BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company to Increase Certain of its Filed Schedules Fixing Rates and Charges for Electric Service.	)	Case No. 81-782-EL-AIR
In the Matter of the Complaint of Robert L. and Karen A. Clester v. Ohio Power Company relative to the alleged unfair minimum electric rates charged and the alleged refusal to relinquish territorial rights.	)	Case No. 81-1139-EL-CSS

OPINION AND ORDER

The Commission, coming now to consider the above-entitled matters, specifically the application of Ohio Power Company in Case No. 81-782-EL-AIR filed pursuant to Section 4909.18, Revised Code, the exhibits filed therewith, the Staff Report of Investigation issued pursuant to Section 4909.19, Revised Code, the testimony and exhibits introduced at the hearing, and the post-hearing briefs and late-filed exhibits submitted by the parties; the complaint of Robert L. and Karen A. Clester filed in Case No. 81-1139-EL-CSS, the answer of the respondent Ohio Power Company, the Entry of January 27, 1982 scheduling Case No. 81-1139-EL-CSS for hearing, the hearing held on February 26, 1982, and the Entry of April 14, 1982 which consolidated Case No. 81-1139-EL-CSS with Case No. 81-782-EL-AIR; having appointed its attorney examiners Beth Ann Burns and Stephen M. Howard, pursuant to Section 4909.18 Revised Code, to conduct the public hearings and to certify the record directly to the Commission; and being fully advised of the facts and issues in this case, hereby issues its Opinion and Order.

APPEARANCES:

Mr. Alan Kessler, Senior Attorney, 301 Cleveland Avenue S.W., Canton, Ohio and Messrs. Squire, Sanders & Dempsey, by Messrs. Alan P. Buchmann and Richard W. McLaren, Jr., 1800 Union Commerce Building, Cleveland, Ohio, on behalf of the Applicant, Ohio Power Company.

Mr. William J. Brown, Attorney General of Ohio, by Messrs. Marvin I. Resnik, Harris S. Leven, and Jonathan L. Heller and Ms. Phyllis J. Culp, Assistant Attorneys General, 375 South High Street, Columbus, Ohio on behalf of the Staff of the Public Utilities Commission.

Mr. William A. Spratley, Consumers' Counsel, by Messrs. Michael L. Haase and Lenworth Smith, Jr., Associate Consumers' Counsel, and Ms. Elaine R. Scott, Legal Intern, 137 East State Street, Columbus, Ohio 43215, and Mr. Barry E. Klide, Law Director, City of Canton, Canton City Hall, Canton, Ohio 44701 on behalf of the Municipalities of Bucyrus, Canton, Fostoria, Heath, Hicksville, Millersburg, Minerva, New Boston, New Philadelphia, Wellsville, and Wintersville, and Mr. William A. Spratley, Consumers' Counsel, by Messrs. Michael L. Haase and Lenworth Smith, Jr., Associate Consumers' Counsel and Ms. Elaine Scott, Legal Intern, 137 East State Street, Columbus, Ohio 43215 on behalf of the residential customers of Ohio Power Company.

Bell and Randazzo Co., L.P.A., 21 East State Street, Columbus, Ohio 43215, by Messrs. Langdon D. Bell and Samuel C. Randazzo, on behalf of Ohio Ferro-Alloys Corporation and Interlake, Inc.

Messrs. Emens, Hurd, Kegler & Ritter, by Mr. Timothy J. Battaglia, 250 East Broad Street, Columbus, Ohio on behalf of Owens-Corning Fiberglas Corporation.

Ms. Peggy Wells Dobbins, 150 East 42nd Street, New York, New York 10017, on behalf of St. Regis Paper Company.

Mr. Robert L. Clester, P.O. Box 636, Beverly, Ohio 45715, on his own behalf as complainant in Case No. 81-1139-EL-CSS.

HISTORY OF THE PROCEEDINGS IN CASE NO. 81-782-EL-AIR:

Ohio Power Company (hereinafter referred to as Ohio Power, the Applicant or the Company), is an Ohio corporation engaged in the business of generating and supplying electric energy to over 615,000 customers in about 663 communities in 53 counties around the State of Ohio. The Company, with its principal executive offices in Canton, Ohio, is an operating subsidiary of the American Electric Power Company (AEP). Ohio Power and the other operating subsidiaries comprise a single major integrated power system. On December 31, 1979, the Ohio Electric Company, which was formed in 1972 to construct and operate the General James M. Gavin Generating Station in Cheshire, Ohio, and which had been wholly owned by Ohio Power, was merged with Ohio Power Company. Ohio Power is a public utility and an electric light company within the definitions of Sections 4905.02 and 4905.03(A)(4), Revised Code and, as such, is subject to the jurisdiction of this Commission pursuant to Sections 4905.04, 4905.05 and 4905.06, Revised Code.

On July 2, 1981, Ohio Power filed with the Commission a notice of intent to file an application for an increase in rates, and a list of the municipalities whose mayors and legislative authorities were notified of the intent to file for a rate increase. By Entry of July 22, 1981 the Commission approved the requested test period of the 12 months ending March 31, 1982 with a date certain of September 30, 1981. The application was filed on September 30, 1981, and it was accepted for filing by the Commission in its Entry of November 4, 1981. The Commission also approved a modified notice of the application to be published pursuant to Section 4909.19, Revised Code.

Subsequent to the filing of the application by Ohio Power, several parties petitioned the Commission for leave to intervene in this proceeding. By Entries of September 18, 1981, December 8, 1981, January 20, 1982, and May 5, 1982, leave to intervene was granted to the Office of Consumers' Counsel (OCC or Consumers' Counsel), St. Regis Paper Company, Owens-Corning Fiberglas Corporation (Owens-Corning), Ohio Ferro-Alloy Corporation and Interlake, Inc. (OFA-Interlake), and the Cities of Bucyrus, Canton, Fostoria, Heath, Hicksville, Millersburg, Minerva, New Boston, New Philadelphia, Wellsville, and Wintersville. The latter group of 11 cities was represented by Consumers' Counsel at the hearing.

In accordance with the provisions of Section 4909.19, Revised Code, the Staff of the Commission conducted an investigation of the matters set forth in the application, and in the exhibits filed with the application. A written report of the results of the investigation was filed on March 31, 1981 (Staff Ex. 1). Service of the Staff Report was made pursuant to Section 4909.19, Revised Code. Objections to the Staff Report were timely filed by Ohio Power, OCC, OFA-Interlake, and Owens-Corning.

By Entry of April 14, 1982, the Commission set this matter for public hearing, beginning on May 6, 1982 in Canton, Ohio to allow members of the public to present testimony. The Commission also directed the Applicant to publish notice of the hearing in newspapers of general circulation serving the service areas affected by the application. Publication of the notice of the application (Co. Ex. 1) and the notice of the hearing (Co. Ex. 2) were completed in compliance with Section 4909.19, Revised Code and the Commission's April 14, 1982 Entry, respectively. The first day of hearing was held in Canton, Ohio at City Hall as scheduled for the purpose of receiving public testimony. At the conclusion of the hearing on May 6, 1982, the hearing was continued to May 10, 1982 at the offices of the Commission in Columbus, Ohio. Additional public testimony was received on May 10, 1982 in Columbus and expert testimony commenced shortly thereafter. The hearing concluded on Wednesday, May 27, 1982 after 14 days of testimony. Post-hearing briefs were filed on June 9, 1982 and reply briefs were submitted on June 16, 1982.

HISTORY OF THE PROCEEDINGS IN CASE NO. 81-1139-EL-CSS:

On September 28, 1981, Robert L. and Karen A. Clester filed a complaint against Ohio Power alleging that 1) Ohio Power's present minimum electric rate of $190.00 per month for a rural line charge was unfair and that 2) Ohio Power had refused to relinquish territorial rights so that the Clesters could obtain service from Washington Electric Company at a lower rate. On October 14, 1981, Ohio Power filed its answer denying that the $190.00 monthly minimum rural line charge was unfair or unlawful and asserting that under Section 4933.81, et. seq., Revised Code, Ohio Power had no obligation to relinquish its territorial rights of service.

On January 27, 1982 the Commission found that the portion of the complaint dealing with the relinquishment of territorial rights did not state adequate grounds for which relief could be granted by the Commission. Therefore, the Commission dismissed that portion of the complaint, but scheduled a hearing on February 26, 1982 on the issue of the reasonableness, lawfulness, and fairness of the $190.00 monthly minimum rural line charge.

Notice of the hearing was caused to be published by the Commission and the hearing was held as scheduled on February 26, 1982 at the offices of the Commission in Columbus. At the hearing, Mr. Robert L. Clester, the Complainant, and Mr. John Kennard, Customer Services manager of the Zanesville division of Ohio Power both testified. On April 14, 1982, the Commission, over the Applicant's objections, consolidated this case with the Company's pending rate case (Case No. 81-782-EL-AIR) so that further evidence as to how the charge is calculated could be obtained without unnecessary duplication of effort. Ohio Power had proposed to increase the monthly minimum rural line charge from $190.00 per month to $260.00 per month in the pending rate case (Co. Ex. 3, Schedule E-1, p. 12). The Staff recommended an increase to only $230.00 per month for this charge (Staff Ex. 1, pp. 39-40). Further testimony on this issue was received at the hearing.

COMMISSION REVIEW AND DISCUSSION:

By its application in Case No. 81-782-EL-AIR, Ohio Power Company requests approval of rates which would increase annual revenues by approximately $183,511,000, which represents an increase of 17.14 percent, based on the Staff's analysis of test year operations. In Case No. 81-1139-EL-CSS, the Complainants allege that the present monthly minimum rural line charge of $190.00 is unreasonable while the Applicant proposes to increase this charge to $260.00 in Case No. 81-782-EL-AIR. It now falls to the Commission to decide the issues in these cases.

ALLOCATIONS

The Applicant proposed allocation factors which were based on the methodology which was adopted by the Commission in the Company's last rate case. See Ohio Power Company, Case No. 80-367-EL-AIR, Opinion and Order, April 1, 1981, at pp. 3-4. Ohio Power excluded its investment attributable to Kaiser and Ormet first before allocating between state and federal jurisdictions. The Company utilized the average of the twelve monthly coincident demands at the time of the system monthly peak loads as the basis for its allocation factors. The Staff recommended approval of these allocation factors (Staff Ex. 1, pp. 4-5).

Consumers' Counsel objected to the Staff's method of allocating investment and expenses in general and the Staff's specific allocation of depreciation reserve related to distribution plant in a manner not consistent with the allocation of the related gross plant and depreciation expenses. OCC witness Clark only addressed the latter, more specific issue (Tr. X, 16-17 and 70). He pointed out that both the Company and the Staff used a 97.25 percent jurisdictional factor for gross distribution plant and depreciation expense and a jurisdictional factor of 95 percent for the depreciation reserve related to distribution plant. Mr. Clark believed that depreciation reserve related to distribution plant should be allocated using the same 97.25 percent factor as was used to allocate distribution plant and the related depreciation expense (OCC Ex. 2, p. 9).

Staff witness Fox explained that there were two reasons for this difference in allocation factors (Staff Ex. 5, pp. 5-7). First, the depreciation reserve is a function not only of size, but also of the age of the plant. Secondly, the Staff allocated each plant account and subaccount, not the functional group total. The 97.25 percent factor is a composite functional allocation factor which is derived from the individual account and subaccount calculations. If the mix of account balances changes, the resulting composite factor changes. Mr. Fox testified that because of the factors of age and differing mixes in the account balances, it would only be chance that the functional group level allocation factors for the distribution plant and the reserve would be the same. OCC's objection should be overruled. The Commission will adopt the allocation factors proposed by the Company and the Staff as set forth on Staff Ex. 1, Schedule 8.1.

RATE BASE

The Applicant, the Staff, and Consumers' Counsel each offered testimony in support of their respective rate base proposals in these proceedings. The following table compares the three initial estimates of the value of Ohio Power's property used and useful in rendering service to the customers affected by these matters as of the date certain, September 30, 1981. Subsequent adjustments and relevant objections will be discussed on an item-by-item basis below.

Jurisdictional Rate Base
(000's Omitted)

	Applicant[1]	Staff[2]	OCC[3]
Plant In Service	$ 2,557,683	$ 2,549,619	$ 2,540,426
Depreciation Reserve	(615,203)	(616,824)	(618,095)
Net Plant In Service	1,942,480	1,932,795	1,922,332
CWIP	63,719	63,719	-0-

Working Capital	269,902	180,863	164,728
Deferred Taxes and Other Deductions	(56,067)	(58,141)	(39,623)
Jurisdictional Rate Base	$ 2,220,034	$ 2,119,236	$ 2,047,436

[1]Co. Ex. 5, Sch. B-1

[2]Staff Ex. 1, Sch. 7

[3]OCC Ex. 2, Sch. VIII

Plant In Service

Land Exclusions

Based upon a selective sampling of the land parcels owned by Ohio Power, the Staff found that certain portions of nine parcels were not used and useful at date certain (Staff Ex. 1, pp. 12-13). The Staff accordingly recommends that such portions be excluded from plant in service (Ibid.). While the Applicant objected to these exclusions totalling $60,510, it did not pursue the matter through supplemental direct testimony or cross-examination.

This Commission has consistently excluded from rate base any land parcels, or portions thereof, which do not fulfill the used and useful standard set forth in Section 4909.15(A), Revised Code (See, e.g., Cleveland Electric Illuminating Company, Case No. 79-537-EL-AIR, et al., Opinion and Order, July 10, 1980, at pp. 6-7; General Telephone Company of Ohio, Case No. 81-383-TP-AIR, et al., Opinion and Order, April 26, 1982, at p. 7). Given this precedent and the absence of record evidence demonstrating used and usefulness, we find that the Staff's exclusions should be adopted.

Plant Held For Future Use

Ohio Power's plant in service valuation includes $2,071,000 of investment attributable to plant held for future use (Co. Ex. 5, Sch. B-2.2). The Staff recommends exclusion of this amount on the grounds that plant held for future use should not be included in rate base until it is actually placed into service and becomes used and useful (Staff Ex. 1, p. 19). The Applicant entered an objection to this exclusion, but did not address the issue during the course of the hearing or on brief.

Again, with no record evidence establishing fulfillment of the statutory used and useful standard, we find that the Staff's exclusion is appropriate. The plant in question should, therefore, remain in Account 105.

