

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company to Update Their) Case No. 10-163-EL-RDR
Enhanced Service Reliability Riders.)

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**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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September 24, 2010

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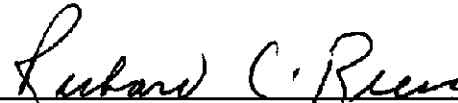
In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company to Update Their) Case No. 10-163-EL-RDR
Enhanced Service Reliability Riders.)

- A. The Commission Erred by Approving an Increase in Rates so that AEP Can Collect from Customers an Additional \$1.64 Million Dollars for Vegetation Management Activities.**
- B. The Commission Erred by Permitting the Companies to Pursue Future Recovery of Undocumented Charges for 2009.**
- C. The Commission Erred by Failing to Conduct a Hearing on the Application to Determine Whether the Carrying Charges AEP Proposed to Collect from Customers Were Reasonable, Even Though There Were Material Questions of Fact and Law Regarding the Application.**

The reasons for granting this Application for Rehearing are set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in cursive script, reading "Richard C. Reese", is written over a horizontal line.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)	
of Columbus Southern Power)	
Company and Ohio Power Company)	Case No. 10-163-EL-RDR
to Update Their Enhanced Service)	
Reliability Riders)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On February 11, 2010, AEP filed an Application proposing new Enhanced Service Reliability (“ESR”) riders.¹ AEP’s purpose for the riders is to collect costs from customers for AEP’s incremental vegetation management plan.² The Office of the Ohio Consumers’ Counsel (“OCC”) moved to intervene on February 23, 2010 to represent AEP’s approximately 1.2 million residential consumers.³ OCC filed Comments on April 30, 2010, and filed Reply Comments on May 10, 2010.

On July 21, 2010, AEP filed a letter containing an “update” to its Application. On July 30, 2010, the PUCO’s Staff filed a letter stating that it agreed with the “resolutions” proposed by AEP in the Companies’ update. On August 25, 2010, the Commission issued its Order in this case.

¹ *In re AEP’s Self-Complaint Regarding Service Reliability*, Case No. 06-222-EL-SLF, Complaint at 1 (January 31, 2006).

² *In re AEP’s Electric Security Plan*, Case No. 08- 917-EL-SSO, et al., Opinion and Order at 34 (March 18, 2009) (“ESP Order” in the “ESP Case”).

³ OCC’s intervention was granted. Entry at 4 (April 8, 2010).

As discussed herein, the Order is unlawful and unreasonable in several respects. The Commission should abrogate or modify the Order as recommended by OCC for the reasons discussed in greater detail below.

II. ARGUMENT

A. The Commission Erred By Approving An Additional \$1.64 Million Dollars In Vegetation Management Expenditures By AEP.

The Commission's Order approved an increase in rates so that AEP can collect from customers an additional \$1.64 million related to the Company's vegetation efforts, for the year 2010, in order for the Companies to trim 12 circuits that it failed to trim in 2009.⁴ The Commission's Order is unclear regarding the reasons an additional \$1.64 million for additional vegetation management was approved and whether it adds to the total vegetation management expenditures specifically approved by the Commission in the ESP Case for the three-year period of 2009-2011.⁵ Thus, the Commission failed to properly set forth findings of facts and conclusions of law as required pursuant to R.C. 4909.09.

The Order in the ESP Case approved the incremental spending plan of \$31.5 million in 2009, \$34.8 million in 2010, and \$38.1 million in 2011, subject to annual reconciliations based on the Companies' prudently incurred costs.⁶ AEP's failure to clear all 250 circuits in 2009 does not constitute justification for providing any additional funding above the amounts approved in the ESP Case. AEP had an obligation to do clear

⁴ Order at 4.

⁵ ESP Order at 34.

