

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus)
Southern Power Company for Approval of)
an Electric Security Plan; an Amendment to) Case No. 08-917-EL-SSO
its Corporate Separation Plan; and the Sale or)
Transfer of Certain Generating Assets.)

In the Matter of the Application of Ohio)
Power Company for Approval of its Electric) Case No. 08-918-EL-SSO
Security Plan; and an Amendment to its)
Corporate Separation Plan.)

ENTRY ON REHEARING

The Commission finds:

- (1) On March 18, 2009, the Commission issued its opinion and order in Columbus Southern Power Company's and Ohio Power Company's (jointly, AEP-Ohio or the Companies) electric security plan (ESP 1) cases (ESP 1 Order).¹ By entries on rehearing issued July 23, 2009 (First ESP 1 EOR) and November 4, 2009, the Commission affirmed and clarified certain issues raised in AEP-Ohio's ESP 1 Order. As ultimately modified and adopted by the Commission, AEP-Ohio's ESP 1 directed, among other things, that AEP-Ohio be permitted to recover the incremental capital carrying costs that would be incurred after January 1, 2009, on past environmental investments (2001-2008)² and approved a provider of last resort (POLR) charge for the term of ESP 1.
- (2) The Commission's decision in AEP-Ohio's ESP 1 cases was appealed to the Ohio Supreme Court. The Ohio Supreme Court determined that Section 4928.143(B)(2), Revised Code, does not authorize the Commission to allow recovery of items not enumerated in the section. The Court remanded the case to the Commission for further proceedings in which "the

1 *In re AEP-Ohio ESP cases*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order (March 18, 2009).

2 ESP 1 Order at 24-28, 38-40; First ESP 1 EOR at 10-13, 24-27.

Commission may determine whether any of the listed categories set forth in Section 4928.143(B)(2), Revised Code, authorize recovery of environmental carrying charges.”³ In regards to the POLR charges, the Court concluded that the Commission’s decision that the POLR charge is cost-based was against the manifest weight of the evidence, an abuse of the Commission’s discretion and reversible error. While the Court specifically stated that “we express no opinion on whether a formula-based POLR charge is per se unreasonable or unlawful,” the Court noted two other methods by which the Commission may establish the POLR charge: a non-cost-based POLR charge or evidence of AEP-Ohio’s actual POLR costs.

- (3) By entry issued May 25, 2011, the Commission directed AEP-Ohio to file tariff pages that reflect that the POLR riders and environmental carrying charges included in rates are being collected subject to refund, until the Commission specifically orders otherwise on remand. Additionally, the Commission adopted a procedural schedule for the remand proceedings in order to afford AEP-Ohio and intervenors the opportunity to present testimony and additional evidence in regard to the POLR and environmental carrying charges remanded to the Commission.
- (4) On October 3, 2011, the Commission issued its order on remand (Remand Order). The Commission concluded that, in accordance with the provisions of Section 4928.143(B)(2)(d), Revised Code, the Companies should be authorized to continue to recover the incremental capital carrying costs incurred after January 1, 2009, on environmental investments made from 2001-2008. As to the POLR charges, the Commission ruled that AEP-Ohio had not provided any evidence of its actual POLR costs, found that its unconstrained option model did not measure its POLR costs, and, therefore, directed AEP-Ohio to deduct the amount of the POLR charges reflected in the Companies’ rates and file revised tariffs consistent with the Remand Order.
- (5) On October 6, 2011, AEP-Ohio filed two sets of tariffs in response to the Remand Order. AEP-Ohio advocated that the

³ *In re Application of Columbus S. Power Co.* (2011), 128 Ohio St.3d 512.

first set of tariffs, which reflected a reduction of the POLR charges to the level in effect prior to the implementation of the ESP 1 Order, were appropriate. The POLR charges reflected in this version were as established in Case No. 04-169-EL-UNC, *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan*. In the alternative, in the event that the Commission intended that the POLR charges be eliminated in their entirety, AEP-Ohio offered a second set of tariffs, reflecting the elimination of all POLR charges, without conceding its right to request rehearing on the issue.

- (6) By finding and order issued October 26, 2011, the Commission found, without prejudging any issue that may be raised on rehearing in these matters, that the second set of tariffs eliminating all POLR charges from the Companies' rates should be approved to be effective with the first billing cycle of November 2011, subject to Commission review and subsequent adjustment, if appropriate (Tariff Approval Order).
- (7) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.
- (8) On November 2, 2011, applications for rehearing of the Remand Order were filed by AEP-Ohio, Industrial Energy Users-Ohio (IEU-Ohio), and jointly by the Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAE) (jointly, OCC/OPAE). On November 10, 2011, AEP-Ohio filed a memorandum contra the applications for rehearing of IEU-Ohio and OCC/OPAE. On November 14, 2011, IEU-Ohio and OCC/OPAE filed memoranda contra AEP-Ohio's application for rehearing. In their applications for rehearing, the parties raise a number of assignments of error, alleging that the Remand Order is unreasonable and unlawful. In addition to its arguments pertaining to the Remand Order, AEP-Ohio raises further arguments and seeks rehearing with respect to the Tariff Approval Order.

- (9) The Commission believes that sufficient reason has been set forth by AEP-Ohio, IEU-Ohio, and OCC/OPAE to warrant further consideration of the matters specified in their applications for rehearing. Accordingly, the applications for rehearing filed by AEP-Ohio, IEU-Ohio, and OCC/OPAE should be granted.

It is, therefore,

ORDERED, That the applications for rehearing filed by AEP-Ohio, IEU-Ohio, and OCC/OPAE be granted for further consideration of the matters specified in the applications for rehearing. It is, further,

ORDERED, That a copy of this entry on rehearing be served upon all persons of record in these cases.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella

Steven D. Lesser

Andre T. Porter


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Entered in the Journal

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