.31 and Ohio Adm.Code 4901:1-38 (Joint Application).

{¶ 4} AEP Ohio is an electric light company, as defined by R.C. 4905.03(C), and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission. Further, Intel is a mercantile customer pursuant to R.C. 4928.01(A)(19) and Ohio Adm.Code 4901:1-38-01(F).

{¶ 5} Pursuant to Ohio Adm.Code 4901:1-38-05(F), interested persons had the opportunity to file comments or objections regarding the application for a reasonable arrangement.

{¶ 6} On July 26, 2024, the Ohio Consumers Counsel (OCC) filed a motion to intervene. No memoranda contra were filed. At this time, the Commission grants intervention.

{¶ 7} On August 8, 2024, OCC filed comments in support of the Joint Application, and the Ohio Energy Group (OEG) filed a notice in support of the Joint Application.

{¶ 8} On August 13, 2024, Staff filed its review and recommendation.

*A. Summary of the Joint Application*

{¶ 9} Joint Applicants explain that Intel designs and manufactures advanced semiconductors used in a wide range of applications, such as personal computers, laptops, servers, tablets, smartphones, automobiles, automated factory systems, and medical devices. Joint Applicants also note that Intel is the largest U.S.-owned semiconductor manufacturer and is the only leading-edge U.S. semiconductor company that both designs and fabricates its own semiconductor products. Furthermore, Intel's intellectual property still resides in the United States. Also, Joint Applicants state that developing semiconductor manufacturing facilities in the United States will help to mitigate national security risks and bring more dependability and resiliency to the global supply chain. (Joint App. at 4, 7.)

{¶ 10} According to the Joint Application, Intel currently employs approximately 57,000 people across the country and directly contributed \$25.9 billion to the nation's gross domestic product in 2019. Joint Applicants report that Intel's manufacturing facilities, called fabs, will support more than 20,000 jobs in the state, including approximately 3,000 direct Intel jobs generating an annual payroll of \$405,000,000 (plus benefits), 7,000 construction jobs over the course of the build, and over 10,000 additional indirect and support jobs including contracted positions, electricians, engineers, and jobs in restaurants, healthcare,

housing, entertainment and more. Joint Applicants also refer to a JobsOhio economic impact study, which indicates that during construction, the fabs will support \$2.57 billion of economic activity and \$668 million of gross state product in Ohio annually and \$446 million of annual labor income. According to the JobsOhio study, once the fabs reach operational capacity, they will support \$6.45 billion of economic activity and \$2.79 billion of gross state product on an annual basis and support \$1.90 billion of labor income. (Joint App. at 1, 4, 8, Attach. B.) Joint Applicants highlight that Intel's investment includes \$50 million toward partnerships with Ohio educational institutions to build a pipeline of talent and bolster research programs in Ohio. Furthermore, during the first phase of funding, Joint Applicants note that Intel has already awarded \$17.7 million for eight proposals from institutions and collaborators in Ohio to develop semiconductor-focused education and workforce programs. Joint Applicants also emphasize that this funding will support over 2,300 scholarships and educate 9,000 students. (Joint App. at 4, 7-8.)

{¶ 11} Further, Joint Applicants explain that Intel's decision in choosing the Licking County location involved intensive collaboration with the State of Ohio, the city of New Albany, Ohio's congressional delegation, and many other stakeholders. Joint Applicants note that Intel is receiving several incentives for development of the proposed facility (Facility), which represents support from the local and state level; and the State of Ohio is also providing significant funding for road, water, and wastewater infrastructure improvements around the site. Furthermore, Joint Applicants state that on the federal level, Intel and the U.S. Department of Commerce agreed to a preliminary memorandum of terms, which provides up to \$8.5 billion in direct funding from the CHIPS and Science Act to support Intel projects in Ohio, and other state sites. (Joint App. at 8-9.)

{¶ 12} In the Joint Application, Intel and AEP Ohio emphasize that Intel's new manufacturing Facility has unique electrical needs in terms of both the size of the load and the power quality needed to operate highly technical and sensitive semiconductor manufacturing equipment. Joint Applicants further explain that Intel plans to build its fabs across nearly 1,000 acres in Licking County, Ohio. The total electric supply available to serve

the Facility will be 500 megawatts (MW) for semiconductor manufacturing and other operations that enhance the semiconductor manufacturing development. Phase One of Intel's investment involves two fabs; however, Joint Applicants indicate that Intel may build additional fabs at the Licking County site based on developing market conditions. Furthermore, Joint Applicants note that the Facility will also include other operations, such as office space, air separation machines, a water recycling facility, and data centers at the site or on nearby land. (Joint App. at 5-6, 10.)