Other Tangible Property

For a reason not readily apparent to this Commission, nor articulated at the hearing or on brief, OCC objected to the rate base inclusion of Account 399, Other Tangible Property. Our puzzlement arises since the bulk of the $6.5 million remaining in the account after unopposed exclusions by the Applicant and the Staff relates to the Muskingum mine coal conveyor and equipment whose used and usefulness no party has disputed (Staff Ex. 5, p. 8; See Staff Ex. 1, p. 13). We consequently conclude that OCC's objection is not well made and should be overruled.

OTISCA Coal Cleaning Plant

Pursuant to the December 15, 1977 agreement with OTISCA Industries, Ltd. and AEP, Ohio Power constructed a coal cleaning demonstration plant adjacent to the Muskingum mine near Beverly, Ohio (Staff Ex. 1, p. 13). This plant is an experimental project designed to determine whether the impurities inherent in raw Ohio coal are removable, prior to combustion, through a bath of heavy liquid media (Ibid.; Tr. IV, 81; Tr. X, 32-33). While the OTISCA plant has a capacity of 135 tons of clean coal per hour, only 15,272 tons were washed during the test year due to technical problems (Tr. IV, 111, 170-171; Tr. XI, 123; OCC Ex. 9). All of the washed coal is currently stockpiled at the Muskingum generating plant (Tr. IV, 109, 114-115, 171; Tr. XI, 119-120).

Ohio Power's proposed plant in service valuation includes $7,867,796 of investment associated with the OTISCA plant, as recorded in Account 103, Experimental Electric Plant Unclassified (Staff Ex. 1, p. 13). The inclusion is justified, according to Company witness Batchelder, because the successful washing of high sulfur Ohio coal at OTISCA will benefit the Applicant's customers and Ohio's coal miners (Tr. IV, 112-113).

In its report of investigation, the Staff concurred with the OTISCA inclusion, but the concurrence was apparently based in part upon a mistaken belief that the washed coal had been burned, rather than stockpiled, during the test year (Staff Ex. 1, p. 13; Tr. XI, 119-120). When Staff witness Fox was apprised of this incongruity at the hearing, however, he declined to alter the position expressed in the Staff Report (Tr. XI, 119-120). In Mr. Fox's opinion, the OTISCA plant remains includable in rate base since the stockpiled coal was used and useful (Ibid.).

OCC objects to the inclusion of OTISCA and advocates rejection of the arguments espoused by the Applicant and the Staff. Mr. Fox's rationale for concluding that the OTISCA plant was used and useful during the test year is invalid, according to OCC, because the facility was operated well below capacity, none of the washed coal was burned, and the value of the stockpile is de minimus compared to Muskingum's yearly burn (See Tr. X, 33; OCC Ex. 2, p. 13). OCC maintains that the justification offered by Mr. Batchelder should also be rejected because the achievement of future benefits as a result of current research does not render property used and useful under Consumers' Counsel v. Pub. Util. Comm., 58 Ohio St. 2d 449 (1979).

In Ohio Power's last rate proceeding, this Commission approved inclusion of the OTISCA plant in rate base. Ohio Power Company, Case No. 80-367-EL-AIR, Opinion and Order, April 1, 1981, at pp. 7-8 (hereinafter Ohio Power). After reviewing the evidence and arguments presented on this issue herein, we are not convinced that a different finding is now warranted. Our disagreement with OCC's position does not involve its assertion that the expectation of future benefits is insufficient to establish the used and usefulness of a current research project, but rather, relates to its assertion that the OTISCA plant was not used and useful during the test year. The record evidence clearly demonstrates that the OTISCA plant was operating, that the washed coal was being stockpiled, and that the coal pile was used and useful (See, e.g., Staff Ex. 5, p. 9; Tr. XI, 119-120). Presumably, the stockpiled coal will be burned when a sufficient quantity is available for testing purposes. Under these circumstances, we find that the OTISCA plant meets the statutory used and useful standard and should, therefore, be included in rate base. Of course, since Ohio Power customers are providing all of the funds for this experimental project (Tr. IV, 206, 208), we expect any royalties attributable to patents received as a result of knowledge gained at the OTISCA plant to be credited to customers through Account 456, Other Electric Revenues.

Dumont Ultrahigh Voltage Test Facility

Ohio Power, AEP member companies, AEP itself, and outside consultants have jointly established a research and development program to analyze the feasibility of operating overhead transmission lines in excess of 1000 KV (Staff Ex. 1, p. 14). Pursuant to this program, a permanent testing facility was constructed adjacent to the Dumont generating plant near South Bend, Indiana and was declared commercial in October 1976 (Ibid.). Due primarily to changed economic circumstances, however, the construction of ultrahigh voltage transmission lines has been deferred well into the future (OCC Ex. 19; Tr. IV, 174).

Ohio Power's plant in service valuation includes $4,540,632 of investment associated with the Dumont testing facility, as recorded in Account 124.22, Other Investments, on date certain (Staff Ex. 1, p. 14; Co. Ex. :, Sch. B-2.2). This amount represents the Applicant's share of the total construction costs allocated to each participating electric company on the basis of its member load ratio (Staff Ex. 1, p. 14).

Even though Ohio Power has no immediate plans to construct ultrahigh voltage transmission lines, the Staff believes that the Dumont facility is properly included in rate base since the research will benefit customers (Ibid.). The future benefits cited by the Staff are lower overall costs per KW through the delivery of large amounts of power, environmental safeguards through the ability to deliver more power over fewer transmission lines, and cost savings through a reduction in the number of land acquisitions needed to satisfy right-of-way requirements (Id., at pp. 14-15).

In opposing the inclusion of Dumont, OCC contends that the facility was not used and useful during the test year because it did not render electric service and because the project will not reach fruition until the ultrahigh voltage transmission lines under study are actually constructed sometime in the next decade (OCC Ex. 2, pp. 12-13; Tr. X, 25-31). The achievement of future benefits as a result of present day research, however, is not a valid basis for establishing used and usefulness, according to OCC. In support of this assertion, OCC again relies upon Consumers' Counsel v. Pub. Util. Comm., cited supra.

As noted in the Staff's brief, this Commission has approved the inclusion of Dumont in both of Ohio Power's last two rate proceedings, Case No. 78-676-EL-AIR, Opinion and Order, April 16, 1979, at pp. 5-6, and Case No. 80-367-EL-AIR, cited supra, at pp. 6-7. Based upon the record evidence now before us, we are compelled to reach the same result herein. While we again concur with OCC that the expectation of future benefits is not alone sufficient to establish the current used and usefulness of a research project, we disagree with its assertion that the Dumont facility was not used and useful during the test year. Company witness Batchelder testified that the knowledge gained at Dumont has enabled more efficient operation of the 765 KV transmission system through, for example, refinements to the lightning arrester design (Tr. IV, 164-166, 173). This testimony, in our opinion, satisfies the used and usefulness standard contained in Section 4909.15(A), Revised Code. OCC's objection to the inclusion of Dumont in rate base should accordingly be overruled. Again, since Ohio Power customers are partially funding this research project, we expect the Company's allocable share of any royalties attributable to patents received as a result of knowledge gained at the Dumont facility to be credited to customers through Account 456, Other Electric Revenues.

Tidd Pressurized Fluidized Bed Combustion Project

Ohio Power, AEP, and outside consultants have executed an agreement to jointly study the feasibility of constructing a 170 MW demonstration plant adjacent to the Applicant's existing, but currently retired, Tidd generating plant near Brilliant, Ohio (Staff Ex. 1, p. 15). The proposed demonstration plant will be a research project aimed at attempting to economically burn Ohio's high sulfur coal in an environmentally acceptable manner through pressurized fluidized bed combustion technology (Tr. IV, 181-182; Tr. XI, 91; Staff Ex. 1, p. 15). As of date certain, the project was in the preliminary design and testing phase (Staff Ex. 1, pp. 15-16).

Ohio Power has included the Tidd project in rate base through two separate plant in service adjustments totalling $5,017,050 (Co. Ex. 5, Sch. B-2.2). The $517,050 adjustment is recorded in Account 188, Research and Development, and represents the Applicant's share of total costs, while the remaining $4.5 million adjustment is claimed to represent expenditures (Staff Ex. 1, p. 15). As the sole support for inclusion, Company witnesses Vipperman and Batchelder each testified that the project's success will benefit customers and the state's economy (Co. Ex. 8, p. 10; Co. Ex. 12, p. 11).

Based upon an investigation of these two adjustments, the Staff excluded the total $5,017,050 from plant in service (Staff Ex. 1, p. 16). OCC, for obvious reasons, concurs with exclusion (OCC Ex. 2, p. 11), and Ohio Power objects, although no supplemental direct testimony was presented by the Applicant to substantiate its position.

In Ohio Power's last rate proceeding, the Commission upheld the Staff's exclusion of the Tidd project from rate base because there was not used and useful property and because we were not persuaded that the engineering and cost studies performed for Tidd should be accorded different treatment than those which precede any other major construction project (Ohio Power, cited supra, at p. 6). The record evidence herein supports a similar finding. Since the Tidd project remains in the preliminary design and testing phase, construction of the proposed demonstration plant has not yet commenced and there was consequently no used and useful property at date certain. Further, the record is devoid of evidence justifying divergent treatment of the costs in question. We therefore find that the Staff's exclusion should be adopted.

Excess Capacity

During its investigation, the Staff examined Ohio Power's generating capability to determine whether capacity exists in excess of that reasonably required to meet net peak demand and to afford an adequate reserve margin (Staff Ex. 1, p. 16). As a result of this examination, the Staff found that excess capacity exists, but concluded that no adjustment to rate base is warranted since the Applicant has no immediate plans to build additional generating plants in Ohio and provided that the Company is able to sell a substantial portion of its reserves at a profitable rate (Id., pp. 16-17; Staff Ex. 5, p. 10). Although OCC objected to the Staff's conclusion, the matter was not pursued in direct testimony or on brief. The Commission accordingly finds that OCC has failed to sustain the evidentiary burden attendant to its objection. OCC's objection should, therefore, be overruled.

Depreciation Reserve

Due to a one month lapse between the beginning of the current test year and Ohio Power's implementation of the new accrual rates adopted in its last rate proceeding, Case No. 80-367-EL-AIR, cited supra, the Staff adjusted the jurisdictional depreciation reserve by $613,000 for rate-making purposes (Staff Ex. 1, p. 17). This adjustment properly matches the new accrual rates with the date certain rate base (Ibid.). Ohio Power has raised an objection to the Staff's adjustment, but failed to address the issue at hearing or on brief. In the absence of any contrary evidence, the Commission finds that the $613,000 adjustment is appropriate and should be adopted.

Construction Work in Progress

Section 4909.15(A)(1), Revised Code, provides that the Commission may, in its discretion, include in rate base determinations a reasonable allowance for construction work in progress (hereinafter CWIP). Division (E) of that statute, however, limits eligibility for the allowance to projects which are at least 75 percent complete and prohibits the authorized allowance from exceeding 20 percent of the total remaining rate base valuation.

Ohio Power has herein proposed one construction project for inclusion in rate base as CWIP, the Racine Hydroelectric Plant. This run-of-the-river project consists of two 24.6 MW generating units, plus appurtenances, located at the U.S. Racine Dam on the Ohio River near Racine, Ohio (Staff Ex. 1, p. 18; Tr. X, 51-52). It is currently anticipated that Unit 2 will be placed into service on August 15, 1982, and Unit 1 on October 15, 1982 (Tr. III, 125; Tr. VIII, 11). As of the date certain, Ohio Power's investment in Racine was $70,933,462 on a total company basis (Staff Ex. 1, p. 18).

In order to determine whether Racine satisfies the statutory 75 percent complete criterion, the Staff extensively analyzed the date certain physical property, elapsed construction time, and actual dollars expended (Ibid.). Based upon this investigation, the Staff concluded that Racine was at least 75 percent complete and therefore qualifies as CWIP (Id., p. 19). OCC, for numerous reasons, objected to the Staff's conclusions. Due to the magnitude of the evidence and arguments presented on this single issue, the various positions of the parties will be discussed below within the context of the three tests applied by the Staff to determine completion.

On January 20, 1982, approximately three and one-half months after date certain, the Staff conducted an on-site physical inspection of the Racine project (Staff Ex. 1, p. 19; Tr. XI, 74-75; Tr. XIV, 57). In the Staff inspector's estimation construction was 87 percent complete at that time and was between 76 and 80 percent complete at date certain, September 30, 1981 (Staff Ex. 1, p. 19; Tr. XI, 142-145). This latter conclusion is reinforced by the testimony of Company witness Vipperman (Co. Ex. 8, p. 11; Tr. III, 147). Although OCC offered no engineering testimony or evidence to contradict the estimations reached by the Staff, it maintains that the Commission should accord little weight to the physical inspection test results because Staff witness Fox testified that determining the percentage of physical completion involves judgment, rather than precision, and because he indicated that Racine should therefore be considered only approximately 75 percent complete on date certain, thus necessitating application of the other two tests (See Tr. XI, 76, 139-140, 144-145). OCC's bottom line is that the Commission should disregard the estimates of physical completion and should place sole reliance on the time elapsed and dollars expended tests to determine whether Racine qualifies for CWIP treatment.

We disagree with OCC. It is intuitively obvious that the percentage of completion assigned to a construction project following a visual inspection will be a product of the viewer's judgment, not a precise mathematical formula. The fact that an element of judgment is inherent in the resultant estimation, however, does not a priori render the physical inspection test invalid or inapplicable if the project is assessed to be near the 75 percent threshold. Although we do not possess a crystal ball enabling us to foresee future CWIP issues or statutory amendments, we at this point perceive only one basis for excluding the physical inspection test results from our CWIP considerations: if the manifest weight of the record evidence convincingly demonstrates that the judgment underlying the estimates is unreliable. Here, there is no such evidence in the record. As previously mentioned, OCC failed to present any engineering testimony or evidence which contradicts or casts doubt upon the estimation reached by the Staff that Racine was 76 to 80 percent physically complete on date certain. We accordingly conclude that the Staff's estimation should be accepted for consideration.

Under the time elapsed test, construction status is observed through a ratio of the number of days between the start of construction and date certain divided by the number of days between the start of construction and the anticipated in-service or completion date of the project. With regard to Racine, the record discloses that on-site construction activity had commenced on November 7, 1977 and that both units should be in-service by October 15, 1982 (Staff Ex. 1, p. 18). Based upon this evidence, Ohio Power, the Staff, and OCC concur that Racine was at least 75 percent complete at date certain, September 30, 1981, on a time elapsed basis (Id., pp. 18-19; Tr. X, 5-6).

