

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Ohio Power Company to Update Its ) Case No. 13-1406-EL-RDR  
Transmission Cost Recovery Rider Rates. )

FINDING AND ORDER

The Commission finds:

- (1) Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is a public utility as defined in Section 4905.02, Revised Code, and an electric utility as defined in Section 4928.01(A)(11), Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On June 17, 2013, AEP Ohio filed an application to update its transmission cost recovery rider (TCRR), pursuant to Chapter 4901:1-36, Ohio Administrative Code (O.A.C.). In its application, AEP Ohio seeks, *inter alia*, approval to collect an under-recovery balance of approximately \$47 million, which the Company attributes to three factors. First, AEP Ohio states that a PJM Interconnection (PJM) tariff change in December 2012 caused the Company to incur approximately \$11 million in costs that were not forecasted for Black Start Service. Second, AEP Ohio explains that regulatory lag in implementation of the current TCRR rates resulted in approximately \$7 million of the under-recovery balance. Third, AEP Ohio notes that, for the period from July 2011 through March 2013, approximately \$23 million in PJM Reactive Supply charges, plus carrying costs, were inadvertently omitted from the Company's TCRR charges. AEP Ohio further notes that, after the Company discovered the omission during the review phase in advance of this filing, the Company reclassified the charges to the correct account for inclusion in the current TCRR calculations.

- (3) Additionally, AEP Ohio states that Schedule B-1 of its TCRR filing includes a new line for Forecast Carrying Costs, which represents a projection of the carrying costs that the Company will incur due to the under-recovery balance. AEP Ohio adds that it intends to true up the forecast to the actual carrying costs in its next TCRR filing.
- (4) AEP Ohio requests that its proposed TCRR rates be approved to take effect on a bills rendered basis beginning on August 28, 2013, which is the first day of the September 2013 billing cycle.
- (5) On various dates, motions to intervene in this proceeding were filed by Ohio Energy Group (OEG), Ohio Consumers' Counsel (OCC), and Industrial Energy Users-Ohio (IEU-Ohio). No memoranda contra were filed. The Commission finds that the motions to intervene filed by OEG, OCC, and IEU-Ohio are reasonable and should be granted.
- (6) On July 29, 2013, OCC and IEU-Ohio filed comments in this proceeding. AEP Ohio filed a reply on August 13, 2013.
- (7) On August 13, 2013, Staff filed a letter containing a summary of its review of AEP Ohio's TCRR filing and recommendations for the Commission's consideration. On August 20, 2013, AEP Ohio filed comments regarding Staff's review and recommendations.
- (8) In its comments, OCC contends that AEP Ohio's TCRR filing is deficient in several respects and does not provide sufficient information to justify the \$23 million in PJM Reactive Supply charges. OCC argues that AEP Ohio should be required to explain why the amount that it seeks to collect from customers for Reactive Supply charges for the past 21 months is much more than what has been spent in the past and what is forecast going forward. OCC adds that AEP Ohio seeks recovery of approximately \$3 million in Forecast Carrying Costs but does not indicate the period of time for which these carrying charges are forecast, or which portion of the carrying charges is directly related to the \$23 million in PJM Reactive

Supply charges that were inadvertently omitted by the Company. OCC also points out that AEP Ohio provides no information to indicate in which account the inadvertently omitted charges were initially recorded, and fails to address whether the charges were already paid by customers through some other rider or rate schedule.

- (9) In its reply comments, AEP Ohio responds that the Company's application includes all of the information required by Rule 4901:1-36-03(B), O.A.C., and that additional information was provided to the parties in discovery, after OCC filed its comments. AEP Ohio adds that the application explains the reduction in future Reactive Supply charges. Finally, AEP Ohio states that the omitted Reactive Supply charges were not included for recovery in any other schedule or rider or otherwise previously recovered from customers.
- (10) OCC also asserts that customers should not be required to pay for AEP Ohio's accounting mistake, where the Reactive Supply charges were incurred prior to the current audit period. OCC believes that AEP Ohio should not be permitted to collect an under-recovery balance that is not the result of a difference between the forecasted and actual costs for the audit period. According to OCC, a hearing should be held before AEP Ohio is authorized to collect the Reactive Supply charges. If the Commission nevertheless finds that AEP Ohio should be permitted to collect the Reactive Supply charges, OCC argues that the Commission should deny the Company's request for carrying charges that were incurred in the past and will be incurred in the collection period, given that the Company's accounting error is the reason for the delay in collection. Alternatively, OCC maintains that the Commission should limit AEP Ohio's carrying charges to what would have been authorized, if the Company's request for recovery of the Reactive Supply charges had been timely made. Finally, OCC recommends that the Commission require AEP Ohio to amend its riders to reflect that only charges that are claimed in the proper audit period are recoverable from customers.