{¶ 13} Joint Applicants explain that the proposed arrangement will allow AEP Ohio to meet the Facility's electric supply needs through an economical solution that will promote Intel's continued investment in Ohio and demonstrate that Ohio is open for business for high-tech manufacturers. Specifically, Joint Applicants note that the proposed arrangement will consist of five primary components: the arrangement will last for a 20-year term commencing the first month after Commission approval; at no cost to Intel, AEP Ohio will separately meter and bill third-parties designated by Intel using a portion of the 500 MW based on the same rates, rate schedules, terms and conditions being proposed in this Joint Application, which can include third-parties located on the Intel property adjacent to the property or nearby as provided in the proposed terms; allow Intel to be charged under AEP Ohio's applicable Schedule General Service (GS) Demand Metered Transmission throughout the arrangement's term such that Intel shall designate reserve capacity annually, not to exceed 500 MW and subject to any system engineering constraints; provide that Intel will file annual reports with Intel's investment with the Commission until its investment exceeds \$20 billion; and provide that AEP Ohio will recover the capital and related costs of building a customized distribution station and related equipment to service Intel through the Distribution Investment Rider (DIR) outside of the existing annual revenue cost, such that the associated estimated costs are \$95.1 million. (Joint App. at 2-4, 16.)

{¶ 14} Relatedly, Joint Applicants submit that AEP Ohio will construct a customized distribution station designed to meet Intel's unique needs including up to six transformers (138kV, 225 megavolt ampere) at the Green Chapel Station to reduce voltage

to 34kV, which is the voltage at which AEP Ohio will provide service to Intel. AEP Ohio will also install other equipment, including breakers, reactors, and meters. A key aspect of the distribution station design is the inclusion of special circuit breakers needed to address Intel's unique service quality needs (estimated at \$740,000), which Intel will pay for through a contribution in aid of construction charge (CIAC). The total estimated cost of AEP Ohio's distribution investment is \$95.1 million, and AEP Ohio currently expects the construction to be complete by April 2025. (Joint App. at 11-12.)

{¶ 15} Under the proposed arrangement, Intel will be charged under AEP Ohio's transmission-voltage rate schedules, subject to change based on Commission approval over the 20-year term. According to the Joint Application, although AEP Ohio plans to serve Intel at 34kV, the proposed arrangement will provide that AEP Ohio will charge Intel pursuant to the applicable transmission service rate schedule as if AEP Ohio were serving Intel at 138 kV and Intel had built its own distribution station to receive and meter power at transmission voltage. Joint Applicants explain that this term helps align Intel's electric rate structure with other incentives offered by the State of Ohio that fund other infrastructure supporting the project. During the 20-year term, Joint Applicants state that the Facility will be billed under AEP Ohio's Schedule GS Demand Metered Transmission or successor tariff and, absent a Commission directive, the Facility shall not be migrated to a different tariff without the consent of Intel. According to Joint Applicants, reserved capacity shall be designated (increased or decreased) annually by Intel, not to exceed 500 MW. Capacity designations may be made more frequent than annually with the agreement of both Joint Applicants. Further, within 60 days of receiving the annual load designation, AEP Ohio will identify any system engineering constraints that prevent AEP Ohio from serving the requested load and will simultaneously indicate what the maximum available capacity will be for the applicable year. In order to ensure the desired contract capacity, Intel reports that it may be required to temporarily waive spare transformer availability. Furthermore, Joint Applicants indicate that, pursuant to the existing terms of Schedule GS Demand Metered Transmission, Intel will pay a \$3,600 per month customer charge, an excess reactive demand

charge, and all applicable riders, including the Basic Transmission Cost Rider, the KWH Tax Rider, and the Universal Service Fund Rider. Also, under the proposed reasonable arrangement, Intel will pay the incremental CIAC of installing special circuit breakers needed to address Intel's unique service quality needs (estimated at \$740,000) but will not be required to pay CIAC for AEP Ohio's construction of any other facilities needed to serve Intel. (Joint App. at 11-14.)

{¶ 16} Furthermore, the proposed arrangement will require Intel to file with the Commission an annual report until Intel's investment in the fabs has exceeded \$20 billion. Joint Applicants state that Intel may at its discretion, receive service from a competitive retail electric service supplier, as well as avail itself of additional arrangements or opportunities that may become available. Under the arrangement, Intel will have the right to terminate the reasonable arrangement prior to the end of the 20-year term if it has already invested \$20 billion or more into the Facility. If it has not yet invested at that level and terminates early, Intel will pay an exit fee equal to the lesser of the then-current net book value of the Green Chapel Station plant in service or \$94.5 million (the projected value of the station less the Customer's CIAC payment). If that happens, AEP Ohio shall credit such payment against the net book value of the plant in service. (Joint App. at 14, 15.)