As implied by its designation, the dollars expended test determines the percentage of completion through a ratio of the dollars expended on a construction project at date certain divided by the total dollar amount budgeted for the project's completion. There is no dispute among the parties hereto that $70,933,462 represents the date certain dollars expended by Ohio Power and that this amount should be utilized in the numerator of the ratio (See Staff Ex. 1, pp. 18, 19; OCC Ex. 2, p. 32). Instead, the controversy surrounds the appropriate figure for use in the denominator. The viable options are the $97,521,000 budget revision developed in January 1981 and approved by Ohio Power's board of directors on May 27, 1981, or the $90,200,000 budget revision proposed in September 1981, but which had not received board approval at the time of hearing (Tr. III, 101-103; Tr. XI, 151). Adoption of the $90.2 million budget proposal as the denominator will produce a percentage of completion in excess of 75 percent; use of the $97.5 million budget will not. Although the Staff generally relies upon the budget estimate approved by a company's board of directors, it made an exception in this instance and accepted the more recent revision (Tr. XI, 145-146, 148-149). The Staff accordingly concluded that Racine was approximately 77.9 percent complete at date certain on a dollars expended basis (Staff Ex. 1, p. 19).

Before we address OCC's position on this matter, clarity dictates a brief discussion of the items which comprise the $7,321,000 proposed budget reduction. Without question, the item principally responsible for the reduction is a $5,321,000 decrease in estimated AFUDC accruals due to a five month acceleration of the respective in-service dates for the two Racine units and due to an expectation by Ohio Power that Racine will be accorded CWIP treatment herein (OCC Ex. 12, pp. 1-2; Tr. XI, 152-153). The in-service dates were accelerated because experience acquired at another AEP hydroelectric project, Smith Mountain, indicated that only one month of testing, rather than the six months originally anticipated, is necessary prior to commercialization (OCC Ex. 12, pp. 1-2; Tr. III, 103). The remaining $2 million of the reduction is attributable to the following items: the proposed contigency fund was decreased $1 million, several major labor contract estimates were decreased $424,000, the projected cost of materials was reduced a net $674,000, the service order account was decreased $105,000, and the total cost of overheads was increased $203,000 (OCC Ex. 12; Tr. III, 99-101).

Given the accelerated in-service dates, OCC does not dispute the Staff's rejection of the $97.5 million budget as the denominator of the dollars expended test. Instead, and somewhat anomalously, OCC contends that the Staff erred in using the $90.2 million proposed revision because the record evidence does not substantiate the reasonableness of the $7,321,000 reduction. OCC's primary reasons for challenging the reduction are that Ohio Power was cognizant of the Smith Mountain experience prior to developing the $97.5 million budget, overstated the decrease in estimated AFUDC accruals, failed to recognize escalations of the Cofferdam removal costs and mechanical contract costs, improperly netted the $882,000 Cofferdam sheet piling credit against the projected cost increase for materials, failed to account for the capitalized costs associated with the overhead bridge crane, and may not have budgeted for settlement of a lawsuit initiated by Dravo, a contractor at Racine (OCC's Initial Brief, pp. 22-32; See Tr. III, 39-40, 108-109, 119, 121-122, 127-135, 155-159; Tr. X, 53-55; Tr. XIV, 61-63, 69-70, 76-77; Co. Late-filed Ex. 20). It is OCC's position that the record is devoid of any figure which can be reliably used as the denominator of this test.

Based upon our analysis of the evidence and arguments recounted above, we are of the opinion that OCC's challenge to the reasonableness of the $90.2 million budget proposal is well-founded. In addition to perceiving the defects in the reduction enumerated by OCC, we are concerned by the fact that this downward revision was initially proposed during September 1981 nine days before date certain, but had not yet received board approval at the time of hearing. Ohio Power offered no explanation of the eight-month delay. We are more troubled, however, by the fact that the $7,321,000 budget reduction is primarily attributable to accelerating Racine's in-service dates based upon experience acquired at Smith Mountain during 1979, well in advance of the $97.5 million budget. Ohio Power offered no explanation of the two year "oversight." It appears to this Commission that the budget reduction proposal was an eleventh hour attempt by Ohio Power to ensure that Racine would surpass the 75 percent threshold under the dollars expended test. Although our intent is not to discourage the Applicant from re-estimating future construction budgets, we do not countenance deliberate endeavors to manipulate the regulatory process. Because we believe that the trustworthiness of the $90.2 million proposal is tainted, we find that the Staff's acceptance thereof for calculating the dollars expended test was improper. Substitution of the $97.5 million figure produces an approximate 73 percent completion at date certain on a dollars expended basis.

Having discussed the pertinent evidence and numerous arguments presented by the parties on this issue, we now must decide whether Racine should be included in Ohio Power's rate base as CWIP. As recognized in Section 4909.15(A)(1), Revised Code, this decision is discretionary. The discretion we exercise herein will involve consideration of the results produced by the physical inspection, time elapsed, and dollars expended tests, but our ultimate resolution of the issue at hand will be based upon the totality of the record evidence. In our opinion, the three tests of completion should be viewed as aids to the decision-making process and not as dispositive of the 75 percent completion determination. Obviously, no percentage produced by these tests is an indisputably precise measure of completion; an element of judgment is inherent in the physical inspection test, while the time elapsed and dollars expended tests are mathematical approximations which fail to recognize that neither construction nor expenditures occur in a perfectly linear progression. With the foregoing statements in mind, we find that the manifest weight of the record evidence demonstrates that Racine was at least 75 percent complete at date certain. This finding, coupled with the fact that both units should be in service within three months from the issuance of this Opinion and Order, leads us to conclude that the Racine project should be accorded CWIP treatment.

Working Capital

Section 4909.15(A)(1), Revised Code, requires the Commission to determine a reasonable allowance for cash working capital and materials and supplies. Ohio Power, the Staff, and OCC each utilized the formula method to compute their respective allowance recommendations, but they disagree on the application of the formula with regard to several components of the allowance. The parties' positions on disputed matters will be discussed individually below.

Cash Component

Ohio Power objects to the Staff's exclusion of fuel expense from the cash component of the working capital calculation. Such an objection has been raised in numerous rate proceedings before this Commission and has been consistently rejected as unsound (See, e.g., Ohio Power, cited supra, at pp. 9-10). We perceive no justification in the instant record for departing from that precedent, especially since the Staff has recently included a separate fuel expense revenue lag in the working capital allowance to account fo the operation of the Electric Fuel Component (hereinafter EFC) rules now contained in Chapter 4901:1-11, Administrative Code (See Staff Ex. 1, p. 19; Staff Ex. 4, pp. 13-14). The objection should consequently be overruled.

Ohio Power additionally disputes the Staff's cash component determination on the grounds that it is affected by an incomplete annualization of fuel revenues and expenses. Given that Staff witness Hensel at the hearing adopted the annualization proposed by Company witness Batchelder, discussed infra, we find that this objection is moot (See Tr. VIII, 119-123; Co. Ex. 12C).

Fuel Expense Revenue Lag

As previously mentioned, the Staff has recently added to its calculation of the total cash component an allowance for the fuel expense revenue lag caused by the operation of the EFC rules (Staff Ex. 1, p. 19). Miss Hensel explained that prior to the EFC rules' implementation, the Staff recognized such a lag in the cost of service through annualization of fuel revenues and fuel expenses, which eliminated the need for a separate allowance in working capital (Staff Ex. 4, p. 18). However, since the EFC rules synchronize fuel revenues and expenses, but ignore the timing differences between cost incurrence and revenue recovery, the Staff believes that it is now necessary to expressly provide for the recovery lag in working capital (Id., at p. 19). The Staff consequently recommends a $20,649,352 allowance herein (Staff Ex. 1, Sch. 11.1). In calculating this figure, the Staff utilized the 13.94 day lag identified by Ohio Power's lead lag fuel study as a reasonable representation of the net recovery lag because it fell within the six to seventeen day range observed in other companies' studies (Tr. IX, 37-41, 50, 58-58A, 102-104). The specific methodology Ohio Power used to compute the lag was not analyzed by the Staff (Ibid.).

While OCC "vehemently" objects to any working capital recognition of the recovery lag, its argument on brief is confined to challenging the 13.94 day lag which underpins the Staff's recommended allowance. With variations on the theme, OCC argues that no record evidence supports the reasonableness of this net lag determination. The variations are that the Company's sponsoring witness, Mr. Batchelder, was unable to satisfactorily answer basic questions concerning the lead lag study, that the Staff performed an inadequate review of the study's content, and that Ohio Power failed to explain why it reimburses affiliated coal suppliers more quickly than nonaffiliated coal suppliers, thereby lengthening the net recovery lag (OCC Initial Brief, pp. 35-45; See Tr. IV, 121-131; Tr. IX, 37-41, 50, 56-58A, 102-104). In OCC's opinion, this incomplete record warrants rejection of any fuel expense revenue lag allowance, or at best supports a net lag not in excess of 8.5 days.

The Commission in several recent rate proceedings has approved the Staff's inclusion of a fuel expense revenue lag allowance in the cash component of working capital (See Cincinnati Gas & Electric Company, Case No. 81-66-EL-AIR, et al., Opinion and Order, January 27, 1982, at p. 13; Dayton Power & Light Company, Case No. 81-21-EL-AIR, Opinion and Order, February 3, 1982, at p. 11; Cleveland Electric Illuminating Company, Case No. 81-146-EL-AIR, et al., Opinion and Order, March 17, 1982, at p. 12; Toledo Edison Company, Case No. 81-620-EL-AIR, Opinion and Order, June 9, 1982, at p. 7). Based upon the direct testimony of Staff witness Hensel, we perceive no material basis to depart from our precedent in this instance (See Staff Ex. 4, pp. 17-20). With regard to the amount of the allowance, we find that although the record evidence is somewhat sketchy, it still adequately demonstrates that the 13.94 day lag is not unreasonable (See OCC Ex. 30 and 34). The Staff's recommended allowance, as modified to account for the system sales recalculation set forth on Co. Ex. 12C, should therefore be adopted and OCC's objection should be overruled. The adjusted jurisdictional allowance for this item is $20,869,241.

Fuel Inventory

As part of working capital, the fuel inventory component is intended to provide a reasonable allowance for the investor supplied capital which the utility required, as of date certain, to maintain the fuel inventory level permanently needed for ongoing operations. This allowance is derived by multiplying the average daily cost of fuel by an appropriate days' supply. The controversy herein relates to the number of days which is an appropriate inventory level: Ohio Power and the Staff recommend a $129,764,000 allowance based upon 75 days supply, while OCC proposes a $124,574,281 allowance based upon 72 days (See Staff Ex. 1, pp. 19-20, Sch. 11; OCC Ex. 3, pp. 4-5, Sch. PEM 1.1).

Our review of the record evidence leads us to conclude that the 75 days' supply is a more appropriate inventory level. In reaching this conclusion, we primarily rely upon Staff witness Fox's testimony that Ohio Power actually maintained a 77.89 days supply during the test year (Staff Ex. 5, pp. 12-13; Tr. XIV, 83-85). Since this experienced inventory level exceeds that proposed by Ohio Power, the Staff accepted the 75 days supply as reasonable, and so do we (See Staff Ex. 1, pp. 19-20; Staff Ex. 5, pp. 12-13;

Tr. XI, 88-90; Tr. XIV, 83-85). Although not a basis for our decision, it is interesting to note that OCC itself advocated use of a 75 days supply in the Applicant's last rate proceeding (See Ohio Power, cited supra, at pp. 8-9). We reject OCC witness Miller's 72 days proposal because it was calculated on a thirteen month average up to date certain rather than on the thirteen month average encompassing the entire test year. OCC's objection should be overruled.

Materials and Supplies

For a reason totally unfathomable to this Commission, Ohio Power objected to the materials and supplies component of working capital recommended in the Staff Report. Our quanadry exists because the Staff, at that point, had adopted the Applicant's own $26,013,000 proposal which was calculated using a date certain balance, less the cost of materials and supplies held for new construction, extensions, and additions, as required by Cincinnati v. Pub. Util. Comm., 160 Ohio St.2d 395 (1954). Furthermore, Ohio Power on brief expressly states concurrence with the Staff's revised recommendation of $24,772,578, discussed below (See Staff Ex. 5, p. 13). The Company's objection should be overruled for obvious reasons.

OCC has raised an objection to the $26,013,000 materials and supplies allowance recommended in the Staff Report on the grounds that such amount was derived from a date certain balance instead of a thirteen month average (See OCC Ex. 3, p. 6). As explained by Staff witness Fox, the Applicant's proposal was accepted for purposes of the Staff Report pending the receipt of additional information which had been requested in discovery but not yet provided (Staff Ex. 5, p. 13; See Staff Ex. 1, p. 20). Upon subsequently receiving this information, the Staff through the prefiled testimony of Mr. Fox revised its recommended allowance to $24,772,578 (Staff Ex. 5, p. 13). The revision is derived from a thirteen month average, but the record is silent on whether it is a test year average or an average ending at date certain (See Ibid.). Under the presumption that it is an average for the thirteen months preceding date certain, OCC on brief advocates Commission acceptance of the Staff's revised allowance. In light of this position, OCC's objection clearly should be overruled.

It is apparent from the foregoing discussion that Ohio Power, the Staff, and OCC agree that $24,772,578 is the appropriate allowance for the materials and supplies component of working capital. We concur.

Deferred EFC Balance

Due to the operation of the EFC rules, the difference between the actual allowable fuel costs incurred during a month and the EFC revenues billed that same month is deferred on Ohio Power's books. The deferred amounts for each month of a base period are then summed and the net balance is subsequently recovered, if it is negative, or refunded, if it is positive, through the reconciliation adjustment set forth in Rule 4901:1-11-05(B) and (D), Administrative Code. Because the monthly deferrals for a current base period occur simultaneously with reconciliations for the penultimate base period, the books of the Company will always reflect some varying deferred balance. The EFC rules do not presently authorize recovery of the carrying charges associated with a negative balance, nor do they require customer compensation for the time-value of money associated with a positive balance.