⁶ Order at 1.

the circuits in accordance with the budget allocated in the ESP case and its failure to fulfill this duty should not be placed on the shoulders of the consumers. The reasonableness of the \$1.64 million for clearing 12 circuits across 240 miles is irrelevant.⁷

The Commission stated that while R.C. 4928.143(B)(2)(h) permits the Companies to provided for infrastructure modernization as part of its ESP, there was no intention to provide a “blank check” to the utilities to carry out such provisions.”⁸ The additional funding approved by the Commission constitutes such a blank check and should not be permitted. The \$1.64 million in additional spending, beyond the \$104.4 million approved by the Commission, is unjust and unreasonable and not permitted by the Commission’s Order in the ESP Case.⁹

B. The Commission Erred By Permitting The Companies To Pursue Future Recovery Of Undocumented Charges For 2009.

The Companies should be permanently barred from subsequent recovery of the 2009 undocumented charges of \$751,907, and the Commission should direct its Staff to conduct a through investigation of the Companies’ cost accounting practices.¹⁰ These undocumented 2009 charges should not, and cannot, be recovered in the ESR rider in subsequent years. The finding that the 2010 ESR rider calculation could eventually be increased by \$751,908 to match the adjusted accrual is unreasonable and is not supported by the record in this case. The Commission’s Order leaves open the possibility that AEP

⁷ Order at 5.

⁸ ESP Order at 34.

⁹ R.C. 4905.22. OCC would not object to the Commission’s approval of the \$1.64 million dollars in additional funding for 2010 if the expenditure is reconciled by a reduction in expenditures for the incremental vegetation management program in 2011.

¹⁰ OCC’s Comments on the July 21, 2010 AEP “update” letter (August 9, 2010) at 3.

could seek recovery of some of the \$751,908 if the Companies eventually locate additional contractor invoices. There is no basis for any future recovery of these undocumented charges in the record of this proceeding even if AEP discovers invoices from 2009. . Thus the Commission should deny any future claims for cost recovery.

Upon rehearing, the Commission should not permit the recovery of the 2009 undocumented charges in the amount of \$751,907. The Commission should also direct its Staff to conduct a through investigation of the Companies' cost accounting practices.

C. The Commission Erred By Failing To Conduct A Hearing On The Application To Determine Whether The Carrying Charges AEP Proposed To Collect From Customers Were Reasonable, Even Though There Were Material Questions Of Fact And Law Regarding The Application.

In its ESP Order, the Commission did not specify a carrying charge to be applied to the investment for the enhanced vegetation initiative in order to determine the revenue requirement. There is no factual basis for the Commission now finding that "it [is] reasonable and appropriate to use the carrying cost rate approved in the AEP's ESP Case in the ESR rider calculations, except as to the corrections recommended by Staff to correct the property tax component."¹¹ The Commission merely states, without citation, that "[i]t is the Commission's practice to use the most recently approved carrying cost rate."¹² Such a practice could result in a rarely revised carrying cost rate for a particular electric utility even though the cost of capital, tax rate, or depreciation factor changes significantly with the passage of time.

¹¹ Order at 12.

¹² Id.

Furthermore, the Commission failed to explain why it is appropriate to update one factor (property tax rate) and leave the other three carrying cost components (Return, Depreciation Factor, and Federal Income Tax or "FIT" Factor) unchanged. It is unreasonable not to use an updated weighted average cost of capital ("WACC") simply because Staff's prefers to not include the actual interest cost to the Companies.¹³ Moreover, the carrying cost approved by the Commission is simply too high and does not reflect the reality of the economic situation in which we find ourselves. The rate approved by AEP is far higher than almost any entity could find and is simply not justified.

The Commission erred by refusing to hold a hearing to determine the reasonableness of including these costs in the carrying charge rate. On rehearing, the Commission should abrogate the Order and conduct a hearing to determine the reasonableness of the carrying charges.

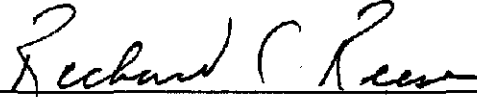
III. CONCLUSION

For the reasons stated herein, the Commission should grant OCC rehearing and abrogate the Order. The Commission should schedule an evidentiary hearing to determine the prudence of AEP's baseline and incremental vegetation management expenditures as well as the prudence of the approved carrying charges. Failing such action, increases in rates paid by residential customers are unjust and unreasonable.

¹³ Id. at 7.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in cursive script, reading "Richard C. Reese", written in black ink.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing the *Application for Rehearing* by the *Office of the Ohio Consumers' Counsel* was served electronically to the persons listed below, on this 24th day of September, 2010.



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