{¶ 17} Furthermore, under the arrangement, AEP Ohio will utilize its existing DIR mechanism to recover the costs associated with its construction of the substation facilities (currently estimated to be \$95.1 million). Consistent with the approved Stipulation regarding AEP Ohio's fifth electric security plan, Joint Applicants state that the investments supporting a reasonable arrangement can be approved by the Commission for recovery under the DIR above the annual revenue caps that otherwise apply to the DIR. See *In re the Application of Ohio Power Co. d/b/a AEP Ohio*, Case No. 23-23-EL-SSO, et al. (*AEP Ohio ESP V Case*), Opinion and Order (Apr. 3, 2024) at 33. Specifically, all capital investment for the service plan described above will be recovered through the DIR. The Joint Applicants add that AEP Ohio would recover the associated return on rate base, property tax and depreciation expense as with any other investment included in the DIR, except that the

annual revenue caps would not apply to the service plan investment recovery. Also, Joint Applicants note that in the next base rate case, these capital costs would be moved to the rate base component of AEP Ohio's base distribution rates. As these investments are not related to overall system reliability or the purpose of the annual DIR revenue caps, Joint Applicants contend that it is reasonable and appropriate that AEP Ohio's capital investment for the Intel project be deemed incremental to, and not subject to, current and future annual revenue caps on DIR recovery that would otherwise generally apply. (Joint App. at 15-16.)

{¶ 18} Lastly, Joint Applicants submit that the proposed arrangement is reasonable and in the public interest. Joint Applicants assert that meeting the Facility's specific needs is a vital part of attracting Intel and potentially other high-tech investment to the developing "Silicon Heartland." Joint Applicants submit that the approval of the Joint Application is especially important given that Intel will also be considering whether to implement later phases of Ohio investment and building additional fabs at its Licking County site. Furthermore, Joint Applicants state that the proposed arrangement supports the clear state policy of encouraging the development of high-tech manufacturing in Ohio and encouraging Intel, in particular, to locate its new facilities in Licking County. Joint Applicants indicate that by approving this proposed arrangement, the Commission would join the federal, state, and local policymakers that have already endorsed the need for the Facility, as demonstrated by its associated economic benefits and addressing of serious national security and supply chain concerns. Joint Applicants thus state that the proposed arrangement supports a facility that, among other things, "facilitate[s] the state's effectiveness in the global economy" and "promote[s] job growth and retention in the state," pursuant to Ohio Adm.Code 4901:1-38-02. Moreover, Joint Applicants state that the proposed arrangement does not violate the prohibitions on discriminatory rates in R.C. 4905.33 and R.C. 4905.35 because there is no other comparable customer of AEP Ohio and therefore no possibility of discrimination. (Joint App. at 16-17.)

**B. Summary of Staff Report**

{¶ 19} Staff notes its review consisted of an assessment of the Joint Application, data requests, independent research, and communications with the Joint Applicants to determine whether the reasonable arrangement terms adhere to the requirements of R.C. 4905.31 and Ohio Adm.Code Chapter 4901:1-38. Based upon its review, Staff recommends that the Commission approve the proposed reasonable arrangement, subject to the following clarifications:

- a. Staff supports inclusion of the Green Chapel Station investments in AEP Ohio's DIR and agrees that recovery under the DIR should be excluded from the annual revenue caps otherwise applicable to the DIR, as determined in the *AEP Ohio ESP V Case*. Staff recommends that recovery associated with the Green Chapel Station should be subject to the same audit process as all other DIR assets.
- b. Staff supports Intel's proposal to provide annual reports regarding the capital investments in the Facility until such investment exceeds \$20 billion. However, Staff additionally requests that the following information also be submitted in the annual reports: (1) number of direct Intel employees and annual payroll, which is projected in the Joint Application as 3,000 employees and \$405 million, respectively; and (2) a summary of all third-party entities to whom Intel has delegated a portion of its 500 MW capacity under the reasonable arrangement.
- c. Staff notes that footnote 19 to the Joint Application discusses various contingencies for cost recovery in the event the DIR is terminated before the Green Chapel Station costs are rolled into base rates. Rather than predetermine cost recovery upon termination of the DIR, Staff suggests allowing AEP Ohio to make a filing in this docket with a proposed modification to the reasonable arrangement to address the issue.