Ohio Power effectuated the EFC provisions in June 1981, two months after the instant test year began, and accumulated a negative net deferral over the following ten months (Co. Ex. 12A,

p. 4; Staff Ex. 1, Sch. 11.2). In order to recognize the carrying charges attendant to the deferred fuel balance, both the Applicant and the Staff have proposed an allowance for inclusion in working capital. Ohio Power's unadjusted $16,512,895 recommendation represents the actual unrecovered fuel costs deferred on the books as of March 31, 1982, while the Staff's proposed allowance of $8,254,970, net of deferred taxes, is derived from a partially actual and partially estimated thirteen month average ending June 30, 1982 (Ibid.). OCC objects to any working capital recognition of the deferral. In support of this objection, OCC contends that it is virtually impossible to quantify a representative deferred fuel balance for working capital purposes. OCC instead favors adding interest to the EFC rules because such a provision would more closely reflect the Company's carrying charges and/or the customers' time-value of money.

Given the positions articulated by the parties herein, there appears to be a consensus that the deferred fuel balance should be recognized somewhere in Ohio Power's rates; the question is whether recognition should be accorded through working capital (See Tr. IV, 87, 89; Staff Ex. 4, pp. 20-21; Tr. XII, 202). In each of the recent electric rate proceedings in which this issue arose, we consistently rejected the working capital approach on the dual grounds that: (1) insufficient historical data then existed to determine a representative allowance for this item; and (2) that we intend to consider an EFC interest provision at a generic proceeding, now scheduled for September 13, 1982 (See, e.g., Cincinnati Gas & Electric Company, Case No. 81-66-EL-AIR, et al., Opinion and Order, January 27, 1982, at pp. 13-14).

Although we reach the same ultimate conclusion herein, our rationale is slightly different. During the interval of time between the hearings in the instant consolidated cases and those cited above, additional historical data has become available on the monthly deferrals and accumulated net balance. This data, rather than enabling the computation of a representative allowance, has convinced us that the deferred fuel balance does not readily lend itself to working capital recognition. As can be observed on Staff Ex. 1, Sch. 11.2, Ohio Power underrecovered allowable fuel costs by $4,515,128 in October 1981, but overrecovered $2,022,146 in January 1982, with an estimated overcollection of $4,539,000 for June 1982. In light of these widely fluctuating monthly deferrals and their affect on the net balance, we are not assured that the allowances proposed by either the Applicant or the Staff will be representative of any future balance. We accordingly sustain OCC's objection and will consider an EFC interest provision at the generic proceeding.

Equal Payments Plan

Although Ohio Power did not object to the Staff's working capital calculation on the grounds that it failed to include an allowance for the receivables account associated with the equal payments plan, it has on brief laconically advocated working capital recognition of this item. In support of its position, Ohio Power cites the testimony of OCC witness Miller who specifically recommended against any such allowance (See OCC Ex. 3, p. 10). The Applicant's proposal should be denied.

Offsets to Working Capital

In calculating Ohio Power's working capital requirement, the Staff deducted customer deposits and one-fourth of operating taxes, excluding FICA and deferred income taxes (Staff Ex. 1, p. 20). OCC through its filed objections contended that the Staff's tax offset computation was incorrect because it failed to include

FICA taxes and to reflect one-fourth of the properly adjusted operating tax amount. Neither of these objections was pursued at the hearing or on brief. Since our decision in Columbus & Southern Ohio Electric Company, Case No. 77-545-EL-AIR, Opinion and Order, March 31, 1978, we have uniformly excluded FICA taxes from the tax offset for reasons adequately explained in this record by Staff witness Hensel (Staff Ex. 4, pp. 15-16). As Miss Hensel further testified, such an exclusion does not affect the propriety of the one-fourth tax adjustment (Ibid.). Both of OCC's objections should therefore be overruled.

The third defect OCC perceives in the tax offset is that the Staff failed to account for the working capital implications of the .25 percent gross receipts tax surcharge imposed by Amended Substitute House Bill 694 (See OCC Ex. 3, pp. 11-12). OCC acknowledges that an identical objection was rejected in General Telephone Company et al., Case No. 81-383-TP-AIR, Opinion and Order, April 26, 1982, at pp. 13-14, and accordingly urges reconsideration of that decision. In our opinion, it is OCC's perception which is faulty, not the tax offset. As clearly described by Company witness Lindahl and Staff witness Hensel, Ohio Power derives no working capital benefit from the surcharge because the .25 percent gross receipts tax is paid in one-third increments due in January, March, and June, but is recovered through the surcharge during the entire calendar year (Tr. II, 47-50; Tr. III, 43-44; Co. Ex. 7B, 7C, Tr. VIII, 175-181; Staff Ex. 4, p. 17). Thus, the tax is paid in advance of full revenue compensation (Staff Ex. 4, p. 17). We find that OCC's objection should be overruled and that General Telephone, cited supra, should be affirmed.

Summary

The following schedule presents in summary form the Commission's determination of the allowance for working capital to be included in rate base. These figures take into account adjustments necessary to reflect the disposition of other issues which affect the allowance.

Jurisdictional Working Capital Allowance
(000's Omitted)

1/8 of Adjusted Operating and Maintenance Expense, excluding Fuel and Purchased Power	$ 20,957
Fuel Expense Lag	20,869
Materials and Supplies	24,773
Fuel Inventory	129,764
Customer Deposits	(2,714)
1/4 of Operating Taxes, excluding FICA and Deferred Taxes	(21,873)
Jurisdictional Working Capital Allowance	$ 171,776

Rate Base Deductions

The Staff reduced the rate base by the following: (1) the date certain balances of deferred taxes associated with accelerated amortization, liberalized depreciation, and interest allocated to construction; (2) the date certain balance of customer advances;

and (3) one-half of the deferred taxes associated with those items which the Staff normalized for the first time herein, namely the pre-1981 investment tax credit, capitalized taxes, pensions, and savings plan expense (Staff Ex. 1, pp. 20, 124). Ohio Power objected to the Staff's deduction. In support of this objection, Company witness D'Onofrio asserted that the Staff's calculation failed to consider the current year feedback of the normalized investment tax credit (Co. Ex. 14A, p. 2). Consideration of the feedback would reduce the accumulated deferral and thereby increase rate base.

Given Staff witness Hensel's agreement with this adjustment, we will sustain the objection raised by Ohio Power (See Staff Ex. 4, p. 14). We have accordingly modified the Staff's original recommended rate base deductions to recognize the current year feedback of the normalized investment tax credit. It should be noted that we have additionally excluded one-half of the deferred taxes associated with the deferred EFC balance. This amount had been treated as an offset to working capital in the Staff Report (Staff Ex. 1, Sch. 11.2). As a result of these adjustments, the total rate base deduction on a jurisdictional basis is $59,639,000.

Rate Base Summary

In light of the foregoing discussion, the Commission finds Ohio Power's jurisdictional statutory rate base, as of the date certain, to be as follows:

Jurisdictional Rate Base
(000's Omitted)

Plant In Service	$ 2,549,619
Depreciation Reserve	(616,824)
Net Plant In Service	$ 1,932,795
CWIP	63,719
Working Capital	171,776
Deferred Taxes and Other Deductions	(59,639)
Jurisdictional Rate Base	$ 2,108,651

OPERATING REVENUES AND EXPENSES

The Applicant and the Staff each submitted an analysis of test year accounts reflecting the results of Ohio Power's operations. These analyses were primarily based on six months of actual data and six months of forecasted data. The adjustments to test year revenues and expenses recommended by the various parties are discussed on an item by item basis under the appropriate subheadings below.

Operating Revenues

The Applicant and Consumers' Counsel both objected to the Staff's calculation of allowable operating revenues. However, the Company never offered any evidence in support of that objection and OCC in brief indicated that it agreed with the Staff's calculation of operating revenues (OCC Initial Brief, p. 54). These objections should be overruled.

Annualization of Base and Fuel Revenues and Fuel and Purchased Power Expenses

Ohio Power objected to the Staff's annualization of fuel revenues and fuel expenses. With respect to the annualization of base and fuel revenues, the Staff had proposed an adjustment of

$28,775,703 based on test year jurisdictional sales of 20,204,675,553 KWH (Staff Ex. 1, Sch. 3.1). Company witness Batchelder testified that the figure to be used for test year jurisdictional sales in calculating annualized fuel revenue should have been 20,191,285,531 KWH which reflects the removal of sales to special minimum bill customers who are not billed for fuel (Tr. IV, 85-87). This adjustment to sales results in a revised annualization adjustment for total jurisdictional revenues of $28,547,215. The Staff agreed with this adjustment (Staff Ex. 4, p. 7).

With regard to the annualized fuel and purchased power expense, Company witness Vipperman sponsored an adjustment to fuel expenses which corrected an error made in the original filing. Specifically, the Applicant included system sales revenues in its original filing but did not include any costs associated with "pass-through" or "third party sales" on the system (Tr. III, 64-68). Company witness Batchelder utilized this adjustment and also corrected the calculation of non-includable fuel and purchased power to arrive at a total annualized fuel and purchased power expense level of $488,050,000 (Co. Ex. 12C). This would result in an adjustment to test year fuel and purchased power expense of $17,753,000. Staff witness Hensel also concurred with this adjustment (Tr. VIII, 119-123). The Commission will sustain the Applicant's objection and will adopt the revised calculations of the Company and the Staff. The annualized fuel and purchased power expense includes a factor for system losses of 1.7064 cents per KWH.

Labor Annualization Adjustment

The Company originally annualized labor costs to reflect the estimated level of employees and base wages at year end for both the wholly and jointly owned facilities. The Staff modified the Applicant's adjustment by using certain known or average actual employee levels and average actual base wages during September, 1981 (Staff Ex. 1, p. 7). Both the Company and Consumers' Counsel objected to this adjustment.

Company witness Vipperman recalculated the Staff's labor annualization adjustment using February 28, 1982 actual payroll levels (Co. Ex. 8A, p. 3). This means that Ohio Power was using both the February, 1982 wage rates and the February, 1982 employee levels. Staff witness Hensel did not believe it was appropriate to utilize "point in time" employee levels for annualization purposes and instead utilized a calculation of the average actual number of employees during the test year (Staff Ex. 4, pp. 4-6 and Tr. IX, 110). The Commission believes the Staff was correct in using an average level of employees here rather than an end of test year employee level because of the relationship between the end of test year employees and maintenance which was formerly performed by independent contractors.

Company witness Hoover testified that at about the beginning of the test year, Ohio Power developed the Ohio Centralized Plant Maintenance Group (OCPM Group) which consisted of over 100 employees who are to move from plant to plant performing major outage work that was formerly performed by independent contractors (Tr. VII, 61-65). The staffing of this newly developed maintenance group took place during the test year but was not completed until the end of the test year (Tr. VII, 62-63). While the forecasted portion of the test year reflected tne fact that there would be less independent contractor labor because of the development of the Ohio Centralized Plant Maintenance Group, there was no evidence that the actual data was adjusted to reduce the amount of independent contractor labor (Tr. VII, 64). Because of the relationship between the OCPM Group and the level of independent contractor labor, any adjustment to annualize the end of test year number of employees should also have a corresponding adjustment to independent contract labor. Since the record indicates that was not done, a test year average of actual employees is the next best option.

Consumers' Counsel, in brief, pointed out that the Staff's 12 month actual average included 11 months of data from one type of payroll record (employees paid) and one month (March, 1982) from another type of payroll record (employees employed) and that the two do not necessarily match (OCC Initial Brief, pp. 54-56). However, Staff witness Hensel explained at the hearing that the payroll record for March, 1982 which showed the number of employees paid was erroneous and understated; therefore, she utilized the information from the payroll record which showed the number of employees employed for March, 1982 (Tr. VIII, 159-160). The differences between OCC witness Miller's 11 month actual averages and the Staff's 12 month calculations are relatively minor (12 employees out of over 5,400). Compare Staff Ex. 4, p. 6 with OCC Ex. 3, Schedule PEM 7.1. The Commission will adopt the Staff's calculation and use of the 12 month average level of employees. With respect to the base wage level, the Commission has utilized the actual February, 1982 average base wage level which can be calculated from Mr. Vipperman's testimony (Co. Ex. 8A, Schedule 3.7).

Savings Plan Expense Adjustment

Ohio Power had proposed to adjust the savings plan expense to reflect its proposed adjustments to labor expense (Co. Ex. 5, Schedule C-3.03). Like the labor annualization adjustment discussed above, the Staff modified the savings plan adjustment consistent with its own recommended labor adjustment (Staff Ex. 1, p. 7). The Staff rejected the Company's attempt to include projected cost levels for pension plan costs. The Applicant and OCC both objected to the Staff's recommendation on this issue. However, the Company presented no evidence on this issue other than Mr. Vipperman's calculations which accompanied his proposed labor annualization adjustment and OCC witness Miller appeared to support the Staff's methodology, noting that the difference between his adjustment and that of the Staff resulted from a difference in the labor adjustment (OCC Ex. 3, p. 23). The Commission will adopt the Staff's methodology in allowing the adjustment to savings plan expense flowing from the labor annualization adjustment we have authorized.

Group Insurance Plan Expense Adjustment

Both the Company and the Staff adjusted group insurance expenses to reflect increased group insurance rates and its respective labor adjustment. The Staff rejected the Applicant's use of estimated group insurance rates and instead used current, known rates (Staff Ex. 1, p. 7). Both Ohio Power and Consumers' Counsel objected to the Staff's calculation.

The Applicant presented no evidence other than Mr. Vipperman's calculations which flowed from his revised labor annualization adjustment. Consumers' Counsel objected to the base amount used in determining the long-term disability expense of Ohio Power, the base amounts used in determining basic life, supplemental life, group accident, and long-term disability expenses of the employees at the Cardinal plant, and the application of the operation and maintenance expense ratio to expenses at all of the plants. Staff witness Hensel modified the Staff's calculation at the hearing. She agreed that the base amount used by the Staff to calculate Ohio Power's disability expense was wrong and she revised her calculation there and also with respect to the base amounts used in determining basic life, supplemental life, group accident, and long term disability for the employees at the Cardinal plant. Finally, Staff witness Hensel testified that if an operating and maintenance expense ratio is to be applied to only the Ohio Power plants' expenses the ratio should be recalculated to reflect the relationship between capitalized group insurance expense and group insurance expense for Ohio Power plants only (Staff Ex. 4, pp. 25-27). In its post-hearing brief, OCC indicated that it is satisfied with the Staff's modified group insurance expense adjustment (OCC Initial Brief, p. 56). The Commission will adopt the Staff methodology in calculating group insurance as modified by Staff witness Hensel and sustain Consumers' Counsel's objection.