- (11) AEP Ohio disputes OCC's contention that out-of-period costs should not be recovered. According to AEP Ohio, the possibility that costs incurred during prior periods are recovered during future recovery periods is inherent in the TCRR's reconciliation mechanism. AEP Ohio points out that Section 4928.05(A)(2), Revised Code, and Rule 4901:1-36-02(A), O.A.C., permit the Company to recover all transmission-related costs charged to the Company by PJM, while providing for reconciliation during future periods of under-recovered costs. AEP Ohio also argues that Commission precedent recognizes that a forecast that underestimates actual costs due to a clerical error should not be treated any differently than a forecast that underestimates actual costs for reasons beyond the Company's control. AEP Ohio maintains that it should not be penalized for its clerical error and that full reconciliation of the Reactive Supply charges is necessary in order to ensure the Company recovers no less than all of the transmission-related costs incurred by the Company. With respect to the carrying costs, AEP Ohio notes that Rule 4901:1-36-04(A), O.A.C., provides for an annual reconciliation of the TCRR with carrying charges to be applied to both over- and under-recovery of costs. Contrary to OCC's assertion, AEP Ohio argues that the Company should be permitted to recover carrying costs on the under-recovery of the Reactive Supply charges, consistent with the rule.
- (12) Similarly, IEU-Ohio argues that the entire \$23 million in omitted Reactive Supply charges should be excluded, because the doctrines of *res judicata* and collateral estoppel preclude AEP Ohio from seeking revenue that the Company failed to request in prior TCRR proceedings. If the Commission allows recovery of the Reactive Supply charges, IEU-Ohio contends that recovery should be limited to the portion of the \$23 million associated with the current TCRR period that began in November 2012, which IEU-Ohio maintains is consistent with Commission precedent finding that it is inappropriate to adjust future rates to reconcile an over- or

under-collection dating prior to the current audit period, except in circumstances involving simple clerical errors.

- (13) In its reply comments, AEP Ohio asserts that the doctrines of *res judicata* and collateral estoppel do not apply under the circumstances of this case, because the issue of the \$23 million in Reactive Supply charges was never actually litigated and decided by the Commission. AEP Ohio adds that the inadvertent omission of the Reactive Supply charges was a simple clerical error that may be corrected in this proceeding, as the Commission has, on other occasions, allowed subsequent recovery of costs that were previously unrecovered as a result of a clerical or reporting error. AEP Ohio also notes that the Company now manually reclassifies the PJM line items on a monthly basis to ensure that the charges are recorded in the appropriate account.
- (14) Further, IEU-Ohio asserts that the Commission should deny AEP Ohio's request to collect carrying costs related to the Reactive Supply charges, because the carrying costs are the result of AEP Ohio's accounting error. IEU-Ohio also points out that AEP Ohio should have filed, pursuant to Rule 4901:1-36-03(E), O.A.C., an interim application to adjust its TCRR rates as soon as the Company realized that a large under-recovery balance was possible, in order to avoid excessive carrying costs. IEU-Ohio adds that the Commission should deny carrying charges on the portion of AEP Ohio's under-recovery balance related to the PJM tariff change for Black Start Service. IEU-Ohio notes that AEP Ohio acknowledges that the tariff change occurred in December 2012. According to IEU-Ohio, AEP Ohio was aware, no later than December 2012, that an under-recovery balance could result. IEU-Ohio believes that AEP Ohio should have filed an interim application to adjust its TCRR rates, consistent with Rule 4901:1-36-03(E), O.A.C., to prevent the accrual of excessive carrying costs.
- (15) AEP Ohio replies that IEU-Ohio disregards Rule 4901:1-36-04(A), O.A.C., which provides that the TCRR should be reconciled on an annual basis with carrying charges to be

applied to both over- and under-recovery of costs. AEP Ohio asserts that the Company should not be penalized for an inadvertent clerical error. AEP Ohio also claims that the Company discovered the error in April 2013, less than two months prior to its annual update filing, and that it would, therefore, have been unreasonable to file an interim application under the circumstances, given the potential for rate fluctuations during a short period of time. With respect to the PJM tariff change, AEP Ohio notes that its current TCRR rates had been in place for just one month when the change occurred in December 2012, and that it would have been unreasonable to immediately file an interim application, as it was possible that the tariff change would not result in substantially different costs for the Company.

- (16) In its letter, Staff reports that it reviewed AEP Ohio's TCRR filing and found that the Company appropriately included in the TCRR only those costs and credits that are incurred as a result of serving its retail customers in Ohio. Staff recommends that the Commission approve AEP Ohio's application, subject to the recommendations made by Staff.
- (17) Initially, Staff states that AEP Ohio's proposed rates reflect a \$57.6 million increase over the revenue that would be collected under current rates for the September 2013 through August 2014 timeframe, and include an adjustment of approximately \$47.2 million to reflect the prior year's under-collection of revenues and roughly \$3.3 million in projected carrying costs.
- (18) Staff notes that AEP Ohio's adjustment for the omitted Reactive Supply charges, which includes charges dating back to July 2011, covers the prior audit period that included expenses for months up to and including April 2012. Staff explains that, from July 2011 through April 2012, AEP Ohio incurred Reactive Supply charges of approximately \$11.4 million that were omitted from expenses and, therefore, resulted in an under-recovery balance. Staff recommends that these Reactive Supply charges, plus \$856,202 in carrying charges, be removed from AEP Ohio's revenue requirement.