{¶ 20} Staff states that, given that the reasonable arrangement will, among other things, “facilitate the state’s effectiveness in the global economy” and “promote job growth and retention in the state,” the benefits to the State of Ohio from Intel’s investments substantially outweigh the costs that other ratepayers will pay for the Green Chapel Station through AEP Ohio’s DIR. Ohio Adm.Code 4901:1-38-02(A); R.C. 4928.02; R.C. 4905.31.

### C. *Summary of Comments*

{¶ 21} In its comments, OCC requests that the Commission grant the Joint Application. Specifically, OCC agrees with the Joint Applicants’ representations that the proposed arrangement aligns with state policy and benefits consumers. OCC highlights the potential for tens of thousands of high-quality employment opportunities created by the Facility. Also, OCC notes that by cultivating a supportive environment for high-technology industries, the state of Ohio can attract further investment, create other employment opportunities, and enhance its reputation as a business-conducive location. OCC also refers to the abovementioned federal and local support Intel has already received. Furthermore, OCC agrees that the Intel Facility is poised to yield significant tax revenue and will stimulate economic development within the region. Lastly, OCC notes that by manufacturing semiconductors in the country, Intel is actively safeguarding national security and fortifying supply chain resilience. (OCC Comments at 4-5.)

{¶ 22} OEG also supports Intel and AEP Ohio’s Joint Application for a reasonable arrangement and urges the Commission’s approval. OEG notes that Intel’s proposed \$20-billion investment in the state will generate substantial benefits for the state of Ohio, including 3,000 direct, good-paying jobs. OEG believes that the Joint Application proposes a reasonable solution to help enable this investment.

## III. COMMISSION CONCLUSION

{¶ 23} R.C. 4905.31 provides that a public utility may enter into a reasonable arrangement with one of its customers and that a public utility may request recovery of costs

incurred in conjunction with any economic development and job retention program of the utility. Ohio Adm.Code 4901:1-38-05 authorizes an electric utility, with one or more of its mercantile customers, to file an application for approval to enter into a reasonable arrangement and prescribes certain verifiable information to be included within the application. This rule further provides that an applicant must prove that the proposed arrangement is reasonable and submit information detailing the rationale for the arrangement. At a minimum, the applicant has the burden of proof to show that the arrangement is in the public interest. Moreover, pursuant to Ohio Adm.Code 4901:1-38-05(A),(B), the electric utility/ mercantile customer filing the application bears the burden of proof to show that the proposed arrangement is reasonable, does not directly or indirectly provide rebates, special rates, and free service in violation of R.C. 4905.33, and does not provide an unreasonable advantage or prejudice towards any party under R.C. 4905.35.

{¶ 24} Upon review of the requirements for an electric utility to enter into a reasonable arrangement with one of its mercantile customers under Ohio Adm.Code 4901:1-38-05, the Commission finds that the requirements are clearly met in this instance. Intel has demonstrated its status as the largest U.S.-owned semiconductor manufacturer and the significance of its Facility to the State of Ohio and the nation. Specifically, the proposed reasonable arrangement will support a new significant electric load of 500 MW while encouraging a significant investment that would result in more than 20,000 jobs in the State of Ohio. Moreover, the Facility will result in 3,000 direct Intel jobs, 7,000 construction jobs over the course of the construction, and over 10,000 additional indirect and support jobs. According to a JobsOhio economic impact study, during construction, Intel's fabs would support \$2.57 billion of economic activity and \$668 million of gross state product in the State of Ohio and \$446 million of annual labor income. During operation, JobsOhio estimates that the Facility would support \$6.45 billion of economic activity, \$2.79 billion of gross state product on an annual basis, and \$1.9 billion of labor income. Furthermore, the importance of this Facility is indicated by the substantial federal and state support Intel has already received in terms of local and state level incentives and direct funding from the CHIPs and

Science Act. Moreover, the Commission recognizes that in good faith, Intel has already awarded \$17.7 million for funding proposals from institutions and collaboration in Ohio to develop semiconductor-focused education and workforce programs, and that Intel plans to invest a total of \$50 million toward partnerships with Ohio educational institutions. (Joint App. at 4, 7-8, Attach. B.)