AEP Service Corporation Expense

The Applicant originally adjusted operating expenses to reflect the annualization of all expenses billed to Ohio Power for the use of the AEP computer center (Co. Ex. 5, Schedule C-3.15). The Staff adjusted operating expenses but only to reflect the annualization of labor expenses billed to the Company for use of the AEP computer center (Staff Ex. 1, p. 8). Ohio Power and OCC both objected.

Company witness Vipperman submitted a revised calculation of the AEP Service Corporation Expense which would reflect the latest known wage rates and employee levels of the AEP Service Corporation as of the end of March, 1982 (Co. Ex. 8A, p. 5). This calculation would increase the Staff adjustment by almost $285,000 from $1,018,710 to $1,303,668 (Staff Ex. 1, Schedule 3.12 and Co. Ex. 8A, Schedule 3.12). Staff witness Bird reviewed this updated labor calculation and felt that Mr. Vipperman's calculation should be used in this case but that the Kaiser and Ormet exclusion should be updated for the AEP Service Corporation adjustments (Staff Ex. 2, p. 3 and Tr. VIII, 63). Consumers' Counsel presented no evidence on this issue nor addressed it in post-hearing brief. The Commission will sustain the Applicant's objection, overrule the objection of OCC, and adopt the revised calculation of Mr. Vipperman (Co. Ex. 8A, Schedule 3.12) with the modification recommended by Staff witness Bird.

F.I.C.A. Taxes

Consumers' Counsel objected to the Staff's calculation of F.I.C.A. taxes which, of course, relates to the labor adjustment. The Commission has calculated an allowance for FICA taxes consistent with its determination of the appropriate labor annualization adjustment. This objection must be overruled.

Transportation Expense Annualization

The Company proposed to annualize transportation expenses to year end levels so as to include projected cost level changes (Co. Ex. 5, Schedule C-3.05). The Staff also recommended an annualization of transportation expenses, but its annualization was limited to gasoline expense and lease expense (Staff Ex. 1, Schedule 3.10). Consumers' Counsel objected to this annualization adjustment.

OCC witness Miller gave three reasons for his disagreement with the Staff's recommendation. First, Mr. Miller believed that there was a discrepancy in the amount of labor included in the transportation expense (OCC Ex. 3, p. 24). This belief was based upon a response from the Company to an interrogatory from OCC. However, the Staff did not annualize labor expense in this adjustment and it isolated the labor component from the gasoline and lease components also based on a data request it made of the Company (Staff Ex. 1, Schedule 3.10). There was no inquiry made of any Ohio Power witnesses to explain the apparent difference. Since only the gasoline and lease components of this adjustment were annualized by the Staff, we do not believe Mr. Miller's first reason has any impact upon the annualization of the gasoline and lease expense.

Mr. Miller also believed that there was a possible double counting of the costs associated with insurance, property tax and phones (OCC Ex. 3, p. 26). He explained that these overheads were already annualized in other adjustments and to the extent they would be included in another annualization adjustment, double counting would occur. However, the Staff only annualized gasoline expense and lease expense and did not annualize these overheads. See Staff Ex. 1, Schedule 3.10.

The third reason OCC witness Miller gave for his disagreement with the transportation expense annualization adjustment was the annualization of gasoline costs. The Staff and the Company utilized costs of $1.302 per gallon for bulk purchases and $1.36 per gallon for retail purchases to annualize the gasoline expense (OCC Ex. 3, p. 26). Mr. Miller believed that these prices are in excess of the current gasoline prices (OCC Ex. 3, p. 26). However, these rates were the actual costs experienced by the Company in December, 1981 (Tr. IX, 85). The Commission believes the Staff's recommended annualization of gasoline expense as shown on Staff Ex. 1, Schedule 3.10 is appropriate. During the course of the hearing, Staff witness Hensel revised the lease expense annualization (from what appeared in the Staff Report) to include the incremental cost in principal and interest related to leased vehicles which had actually been replaced. The Staff did not know at the time of the issuance of the Staff Report whether or not all or any of the leased vehicles expected to be replaced would actually be replaced (Tr. X, 105). This adjustment increases annualized lease expense from $5,310,612 to $5,593,428 on a total company basis. The Commission will adopt the revised annualized lease expense and the gasoline annualization adjustment as shown on Staff Ex. 1, Schedule 3.10.

Normalization of Major Storm Damage Expenses

Ohio Power proposed a normalization adjustment to test year expenses to reflect a five year average storm damage expense (Co. Ex. 5, Schedule C-3.26). The Company used the five years beginning with 1976 and ending with 1980. The Staff also recommended a normalization adjustment for storm damage expenses, but its methodology was different than that of the Applicant. While the Staff started with the actual 1976 through 1980 storm damage expense and restated the expense to 1981 dollars (as did the Company), it made an adjustment (reduction) to the 1980 actual level of storm damage expense before it calculated any sort of arithmetical average. Specifically, the Staff reduced the 1980 actual level of storm damage expense from $2,353,202 down to $853,202 and then translated this into 1981 dollars before taking the average. This adjustment apparently stems from the fact that during the third quarter of 1980, the Applicant experienced storm damage expenses of approximately $1,500,000 (Tr. VIII, 129). In the Company's last rate case, the Commission adopted the Staff's recommendation in amortizing this $1,500,000 storm damage expense over a two year period. See Ohio Power Company, Case No. 80-367-EL-AIR, Opinion and Order, April 1, 1981, at pp. 15-17. The Staff felt that the 1980 actual storm damage expense was abnormally high and should be adjusted (Tr. VIII, 130). The Company objected to the Staff's recommendation.

Company witness Vipperman suggested that by ignoring the actual level of storm damage expenses incurred in 1980, the Staff distorted its average and unreasonably reduced its adjustment (Co. Ex. 8A, p. 2). He pointed out that if the actual expense for 1980 were considered by the Staff to be abnormally high, then the storm damage expenses incurred in 1976 and 1977 were abnormally low. Yet no adjustments were made to the those two years (Co. Ex. 8A, p. 2).

The Commission finds itself in agreement with the Company on this issue and will sustain its objection. We are attempting to ascertain a reasonable level of storm damage expense which will be representative of what can reasonably be expected to actually occur in the near future. One way to achieve that is to look at history and see what has actually happened in the past and to calculate an average. Generally speaking, an average compiled over a fairly recent period of time is a good proxy of what may be anticipated to actually to occur in the future. Past rate-making treatment by a regulatory body of a specific item does not tell us very much about what actually will occur in the future. If we accept the premise that history is generally a good indicator of what will happen in the future, then it is the actual level of storm damage for a given year and not an amortized level which is relevant to our purposes. The Commission will adopt the five year average of actual storm damage expense restated to 1981 dollars or an adjustment of $597,625 instead of the $318,232 figure recommended by the Staff.

Consumers' Counsel argues in brief that the Commission should reject any storm damage normalization adjustment because of the possibility of a double counting of labor expense (OCC Initial Brief, pp. 63-65). OCC witness Miller believed there was a distinct possibility of double counting (Tr. XII, 125). However, Company witness Lindahl indicated there was no element of double counting of labor with respect to the storm damage normalization (Tr. III, 42). This is because the Company is normalizing only major storm damage expense and the major storm expenses are reflected by opening up a special work order (Tr. III, 10 and 41-42). The Commission will adopt the Applicant's major storm damage normalization adjustment.

Project 323 - Current Limiter Device

The Company initiated a "Current Limiter Device" project because of its concerns that circuit breakers at a significant number of its major 138 kV and 345 kV switching stations were experiencing, or were expected to experience fault levels exceeding their capabilities. This device, if developed, would alleviate the need to replace these circuit breakers with breakers of higher interrupting rating. A prototype device was developed and was tested in 1978. However, a review of the test data and the operating constraints of the device indicated that the specific design could not be used to limit the higher fault currents at the switching stations concerned. As a result, development work was temporarily abandoned (OCC Ex. 3A).

Consumers' Counsel objected to the Staff's failure to eliminate $113,280 on a total company basis from allowable expenses as an amortized portion of this project. Staff witness Hensel testified that the Staff agreed with OCC's recommended elimination of this item, but that it should be eliminated after the jurisdictional allocation is made (Staff Ex. 4, p. 23). There is nothing in the record to indicate that this item is similar to other recurring research and development projects. The Commission has determined to exclude the jurisdictional portion of this abandoned project.

Dumont Ultra High Voltage Test Site Expense

In its post-hearing brief, Consumers' Counsel argues that the Commission is precluded from allowing $260,826 in expenses associated with the Dumont High Voltage Test Site because it was not an expense incurred by the Applicant in the course of rendering service to the public (OCC Initial Brief, p. 63). The Commission does not agree with OCC's conclusion. As we discussed in the "Rate Base" Section of this Opinion and Order, knowledge gained from the Dumont project has been used to improve service to customers and this meets the requirements of Section 4909.15, Revised Code. The Commission believes that the expenses associated with the Dumont facility are reasonable and necessary utility business expenses and should be included in the cost of service.

Expenses Associated with Land Held for Future Use

Consumers' Counsel objected to the Staff's alleged failure to eliminate $6,084 in expenses associated with land held for future use which was excluded from the rate base by the Staff. However, Staff witness Bird testified that the Staff did in fact eliminate those expenses (which consisted of property taxes) from allowable expenses (Staff Ex. 2, p. 4). This objection must be overruled.

Annualization of Property Insurance Expense

The Applicant adjusted operating expenses by $234,000 to recognize the 1982 projected level of property insurance expense for its wholly owned property (Co. Ex. 5, Schedule C-3.20). The Staff utilized the costs of those property insurance policies in effect as of December, 1981 in its annualization adjustment and OCC witness Miller did the same (Staff Ex. 1, p. 8 and OCC Ex. 3, p. 36). The Company objected to the Staff's method of annualization of property insurance expense, but offered no evidence in support of its objection. The Staff's and Mr. Miller's recommended adjustment was $183,000. In its post-hearing brief, OCC now argues that the Commission should only permit an adjustment of $11,000 based on a response to an interrogatory which was referred to at the hearing in a question by counsel, but never introduced or admitted (OCC Initial Brief, p. 61 and Tr. III, 8). The Commission is reluctant to rely on an unseen discovery request where no one had the opportunity to see it or cross-examine a sponsoring witness on its contents and significance. Presumably OCC witness Miller had access to this discovery request prior to the hearing, but did not utilize it in preparing his testimony. We believe the more appropriate route is to look at the recommendations and positions set forth on the record. The Commission will overrule Ohio Power's objection as our policy has been to annualize only to known levels, not projected levels. But we will adopt the Staff's and Mr. Miller's recommended adjustment.

Adjustment for Improved Performance of Mitchell Units 1 and 2

OCC objected to the Staff's failure to make any adjustment to operating income to reflect the improving performance of Mitchell Units 1 and 2. Consumers' Counsel presented no testimony that these two units improved their performance or that there should be an adjustment to operating income for any improvement. The record does reflect that Mitchell Unit No. 2 did improve its performance in 1981 over the prior five years in terms of equivalent availability (Staff Ex. 1, p. 33). The record also reflects that the projected performance of the Mitchell plant (based on recent actual performance), which reflected the use of higher quality coal, was implicitly included in the forecasted portion of the test year. However, a scheduled outage of Unit No. 2 during the first quarter of 1982 reduced the availability of the plant from 74 percent to 69 percent in the last half of the test year (OCC Ex. 27). Ohio Power made no adjustment to the actual test year data for the Mitchell units. Staff witness Hensel also pointed out that to the extent the objection relates to fuel expense, direct fuel costs are recovered through the fuel clause and not base rates (Staff Ex. 4, p. 28). There is no indication in the record as to how an adjustment to the actual data should be made if one were appropriate. Consumers' Counsel has not addressed this issue in brief. The Commission will overrule this objection.

Advertising Expense

The Company originally proposed a jurisdictional allowable operating expense of $2,140,608 in advertising expenses. The Staff eliminated all of these advertising expenses. The Company objected and Consumers' Counsel also objected to the extent that the Staff did not eliminate labor costs directly related to advertising expense and public relations expense, Edison Electric Utility Institute (EEI) and Ohio Electric Utility Institute (OEUI) advertising expense, and AEPSC public affairs salaries.

At the hearing, Company witness Palmer specifically identified six types of advertising which he felt should be includable as an allowable operating expense totalling $988,000 on a total company basis (Co. Ex. 9A and Tr. IV, 25). These six types of ads include the area development activity ($255,000), the "Save America's Valuable Energy" (S.A.V.E.) program ($253,000), the federally mandated Residential Conservation Service (RCS) program ($266,000), the monthly bill insert program ($145,000), the Safety ad program ($62,000), and the ReCreation Land Map ($7,000). Mr. Palmer testified that the area development program is involved with encouraging businesses and industries to remain in the service territory and with attracting companies to relocate or expand in the Ohio Power service territory (Co. Ex. 9A, p. 2). He believed that by bringing in new employees to the community and by more fully utilizing Ohio Power's facilities, jobs are created and in the long run, the cost of energy will be kept down to all customers (Co. Ex. 9A, p. 2). During 1981, there were 19 existing industrial concerns which ceased operations resulting in the loss of 3,644 jobs, but much of this was offset by the fact that 17 new industries creating 2,400 jobs decided to locate in the Ohio Power service territory (Co. Ex. 9A, pp. 3-4). The Commission continues to believe that this advertising type of program gives a boon to the local community by helping to improve the economy of the area and should be included as an allowable operating expense. See Ohio Power Company, Case No. 80-367-EL-AIR, Opinion and Order, April 1, 1981, at pp. 19-20.

The S.A.V.E. program contains seven booklets which provide information on various topics such as home energy management, insulation of homes, and the add-on electric heat pump (Co. Ex. 9B). We find this program to be informational and conservational in nature and that it meets the test of the Ohio Supreme Court set forth in Cleveland v. Pub. Util. Comm., 63 Ohio St. 2d 62 (1980). We find the monthly billing inserts (Co. Exs. 9D and 9G) to be informational within the Court's definition. These inserts describe such topics as the equal payment billing plan, insulation information, and precautions to take during storms or tornadoes with respect to utility service. The RCS program is a service to residential customers who wish to avail themselves of the opportunity to conduct or have conducted an energy audit. This program is required to be offered by the Company as part of the National Energy Conservation Policy Act (Co. Ex. 9C).