With respect to the omitted Reactive Supply charges incurred from May 2012 through April 2013, Staff advises that the principal amount of approximately \$11.6 million should be allowed because the charges were incurred during the current audit period, but the associated carrying charges of \$323,703 should be excluded from the revenue requirement. Staff states that, if the expenses had been recorded properly, the carrying costs would not have accumulated. Staff contends that customers should not be required to pay for AEP Ohio's error.

- (19) Additionally, Staff recommends that AEP Ohio's projected future carrying costs on the under-recovery balance in the amount of \$744,914 be removed from the Company's revenue requirement. Overall, the combined impact of Staff's recommendations, if adopted, would reduce the revenue requirement by \$13,324,554.
- (20) In its comments regarding Staff's review of AEP Ohio's TCRR filing, the Company urges the Commission to reject Staff's recommendations and to permit the Company to recover all of its transmission-related costs, including the Reactive Supply charges, pursuant to Section 4928.05(A)(2), Revised Code, and Rule 4901:1-36-02(A), O.A.C., along with past and future carrying charges associated with the under-recovered costs. AEP Ohio argues that the Commission's orders approving the TCRR authorize the Company to implement over- and under-recovery accounting for any differences between the revenues collected and the actual costs recorded. AEP Ohio contends that no provision of Ohio law or any order of the Commission limits the Company's cost recovery to only those costs incurred during the current audit period, as Staff suggests. AEP Ohio reiterates that the Company should not be penalized for a clerical error.
- (21) Rule 4901:1-36-05, O.A.C., provides that, unless otherwise ordered, the Commission shall approve the application or set the matter for hearing within 75 days after the filing of a complete application under Chapter 4901:1-36, O.A.C.

- (22) Upon review of AEP Ohio's application to update its TCRR, Staff's recommendations, and the comments filed by the parties, the Commission finds that the application may be unjust or unreasonable and, therefore, that a hearing on this matter should be held, consistent with Rule 4901:1-36-05, O.A.C. Accordingly, the following procedural schedule should be established:
- (a) Testimony on behalf of AEP Ohio shall be filed by October 8, 2013.
  - (b) Testimony on behalf of intervenors shall be filed by October 18, 2013.
  - (c) Discovery requests, except for notices of depositions, should be served by October 18, 2013.
  - (d) An evidentiary hearing shall commence on October 29, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-D, Columbus, Ohio 43215-3793.
- (23) Additionally, in light of the significant disagreement among the parties as to the transmission-related costs and associated carrying costs that should be recovered by AEP Ohio, the Commission directs the Company to file revised tariffs reflecting Staff's proposed TCRR rates, to be effective with the September 2013 billing cycle and until otherwise ordered by the Commission. AEP Ohio's TCRR shall be subject to a reconciliation adjustment to account for any difference between the TCRR rates authorized today and the TCRR rates approved upon conclusion of the hearing on this matter.

It is, therefore,

ORDERED, That the motions to intervene filed by OEG, OCC, and IEU-Ohio be granted. It is, further,



ORDERED, That the procedural schedule set forth in finding (22) be adopted. It is, further,

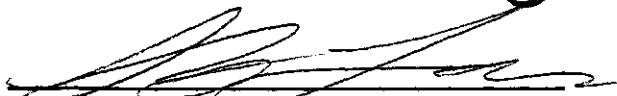
ORDERED, That AEP Ohio file, in final form, four complete copies of its tariffs, consistent with this finding and order. One copy shall be filed in this case docket, one shall be filed in AEP Ohio's TRF docket, and the remaining two copies shall be designated for distribution to the Rates and Tariffs Division of the Commission's Utilities Department. It is, further,


ORDERED, That the effective date of the new tariffs shall be a date not earlier than the first day of the September 2013 billing cycle, and the date upon which four complete printed copies of AEP Ohio's final tariffs are filed with the Commission. The new tariffs shall be effective for bills rendered on or after such effective date. It is, further,

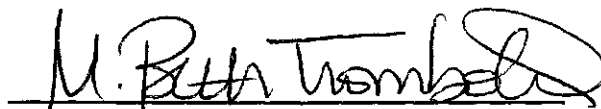
ORDERED, That a copy of this finding and order be served upon all parties of record.

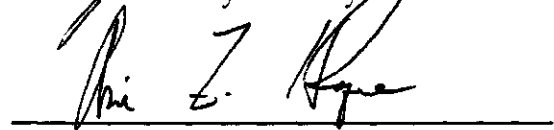
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Shitchler, Chairman

  
Steven D. Lesser

  
Lynn Slaby

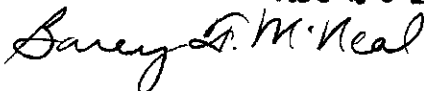
  
M. Beth Trombold

  
Asim Z. Haque

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Entered in the Journal

**AUG 28 2013**



Barcy F. McNeal  
Secretary