{¶ 25} The Commission also observes that the Facility poses unique electrical needs in terms of the size of the 500 MW load and the power quality needed to operate Intel's highly technical and sensitive semiconductor manufacturing equipment. We also find reasonable the five main components in the Joint Application, 1) the arrangement will last for a 20-year term, 2) AEP Ohio will separately meter and bill third-parties designated by Intel using a portion of the 500 MW load required, 3) Intel shall be charged under AEP Ohio's Schedule GS Demand Metered Transmission not to exceed the 500 MW supply, 4) Intel will file reports of its investment with the Commission annually until the investment exceeds \$20 billion, and 5) AEP Ohio will recover the capital and related costs (an estimated \$95.1 million) needed to accommodate the Facility's needs through the DIR. Regarding the DIR's estimated costs, the Commission notes that AEP Ohio will construct a customized distribution station designed to meet Intel's unique needs including up to six transformers (138kV, 225MVA) at the Green Chapel Station to reduce voltage to 34kV. Relatedly, the Commission agrees that it is consistent with the Stipulation approved in the *AEP Ohio ESP V Case*, that such investments supporting reasonable arrangements may be approved for recovery through the DIR, above the annual revenue caps that would otherwise apply to the DIR. *AEP Ohio ESP V Case*, Opinion and Order (Apr. 3, 2024) at 33. We also determine that the Intel Facility poses unique electric transmission needs and AEP Ohio's investment to accommodate this specific customer does not pertain to overall system reliability or any other purpose subject to the annual DIR revenue caps. (Joint App. at 2-4, 11-12.)

{¶ 26} Lastly, we determine that the proposed arrangement is reasonable and supports state policy of encouraging economic growth, specifically in the highly specialized high-technology manufacturing sector. As such, the Commission agrees with the

supportive comments of OCC and OEG in that the arrangement will facilitate the State of Ohio's effectiveness in the global economy by encouraging the development of Intel's Facility and future expansion, while also promoting job growth and retention in the State, pursuant to Ohio Adm.Code 4901:1-38-02. We further agree that AEP Ohio has no other comparable customer, and that approval of the arrangement would not result in discriminatory rates in R.C. 4905.33 and R.C. 4905.35. Lastly, we note that the significant local, state, and federal support in terms of incentives provided during the development process and partnerships already established with the Facility indicates that this proposed arrangement will be in the public interest. (Joint App. at 16-17.)

{¶ 27} Accordingly, we find that the Joint Application satisfies the requirements set forth in R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05 for the approval of a reasonable arrangement, is consistent with the policy of this state as codified in R.C. 4928.02, and should, therefore, be approved. Further, we note that the approved reasonable arrangement is subject to the continuing jurisdiction of the Commission. As part of its continuing jurisdiction, the Commission notes that Intel shall submit annual reports pursuant to Ohio Adm.Code 4901:1-38-06(A). Intel and AEP Ohio are directed to file a final contract implementing the arrangement contemplated in this Finding and Order as soon as possible.

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 28} AEP Ohio is an electric light company, as defined by R.C. 4905.03(A)(3), and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 29} Intel is a mercantile customer, as defined by R.C. 4928.01(A)(19).

{¶ 30} R.C. 4905.31 provides that a public utility may enter into a reasonable arrangement with one of its customers and that a public utility may request recovery of costs incurred in conjunction with any economic development and job retention program of the utility. Ohio Adm.Code 4901:1-38-05 authorizes an electric utility, with one or more of its

mercantile customers, to file an application for approval to enter into a reasonable arrangement.

{¶ 31} On July 19, 2024, Intel and AEP Ohio filed their Joint Application requesting that the Commission approve a proposed reasonable arrangement, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05.

{¶ 32} Pursuant to Ohio Adm.Code 4901:1-38-05(F), interested persons had the opportunity to file comments or objections regarding the Joint Application.

{¶ 33} On August 8, 2024, OCC and OEG filed comments regarding the Joint Application.

{¶ 34} On August 13, 2024, Staff filed its review and recommendation.

{¶ 35} Intel and AEP Ohio's Joint Application to enter into a reasonable arrangement, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05, is reasonable, does not violate R.C. 4905.35 or 4905.33, and, thus, should be approved, consistent with this Finding and Order.

## V. ORDER

{¶ 36} It is, therefore,

{¶ 37} ORDERED, That the Joint Application for a reasonable arrangement between Intel and AEP Ohio be approved, as set forth in this Finding and Order. It is, further,

{¶ 38} ORDERED, That OCC's request to intervene be granted. It is, further,

{¶ 39} ORDERED, That Intel and AEP Ohio take all necessary steps to carry out the terms of this Finding and Order. It is, further,

{¶ 40} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 41} ORDERED, That a copy of this Finding and Order be served upon each party of record.

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Daniel R. Conway  
Lawrence K. Friedeman  
Dennis P. Deters  
John D. Williams

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Summary: Finding & Order finding that the joint application for a reasonable arrangement between Ohio Power Company d/b/a AEP Ohio and Intel Corporation is reasonable and should be approved. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.