The Safety ads are carried in newspapers, on radio and television and are used to inform customers of the dangers of children playing near power lines and the dangers involved with the do-it-yourself installation of Citizens' Band or television antennas near power lines (Co. Ex. 9A, p. 7 and Co. Ex. 9E). These ads are clearly informational and should be included. The final item is the ReCreational Land Map which is a map of 35,000 acres of land in southeastern Ohio which was formerly mined for coal but was reclaimed by Ohio Power as a camping and fishing area open to the public without charge (Co. Ex. 9A, p. 8). This particular item was excluded in the Company's last rate case, but upon reconsideration, we find that such treatment was inappropriate. The map provides information to the customers of Ohio Power as to the specific facilities that are available and the location of those facilities which they would not otherwise have. The Commission believes this item, along with the five other items discussed above, should be included for ratemaking purposes.

With respect to Consumers' Counsel's objections, Staff witness Bird indicated that the Staff had eliminated EEI and OEUI advertising costs (not the membership dues) (Staff Ex. 2, p. 6). OCC has not suggested what adjustment should be made to labor costs. Since we have concluded that at least a portion of Ohio Power's advertising expense should be allowed for ratemaking purposes, the suggestion by OCC that labor costs related to advertising and public relations expense be eliminated should be rejected. OCC witness Miller proposed an adjustment of $725,436 to remove the public affairs salaries of the AEP Service Corporation from allowable expenses (OCC Ex. 3, p. 30 and Schedule PEM-11). However, we do not believe the direct and primary benefit test applicable to advertising expenses (other than area development advertising) is applicable to public relations expenditures as Mr. Miller has apparently applied it. We believe that public relations expense is an ordinary and necessary utility business expense and should be included as an allowable expense. The Commission will overrule OCC's objection, sustain the applicant's objection in part, and allow $977,614 in jurisdictional advertising expenses.

Press Tour

In its post-hearing brief, Consumers' Counsel argues that allowable expenses should be reduced by $4,535 relating to a press tour conducted by the Company (OCC Initial Brief, pp. 76-77). Specifically, the president of Ohio Power annually tours the seven operating divisions of the Company, delivers a speech in each division at a media dinner, and answers questions from the press (OCC Ex. 6; OCC Ex. 3, Appendix I; and Tr. III, 23-25). The Commission disagrees with Consumers' Counsel conclusion that such an expense is not a cost of rendering public utility service. Clearly, such an expenditure by the Company in at least attempting to answer questions about the Company propounded by the press is an ordinary and necessary utility business expense. This type of expense and the level of the expense will be considered as allowable for ratemaking purposes. In fact, we applaud the Company's efforts in this regard.

Out of Period Adjustments

The Applicant and the Staff both proposed certain adjustments to booked test year accounts to exclude those revenues and expenses which related to a period prior to the test year. The Staff's adjustment on Staff Ex. 1, Schedule 3.5 appears to differ from the Company's only because the Staff reflected some of this adjustment in other Staff adjustments on other schedules (Staff Ex. 1, p. 6). These adjustments consist of $167,527 in revenues associated with sales for resale, $120,795 related to rental charge revenue, $121,271 in expenses in production classification corrections, and $5,468 in expenses in other classification corrections (Staff Ex. 1, Schedule 3.5). Consumers' Counsel objected to this adjustment. OCC witness Miller did not agree with these adjustments because he believed such adjustments were not comprehensive and that such adjustments related directly to revenues and expenses that should have affected rates set in previous proceedings (OCC Ex. 3, pp. 31-35).

Consumers' Counsel, in brief, has also characterized each of these adjustments as "minor when considered next to Applicant's jurisdictional revenue requirements" (OCC Initial Brief, pp. 75-76). This argument is rather curious coming from an intervenor who insisted on the exclusion of a $7,000 map and a $4,534 press tour as discussed above. In any event, we do not consider the total of these adjustments to be minor. As for Mr. Miller's first reason, he pointed out that the Company modified the April, 1981 sales for resale entry (which corrected for underestimated March, 1981 sales for resale) but did not modify the March, 1982 revenues to correct for any corrective entry that may have been made in April, 1982 (OCC Ex. 3, p. 33). However, as Staff witness Hensel explained, the sales associated with March, 1981 were clearly outside the test year even though it was booked within the test year. But since the March, 1982 sales figures were forecasted, they would not reflect any entry made to correct for February, 1982 nor would the April, 1982 forecast contain an entry to correct for March, 1982 (Staff Ex. 4, p. 24). Mr. Miller's second reason involves the "effect" such revenues and expenses should have had on past rates. But, of course, we are setting rates prospectively and are not attempting to provide a dollar for dollar recovery or recognition of all events that may have occurred in the past. See Cincinnati Gas & Electric Co., Case Nos. 81-66-EL-AIR et al., Opinion and Order, January 27, 1982, at p. 26. Consumers' Counsel's objection should be overruled. We will adopt the Staff's adjustment.

EEI and OEUI Membership Dues

OCC objected to the Staff's inclusion of the Company's membership dues in the Edison Electric Institute (EEI) and the Ohio Electric Utility Institute (OEUI). Mr. Miller testified that it is the Cities' position that these dues should not be included in the cost of service as they do not provide any direct and primary benefit to the consumers. First, the direct and primary benefit test should not be wrenched from the institutional advertising expenses and charitable contributions context in which it arose. See Consumers' Counsel v. Pub. Util. Comm. (1981), 67 Ohio St. 2d 153, at 164, Footnote 8. Rather, the test to be applied is one of a reasonable or ordinary and necessary utility business expense. See Ohio Bell Telephone Company, Case Nos. 79-1184-TP-AIR, et al., Opinion and Order, December 3, 1980, at p. 24. The Staff found that such membership costs in organizations such as EEI and OEUI represented normal business expenses and are properly included in the cost of service for ratemaking (Staff Ex. 2, p. 5). This position is consistent with our past practice with respect to this item and we continue to hold that position. Consumers' Counsel's objection should be overruled.

Lobbying Expenses

Although Consumers' Counsel objected to the failure of the Staff to eliminate lobbying expenses, Staff witness Bird testified that lobbying expenses are already classified as below-the-line expenses (i.e., not included in test year operating expenses) (Staff Ex. 2, p. 6). There is no need to eliminate an expense if it is not included in the cost of service in the first place. This objection should be rejected.

Rate Case Expense

The Staff recommended a two year amortization of the estimated $450,000 current rate case expense and the exclusion of prior rate case expense (Staff Ex. 1, pp. 8 and 85). Consumers' Counsel objected to the inclusion and level of rate case expense. OCC witness Miller stated that rate case expenses provide no direct and primary benefit to consumers (OCC Ex. 3, p. 42). Again, this is the wrong test. Rate case expenses are ordinary and necessary business expenses for utility companies and therefore should be included in the cost of service (Staff Ex. 2, p. 5). See also Cincinnati Gas & Electric Company, Case No. 79-11-EL-AIR, Opinion and Order, January 7, 1980, at p. 19. As for the appropriate level of rate case expenses, the Staff did not find the $450,000 level to be unreasonable and a comparison with the actual rate case expense incurred in the prior Ohio Power rate proceeding would seem to confirm that conclusion. See Co. Ex. 5, Schedule C-9. The Commission will overrule OCC's objection here and permit an allowance of $225,000 ($450,000 over two years) for rate case expense.

Uncollectibles Expense

Consumers' Counsel objected to the Staff's calculation of the uncollectibles expense adjustment to the extent that other objections had an impact on the calculation. The Staff used a factor of 0.0015 and applied it to the applicable revenues to arrive at the recommended allowance for uncollectibles (Staff Ex. 1, Schedule 3.11). OCC witness Miller used the same 0.0015 factor as did the Staff and Consumers' Counsel indicated in brief its acceptance of the Staff recommended revenue figure (OCC Ex. 3, pp. 27-28; OCC Initial Brief, p. 54). There was no other testimony on this issue. This objection must be overruled.

Depreciation Expense

Both the Company and OCC objected to the Staff's calculation of depreciation expense. In its objection, the Applicant suggested that the Staff incorrectly calculated depreciation expense and also based it on depreciable date certain plant thus understating the depreciation expense to be experienced during the collection period. Ohio Power submitted no testimony indicating how or why it believed the Staff's calculation was incorrect. The Company itself adjusted depreciation expense so that depreciation expense would match date certain depreciable plant (Co. Ex. 5, Schedule C-3.14; Co. Ex. 8, p. 15; and Tr. III, 149). Ohio Power's objection should be overruled.

Consumers' Counsel objected to the Staff's calculation as impacted by other objections. Although there is no testimony on the depreciation issue, it appears that the difference between the OCC recommended depreciation expense and the Staff recommended depreciation expense is attributable to the Staff's inclusion of the OTISCA coal cleaning plant and the Dumont ultra high voltage test site in plant in service. Compare OCC Ex. 2, Schedule XI with Staff Ex. 1, Schedule 9.2. Since we have determined to include those two items in plant in service, OCC's objection should be overruled. The Commission will adopt the Staff's recommended accrual rates and the Staff's methodology in determining the allowable depreciation expense for ratemaking purposes.

PUCO Maintenance Assessment and OCC Fund Assessment

Consumers' Counsel objected to the Staff's use of the assessments for the PUCO Maintenance Assessment and the OCC Fund Assessment because neither reflected the Applicant's actual liability for the assessments. Staff witness Bird indicated that the difference between the actual expense and the assessments was that the actual expense reflected prior year credits and that the Staff did not believe it would be proper to reflect a prior year's adjustment in determining allowable expenses (Staff Ex. 2, p. 7). This is consistent with our previous decisions in this area. See, e.g., Dayton Power and Light Company, Case No. 78-92-EL-AIR, Opinion and Order, March 9, 1979, at p. 22. Further, OCC witness Miller also adopted the Staff's position on this issue (OCC Ex. 3, p. 55). This objection must be overruled.

Property Taxes

The Applicant objected to the Staff's calculations of taxes other than federal income taxes. Company witness Lindahl felt the Staff's method of annualizing property taxes was correct, but that there were two arithmetic errors in the computation (Co. Ex. 7A, p. 7). First, the Staff used a weighted valuation percentage in calculating the value of the additions to plant from January 1, 1981 to September 30, 1981 which weights the valuation towards the lower real property additions and away from the personal property additions. The Staff also did not utilize the latest actual known Ohio property tax rate (Co. Ex. 7A, pp. 7-8). Mr. Lindahl performed a revised calculation of the recommended property tax allowance (Co. Ex. 7A, Ex. B). Staff witness Hensel agreed with Mr. Lindahl's calculation except for the jurisdictional allocation factor he used (Staff Ex. 4, p. 9). She believed that property taxes should relate to the plant in service reflected in the rate base and recommended that the allocation factor be based on the jurisdictional adjusted plant in service as determined for this rate case to total company unadjusted plant in service (Staff Ex. 4, pp. 9-10). The Commission agrees that Mr. Lindahl's revision should be refined further to use an allocation factor based on the jurisdictional adjusted plant to total company plant (less Kaiser and Ormet). We will adopt Mr. Lindahl's calculations as modified by the Staff.

West Virginia Business and Occupation Tax

OCC objected to the Staff's calculation of West Virginia Business and Occupation tax and the alleged failure to take into account that in November, 1981, the West Virginia Board of Public Works permitted utilities to assess the value of pollution abatement equipment at 5 percent of cost rather than 15 percent of cost. Yet OCC witness Miller testified that he accepted the Staff's calculation of this tax (OCC Ex. 3, p. 53). Further, Staff witness Hensel indicated that the Staff's calculation already reflects the change from valuing pollution abatement equipment at 15 percent of cost to 5 percent of cost. This objection must be overruled.

Temporary Gross Receipts Tax

The Applicant proposed to include approximately $6.2 million in test year expenses representing 11/12 of its actual tax liability imposed by Amended Senate Bill No. 448. Amended Senate Bill No. 448 imposed a temporary one percent gross receipts tax on public utilities with payments required to be made in January, March, June, and December 1981 on taxable revenues collected during the twelve month period ending April 30, 1981 (Tr. II, 48-51). This one percent temporary tax was paid by Ohio Power in 1981 but has now expired (Tr. II, 46).

At the time the tax became effective, the Company already had a rate case pending before this Commission (Case No. 80-367-EL-AIR). In that pending rate case, the Applicant had requested an increase in revenues of $58,719,000, which did not include any allowance for the one percent temporary gross receipts tax. At the hearing in Case No. 80-367-EL-AIR, the Company requested that an adjustment be made to recognize this increased tax. The Commission determined that this issue ought to be deferred and considered in a generic case (Case No. 80-1245-AU-COI). The Commission also found that even without including the tax in base rates, the revenue increase determined in accordance with the statutory rate-making formula exceeded the $58.7 million increase requested by the Company. Since the Commission determined that the requested increase set the upper boundary of rate relief for that case, inclusion of the one percent temporary tax in base rates in Case No. 80-367-EL-AIR would have effectively prevented any recovery of this item by Ohio Power. But we also decided that the authorization of a surcharge in Case No. 80-367-EL-AIR to recover this item would allow the company to recover revenues in excess of the amount which it had noticed in the rate case. Therefore, this item was deferred to the generic proceeding.

In the generic proceeding (Case No. 80-1245-AU-COI), the Commission indicated that the issue of the one percent temporary excise tax should be treated on an individual company basis. See In the Matter of the Commission's Investigation of Increased Excise Taxes Payable in 1981 Applicable to Public Utility Companies, Case No. 80-1245-AU-COI, Opinion and Order, May 13, 1981, at p. 5. We also pointed out that with respect to Ohio Power Company and Toledo Edison Company, the determination made in the generic case to treat this issue on an individual rate case basis would not change the level of revenues authorized in the recent rate cases involving these two companies. This is so because Ohio Power and Toledo Edison both were granted increased revenues to the extent each requested.

In the instant case, the Staff excluded this temporary one percent gross receipts tax because it is no longer in effect for the period which the rates established by this proceeding will be collected (Staff Ex. 4, p. 9). The Company objected to this exclusion. In its brief, Ohio Power argues that the Commission is treating the Company uniquely in this regard (Co. Reply Brief, p. 14). This is simply not so. After the decision in the generic proceeding was issued, the Commission permitted inclusion of the temporary one percent gross receipts tax for those utility companies with pending rate cases heard during most of 1981. See, e.g., Columbia Gas of Ohio, Inc. (Parma), Case No. 80-730-GA-AIR, and Columbia Gas of Ohio, Inc. (Mt. Sterling), Case No. 80-754-GA-AIR, Opinion and Order, July 15, 1981, at pp. 3-4; Columbia Gas of Ohio, Inc. (Columbus), Case No. 80-777-GA-AIR, et al., Opinion and Order, August 12, 1981, at p. 13; East Ohio Gas Company, Case No. 80-769-GA-AIR, Opinion and Order, August 12, 1981, at p. 25; and Dayton Power and Light Company, Case No. 80-1087-GA-AIR, Opinion and Order, September 30, 1981, at pp. 4-5. Beginning with our decision in Columbia Gas of Ohio, Inc. (13 Municipalities), Case No. 80-1155-GA-AIR, et al., Opinion and Order, December 23, 1981, at pp. 7-8, the Commission began to exclude this tax from allowable expenses for utilities with pending rate cases. The reason for this change was that at the point in time when the tariffs would have become effective in Case No. 80-1155-GA-AIR, payment for the final reconciling payment would have been made. In other words, the tax had expired and was not in effect during the collection period. Because this is a past liability and no longer recurring, the Commission has uniformly denied inclusion of this one percent tax in all rate cases since December 23, 1981. See, e.g., Cleveland Electric Illuminating Co., Case No. 81-41-HT-AIR, Opinion and Order, January 13, 1982, at pp. 13-14; Cincinnati Gas & Electric Co., Case No. 81-66-EL-AIR et al., Opinion and Order, January 27, 1982, at pp. 27-28; Dayton Power and Light Co., Case No. 81-21-EL-AIR, Opinion and Order, February 3, 1982, at p. 30; Cleveland Electric Illuminating Co., Case Nos. 81-146-EL-AIR and 81-1565-EL-UNC, Opinion and Order, March 17, 1982, at p. 27; and Toledo Edison Company, Case No. 81-620-EL-AIR, Opinion and Order, June 9, 1982, at pp. 18-19. The one percent temporary gross receipts tax is a past loss and a non-recurring one as well for Ohio Power. Recognition of such an expense is inappropriate here because we are setting rates prospectively, not reimbursing utilities for past losses. This rationale has been applied by the Commission equally to all utility companies with rate cases pending and Ohio Power has not been treated uniquely in this regard.

In summary, Ohio Power did not receive an allowance for the temporary one percent in the prior rate case because such an allowance would have caused authorized revenues to exceed the level requested by Ohio Power in its notice of intent. In this rate case, the temporary one percent gross receipts tax is not a recurring liability as it has expired and will not be in effect during the time the tariffs resulting from this case will be in effect. Therefore, we will adopt the Staff's position and exclude the one percent temporary gross receipts tax. This treatment is consistent with the treatment afforded Toledo Edison which was in a similar position. See Toledo Edison Company, Case No. 80-377-EL-AIR, Opinion and Order, April 9, 1981, at pp. 25-26 and Toledo Edison Company, Case No. 81-620-EL-AIR, Opinion and Order, June 9, 1982, at pp. 18-19.

We note, however, that for the reasons stated by Company witness Lindahl (Co. Ex. 7A, p. 2), the Applicant deferred this portion of gross receipts tax on its books in the belief that it be treated as an allowable expense in this case. Given the circumstances in this case, it would be inappropriate to require the Applicant to charge off the entire deferred balance in a single accounting period. The rate level authorized contains sufficient revenues to allow amortization of the deferred balance over a period not to exceed 36 months.

Gross Receipts Tax

Both the Company and OCC objected to the Staff's calculation of taxes other than income taxes. Consumers' Counsel objected to the Staff's calculation of gross receipts tax on the basis that the Staff based its calculation on an improperly computed adjusted revenue amount. OCC witness Miller pointed out that the Staff used a significantly higher amount of revenues when calculating the proper tax allowance than the level it utilized for operating revenue purposes (OCC Ex. 3, pp. 46-49). Staff witness Hensel agreed with Mr. Miller on this issue and recommended that the gross receipts tax be calculated using the jurisdictional total operating revenue determined in this proceeding (Staff Ex. 4, pp. 28-29). The Commission will sustain OCC's objection here and utilize the jurisdictional total operating revenue in calculating the allowance for gross receipts tax.

Company witness Lindahl testified in support of the Applicant's objection and maintained that the Staff's calculation of gross receipts tax did not take into account the "tax on tax" effect, i.e., the condition that the revenue provided to pay for the tax is also subject to the tax (Co. Ex. 7A, pp. 5-7). He believed the Staff's calculation produced a shortfall of $1.3 million (Co. Ex. 7A, p. 7). Staff witness Hensel disagreed with Mr. Lindahl's analysis (Staff Ex. 4, pp. 10-12). We have reviewed the analysis of both the Staff and the Applicant and find that the Staff's calculations are correct and do in fact reflect the "tax on tax" effect. The following simple example is intended to illustrate that conclusion.

Let us assume that a utility company incurs $100 in test year allowable expenses exclusive of gross receipts taxes, has test year revenues of $1000, has no federal income tax or uncollectibles expenses, and has a required operating income of $1500 based upon a determination of the authorized rate base and rate of return. Using the Staff's methodology, a gross receipts tax of $40 ($1000 x 4%) would be calculated and shown on Schedule 3.19b of Staff Ex. 1. This gross receipts tax liability of $40, when added to test year allowable expenses (other than gross receipts taxes) of $100 would result in total operating expenses of $140 and would be shown on Schedule 2 of Staff Ex. 1. Subtracting the $140 in total operating expenses from the $1000 in test year operating revenues would result in an income available for fixed charges or current operating income of $860 which would be shown on Line 2 of Schedule 6 of Staff Ex. 1. The required operating income of $1500 would be shown on Line 5 of Schedule 6 of Staff Ex. 1. The difference between the authorized operating income of $1500 and the current operating income of $860 is the income deficiency of $640 and would be reflected on Line 6 of the same schedule. The gross revenue conversion factor in our example would be 1.041667 (100 ÷ 96) as calculated on Schedule 6.1 of the Staff Report and would also be reflected on Line 7 of Schedule 6. Multiplying the gross revenue conversion factor of 1.041667 times the income deficiency of $640 results in a revenue deficiency (Line 8 of Schedule 6) of $666.67, which when added to test year revenue results in a revenue requirement (Line 11 of Schedule 6) of $1,666.67. The amount of $1,666.67 would be the authorized revenues to be reflected in the new rates.

The mechanics of the above calculations can be easily checked. The gross receipts tax on $1,666.67 is $66.67. Subtracting this gross receipts tax and also the $100 of other allowable expenses from authorized revenues of $1,666.67 results in an operating income of $1,500, i.e. the required operating income. This example can be expanded to include the calculations associated with federal income taxes, uncollectibles expense, non-taxable revenues, etc. But the result will still be the same. The Staff's methodology does correctly account for the "tax on tax" effect of the 4 percent gross receipts tax. The Company's argument should now be laid to rest and its objection overruled.

Federal Income Taxes

There were several issues raised in this proceeding involving the calculation of an allowance for federal income taxes. Ohio Power has proposed that the practice of interperiod allocation of income taxes (normalization) be expanded to the areas of capitalized taxes, capitalized pensions, capitalized savings plans, the investment tax credit, deferred fuel costs, UMW strike costs, gain on the sale of securities, and rail car maintenance (Co. Ex. 14, pp. 6-7; Tr. V, 126-127). The Staff recommended normalization of capitalized taxes, pensions and savings, the investment tax credit, and also deferred fuel costs (Staff Ex. 1, pp. 9 and 100; and Staff Ex. 4, pp. 30-33).

The Company and Consumers' Counsel both objected to the Staff's calculation. Ohio Power did not specifically indicate why it believed it was important to normalize timing differences for the sale of securities and rail car maintenance. Company witness D'Onofrio testified that generally accepted accounting principles would require rate recognition of normalization for UMW strike costs if the Company were to continue to practice such normalization on its books of account (Co. Ex. 14A, pp. 3-4). But, of course regulatory commissions are not bound by accounting standards for ratemaking purposes. Staff witness Hensel pointed out that this item was not one of the major and most significant items which have a major impact upon revenue requirements and in fact none of the deferred strike costs or deferred strike revenue were included by the Staff in the cost of service (Staff Ex. 4, p. 13). The Commission agrees with the Staff that the UMW strike costs, the gains on the sale of securities, and the rail car maintenance expenses should not be normalized for rate-making purposes.

Consumers' Counsel, on the other hand, objected to the Staff's normalization of capitalized construction overheads (taxes, pensions, and savings plans) and the pre-1981 investment tax credit. OCC witness Clark testified that there were no valid reasons to permit normalization of these items. Mr. Clark did acknowledge that normalization improves cash flow and that other utilities have been authorized to normalize these items. However, we feel there is another reason why normalization is appropriate. Normalization results in a proper allocation of costs between present ratepayers and future ratepayers and has the effect of levelizing taxes (Co. Ex. 14, p. 10; Staff Ex. 4, p. 31; and Tr. V, 164). Flow-through accounting shifts costs from consumers in the early years of an asset to consumers in the later years of the property life, with no difference in service benefits (Co. Ex. 14, p. 10). The normalization of these items is consistent with our prior practice and we will overrule both sets of objections and adopt the Staff's position here. See, e.g., Cincinnati Gas & Electric Company, Case No. 81-66-EL-AIR et al., Opinion and Order, January 27, 1982, at p. 28 and Toledo Edison Company, Case No. 79-143-EL-AIR, Opinion and Order, February 29, 1980, at p. 28.

Consumers' Counsel also objected to the Staff's failure to allocate a portion of the parent company's consolidated tax loss to Ohio Power for ratemaking purposes. OCC witness Clark testified that the estimated test year tax deduction for the parent company loss was approximately $6.7 million (OCC Ex. 3, p. 22). He believed this was a permanent tax savings which should inure to the benefit of Ohio Power's ratepayers (OCC Ex. 3, pp. 23-28). Company witness D'Onofrio believed that it would be inappropriate to allocate the parent loss to Ohio Power because the loss arises out of the parent company and the parent's expenses are not passed on to Ohio Power (Tr. V, 150-151). Staff witness Hensel believed that there was no need to allocate any of the parent company tax loss to the Applicant because the Staff has already considered the entire tax benefits that may be available to the Company. The Commission is persuaded by the arguments of the Company and the Staff that it would be inappropriate to allocate any of the parent company loss to Ohio Power. The calculation of federal income tax liability on a separate entity basis is a fairer method of computing tax liability than it would be to allow events and conditions outside the Ohio Power service territory to affect the income tax liability built into the rates paid by Ohio Power customers. This objection should be overruled.

The Applicant also took issue with the Staff's calculation of deferred taxes associated with the normalization of the pre-1981 investment tax credit. Company witness D'Onofrio maintained that the Staff did not reduce deferred taxes by the current year's feedback of the normalized investment tax credit (Co. Ex. 14A, p. 2). Staff witness Hensel agreed that 29/30 of one half of the normalized investment tax credit should be used as a rate base deduction (Staff Ex. 4, p. 14). Based upon these recommendations, we have modified the Staff's recommended level of rate base deductions. See the "Rate Base Deductions" section of this Opinion and Order. However, Staff witness Hensel also suggested that the calculation of federal income taxes on Schedule 4 of Staff Ex. 1 should also be changed to include the amortization of prior years investment tax credit equal to 1/30 of the pre-1981 investment tax credit utilized for the calculation of current adjusted taxes payable. She explained that since the Company chose option 3 under Section 46(f) of the Internal Revenue Code, there is no restriction as to the regulatory treatment of the investment tax and that the Staff was recommending both rate base and cost of service recognition for this item. Although he did not recommend it, Company witness D'Onofrio conceded that such treatment was permissible under option 3 for pre-1981 investment tax credits (Tr. V, 136-137). The Staff's position on this issue is consistent with our prior decision in Toledo Edison Company, Case No. 76-1174-EL-AIR, et al., Entry on Rehearing, July 26, 1978, Finding 10. We will adopt the Staff's recommendation here.

In its post-hearing brief, OCC argues that in calculating the deferred fuel balance for federal income tax purposes the Commission should use the March, 1982 actual deferred fuel balance as a starting point and then make the adjustments required by Staff Ex. 4A instead of using the projected balance as of March 31, 1982 (OCC Initial Brief, p. 89). OCC witness Miller testified that if the Commission were to use actual figures for the deferred EFC balances then the same number should be used as a reconciling item for federal income tax purposes (Tr. XII, 120-213). First, the Commission has chosen not to include a deferred EFC balance in working capital in this case. Secondly, even if we did, the level of the deferred EFC balance as a reconciling item should relate to the cost of service, not necessarily to the allowance for working capital. The Commission has annualized the level of fuel revenues and fuel expenses in this case in the cost of service. The Commission will reject OCC's argument here and use the Staff's recommendation on Staff Ex. 1, Schedule 4.

The final issue in the area of federal income tax that needs to be discussed is the effect of the Economic Recovery Tax Act of 1981 (ERTA) which became law on August 13, 1981. Under this act, the Asset Depreciation Range (ADR) system of tax depreciation contained in the old law was replaced with a new system called the Accelerated Cost Recovery System (ACRS) for property placed in service after December 31, 1980. Under the ACRS, the cost of eligible depreciable property is recovered over statutory periods that are generally shorter than the latest ADR class lives. Salvage value is also disregarded in computing ACRS allowances. Recovery of the cost of eligible recovery property is made over a three, five, ten or 15 year period, depending upon the type of property.

Company witness Swanson testified that public utility property will not qualify as recovery property unless the utility uses a normalization method of accounting for both book and ratemaking purposes. If a public utility is not using a normalization method of accounting for a period ending after 1980 under the latest rate order entered by the regulatory commission having jurisdiction over it, it will be considered as having met the requirements if it uses a normalization method under the first rate order entered after August 13, 1981 and on or before January 1, 1983. Pursuant to Section 168(e)(3) of the Internal Revenue Code, the mandatory normalization should be based on the difference between the (1) the amount allowable as a deduction under the ACRS system of depreciation for tax purposes and (2) the amount of depreciation computed by using a method, including the period or life, first and last year convention, and salvage value used to compute book depreciation expense, applied to the tax basis. Adjustments to a reserve to reflect the deferral of taxes resulting from the difference must be made. If a utility does not use a normalization method of accounting, its property will not qualify as recovery property and the allowance for tax depreciation would be the product of book depreciation rates and the tax property basis.

The Company and the Staff each recommended that the Commission authorize normalization of the tax benefits of the ACRS system of depreciation on the Applicant's recovery property placed in service after December 31, 1980 (Co. Ex. 15; Staff Ex. 1, p. 9; and Tr. VIII, 154). Although OCC objected to the Staff's conclusion that the Staff's normalization of accelerated depreciation reflects the ACRS provision of ERTA, OCC witness Clark recommended that the Company be allowed to normalize investment tax credits related to property placed into service after December 31, 1980 (OCC Ex. 2, pp. 20-21). Consumers' Counsel presented no other evidence on this issue and Staff witness Hensel maintained that the Staff Report properly reflected the ACRS provisions of ERTA as applicable to post-1980 property additions in its normalization of accelerated depreciation (Staff Ex. 4, p. 33).

The Commission has in recent cases authorized the normalization of the tax benefits of the ACRS system of depreciation on property placed in service after December 31, 1980. See, e.g., Toledo Edison Company, Case No. 81-620-EL-AIR, Opinion and Order, June 9, 1982, at p. 19; General Telephone Company of Ohio, Case No. 81-383-TP-AIR, et al., Opinion and Order, April 26, 1982, at pp. 31-32; Cleveland Electric Illuminating Company, Case No. 81-146-EL-AIR, et al., Opinion and Order, March 17, 1982, at p. 28. Based on the evidence of record, we see no reason why the Applicant in this case should not be authorized to normalize the tax benefits from the new ACRS system of depreciation here. Therefore, the Commission finds that the normalization requirements of ERTA have been met and the Applicant is authorized to normalize the tax benefits from the ACRS system of depreciation on its recovery property placed in service after December 31, 1980 and its investment tax credits related to property placed into service after December 31, 1980. Consumers' Counsel's objection is overruled.

Gross Revenue Conversion Factor

Although both Ohio Power and Consumers' Counsel objected to the Staff's calculation of its gross revenue conversion factor, neither presented any evidence in support of their respective objections. The Commission will adopt the Staff's gross revenue conversion factor as computed on Staff Ex. 1, Schedule 6.1. These objections are overruled.

Operating Income Summary

Taking into account our determinations with regard to the specific issues discussed above, we find Ohio Power's adjusted revenues, expenses and operating income for the 12 month period ending March 31, 1982, the test period in this case, to be as set forth on the table below:

Adjusted Operating Income
(000's Omitted)

Operating Revenues	$ 1,070,711
Operating Expenses	
Operation and Maintenance	655,706
Depreciation	82,838
Taxes Other than Income Taxes	89,397
Federal Income Taxes	53,093
Total Operating Expenses	881,034
Net Operating Income	$ 189,677

PROPOSED INCREASE

A comparison of jurisdictional test year operating revenue with allowable jurisdictional expenses indicates that under its present rates, the Applicant realized income available for fixed charges in the amount of $189,677,000 based on adjusted test year operations. Applying this dollar return to the jurisdictional rate base results in a rate of return of 9.00 percent under present rates. This rate of return is below that recommended as reasonable by either of the expert witnesses testifying on this subject. The Commission, therefore, finds that the Company's present rates are insufficient to provide it reasonable compensation and return for the electric service rendered customers affected by this application. Rate relief is required.

Under the rates proposed by the Company, additional gross revenues of $183,511,000 would have been realized based on test year operations as analyzed herein. On a proforma basis, which assumes necessary expense adjustments calculated in a manner consistent with the Commission's findings, this increase in gross revenues would have yielded an increase in net operating income of $95,003,000 resulting in income available for fixed charges of $284,680,000. Applying this dollar return to the jurisdictional rate base results in a rate of return of 13.50 percent. Although it is apparent that the present rates are inadequate, the increase requested by the Applicant results in a rate of return which is higher than that recommended by any witness. The Commission must therefore examine the various rate of return proposals submitted in this proceeding in order to determine a fair rate of return for purposes of establishing just and reasonable rates.

RATE OF RETURN

Two witnesses offered cost of capital analyses to be considered as evidence by the Commission in establishing a fair rate of return for purposes of these proceedings. Dr. O'Donnell, testifying on behalf of Ohio Power, determined the cost of capital for the Company to be in the range of 12.73 to 12.90 percent (Tr. VI, 4). Staff witness Farrar, as a result of his study, arrived at a cost of capital recommendation encompassing an 11.79 to 12.14 percent range (Staff Ex. 3, p. 15). Although the disparity between the Company and Staff positions lies primarily in the cost of common equity area, there are certain other matters which we must first address.

Capital Structure

As the starting point for their individual cost of capital analyses, both Dr. O'Donnell and Mr. Farrar employed the AEP system consolidated capital structure (Co. Ex. 13, p. 41; Staff Ex. 3, p. 2). OCC on brief concurs with this approach. It is the Commission's customary practice in cases in which the applicant utility is an operating subsidiary within a larger corporate network to adopt the parent's consolidated capital structure for rate of return purposes, and we have done so in Ohio Power's last two rate proceedings (Ohio Power Company, Case No. 78-676-EL-AIR, Opinion and Order, April 16, 1979, at pp. 21-22; Ohio Power, cited supra, at p. 28). Such a capital structure is consistent with the application of market measures in the cost of capital determination. Given this precedent and the absence of any stated disagreement by the parties, we will again adopt the use of AEP's consolidated capital structure.

With regard to the specific capital structure recommendations presented for our consideration, however, there is a minor distinction between the Company and Staff positions. This dissimilarity does not involve the propriety of using the latest known actual consolidated capital structure for AEP. At the hearing, Company witness Maloney and Staff witness Farrar each amended their respective party's original proposals to incorporate a then recent securities issuance, thereby updating AEP's actual capital structure to March 31, 1982 (Tr. IV, 194-197; Staff Ex. 3, p. 2). Instead, the positions are dissimilar in that Ohio Power included jurisdictional deferred investment tax credits (hereinafter JDIC) in its proposed capital structure, whereas the Staff did not (Staff Ex. 1, p. 21; Tr. VII, 115). The Commission has never included JDIC in capital structure determinations (Tr. VII, 115-116), and since the Applicant did not pursue this matter during the course of the hearing or on brief, we perceive no justification to do so herein.

In accordance with the considerations discussed above, we adopt Mr. Farrar's capital structure recommendation of 55.35 percent long-term debt, 10.32 percent preferred stock, and 34.33 percent common equity (Staff Ex. 1, Table 1).

Cost of Debt and Preferred Stock

No dispute exists with respect to the cost rates to be assigned the long-term debt and preferred stock components of the capital structure, as each of the witnesses recommended that the actual embedded cost of these senior securities, updated to March 31, 1982, be used in determining the weighted cost of capital (Tr. IV, 197; Staff Ex. 3, p. 5). Therefore, the Commission finds the embedded cost of long-term debt to be 9.80 percent and the embedded cost of preferred stock to be 10.19 percent (See Co. Ex. 10C).

Cost of Common Equity

As mentioned at the outset of this section, the primary controversy in the rate of return area centers on the cost to be assigned the equity component of the capital structure. Unlike the costs of debt and preferred stock which are derived through a largely mechanical process, the cost of common equity can only be estimated. A variety of valid methods exist for obtaining the estimation, but in the final analysis, the results of each approach are greatly influenced by the judgments and assumptions interjected by the sponsoring witness. Our selection of one recommendation over another does not signify that the proposal of any particular witness was "wrong," except in those instances where internal inconsistencies render the proposal unacceptable under the sponsor's own approach, but merely indicates that the Commission, in a necessary exercise of our discretion, must adopt the recommendation we believe to be the most appropriate in light of the evidence presented. The two recommendations offered for our consideration herein are a range of 18.25 to 18.75 percent by Company witness O'Donnell and a range of 15.51 to 16.53 percent by Staff witness Farrar (Co. Ex. 13, p. 39; Staff Ex. 3, p. 8). Dr. O'Donnell's cost of equity range is a composite of the results produced by his application of the discounted cash flow (DCF), risk premium, and capital asset pricing (CAPM) methodologies, while Mr. Farrar's range is based solely upon a DCF analysis (Co. Ex. 13, pp. 39-40; Staff Ex. 3, p. 6).

With regard to the CAPM methodology, economic theory provides that the expected market yield on a diversified portfolio of common stocks is equal to the risk free return plus a proportionate share of the expected risk premium which is inherent in the entire stock market (Co. Ex. 13, p. 36). The proportionate share of the total market risk premium is determined by the portfolio's beta (Ibid.). According to Company witness O'Donnell, this theory is represented by the following equation: $R_j = R_f + b(R_p)$; where R_j is the expected rate of return on an efficient portfolio, R_f is the risk free return, b is the portfolio's beta coefficient, and R_p is the risk premium for the entire market (Id., at pp. 36-37). In applying this formula, Dr. O'Donnell assumed that the nominal risk free rate is 12 percent (2 percent real plus 10 percent inflation), that the total risk premium is either 8.7 or 10 percent, and that the beta for AEP is in the range of .60 to .75 (Id., at pp. 37-38). He then performed four computations and derived an average 18.31 percent return, which he rounded to 18.0 percent (Id., at p. 38). In Dr. O'Donnell's opinion, the 18.0 percent represents the estimated rate of return required on AEP's common equity (Ibid.).

Although the Staff believes that CAPM is a valid market oriented approach for determining the cost of equity capital, and has itself utilized the formula in the past, it nevertheless advocates rejection of Company witness O'Donnell's CAPM analysis. As Mr. Farrar explained, Dr. O'Donnell failed to apply the customary CAPM formula because he reduced the risk premium (R_m - R_f) to R_p and then improperly derived that factor independently of the risk free return already contained in the equation (Staff Ex. 3, pp. 14-15; Tr. VII, 157-160). This deviation, according to Mr. Farrar, causes the market return (R_m) to be inflated above that actually earned (Staff Ex. 3, p. 15).

For reasons adequately discussed by Staff witness Farrar, we find Dr. O'Donnell's CAPM analysis unacceptable. The adoption of such an approach herein would clearly result in excessive returns on equity.

A second estimated cost of equity which Dr. O'Donnell took into consideration in developing his recommended range was the 20.00 percent average he derived from a multifaceted risk premium analysis (Co. Ex. 13, pp. 16, 38-39). In general terms, this analysis involved five comparisons of the historic returns on equity for stocks of average risk to the cost of various bonds (Id., pp. 11-13, Att. pp. 2-3). The specifics of these calculations and the validity of the underlying assumptions need not detain us. Although we have on prior occasions recognized the risk premium approach as a potentially useful method for testing the reasonableness of the results obtained through other techniques, we have also indicated that it may produce unreliable estimates in instances where the risk premium is based upon data from an historic period exhibiting significantly different interest rates than those which currently exist or where current rates are extremely volatile (See, e.g., Toledo Edison Company, Case No. 81-620-EL-AIR, Opinion and Order, June 9, 1982, at p. 25). Here, Dr. O'Donnell's own exhibits disclose substantial fluctuations in the spread of stock returns over bond returns (Co. Ex. 13, Att., p. 6). In our opinion, these spreads vary so greatly from year to year as to call into question the propriety of using an average as an indicator of the current risk premium, which is, after all, what we are attempting to identify.

Even assuming, arguendo, that a risk premium analysis reliably determines the cost of equity, which we do not believe for reasons just discussed, Dr. O'Donnell's specific methodology remains unacceptable because the historic returns on equity utilized in his methodology may not be representative of the historic cost of equity actually associated with the stocks analyzed. As Staff witness Farrar explained, the real cost of equity for New York Stock Exchange companies has historically been less than the return since the market to book ratio for aggregate stocks usually exceeds 1.0 (Staff Ex. 3, pp. 13-14). Thus, Dr. O'Donnell's estimated cost of equity is overstated.

Given our reservations with respect to the CAPM and risk premium analyses, it is apparent that our decision as to the appropriate return on equity will necessitate a choice between the DCF recommendations offered by Dr. O'Donnell and Mr. Farrar. Under the DCF formula, the cost of equity is equal to the current dividend plus the expected rate of growth in dividends (Staff Ex. 1, pp. 35-36). Although both witnesses applied this basic formula, their quantifications of the yield and growth components were derived through materially different approaches.

Dr. O'Donnell calculated three separate yield components by averaging Value Line's estimated 1982 yields for 22 electric companies, Moody's 24 electrics, and 52 nonregulated firms which he selected as having comparable risk to AEP (Co. Ex. 13, p. 35, Att. pp. 16-20). The resultant yields are, respectively, 12.88 percent, 13.08 percent, and 6.88 percent (Id., Att. pp. 16, 17, 20). In the opinion of this witness, the estimates published by Value Line are credible because it relates individual company forecasts to projected components of the Gross National Product, its forecasting record is statistically persuasive, and it has no vested interest in the companies analyzed (Id., p. 35). In contrast to the foregoing approach, Mr. Farrar computed a yield specific to AEP by dividing the current annualized dividend of $2.26 by the $16.7031 average price of common stock for the twelve months ending April 1982 (Staff Ex. 3, p. 6). Mr. Farrar's calculation produced a recommended yield component of 13.53 percent (Ibid.).

Based upon our review of these two diverse approaches, we believe that the analysis performed by Mr. Farrar is a more fitting application of the DCF formula and that his yield determination should therefore be adopted. In reaching this conclusion, we are not unmindful of Ohio Power's criticism that Mr. Farrar departed from the classical equation by annualizing the current dividend, but believe that the record evidence adequately countervails this charge (See Tr. VII, pp. 127-129; See also Ohio Bell Telephone Company, Case No. 81-436-TP-AIR, et al., Opinion and Order, April 21, 1982, at p. 39). Dr. O'Donnell's approach is unacceptable, in our opinion, because it distorts the concept of a discounted cash flow analysis. As we have indicated on so many occasions as to make citation unnecessary, one principal advantage of the DCF methodology is that it is company specific. In other words, the DCF formula estimates a given company's cost of equity by focusing on its particular market data. For a utility stock, this market data implicitly reflects the returns required on investments of comparable risk because the buying and selling of a utility stock in the assumed efficient market constantly adjusts the price to a point where the expected return is equal to that of similar risk investments (Staff Ex. 3, pp. 11-12). The need to interject market data for other companies in determining the yield component, as Company witness O'Donnell has done, is highly questionable (Id., at p. 12). This witness's approach is further suspect because the comparability of the companies he selected to Ohio Power is, like the existence of the Loch Ness monster, not adequately documented.

With regard to the growth component of the DCF formula, Dr. O'Donnell again relied upon Value Line's 1982 estimates for 22 electric companies, Moody's 24 electrics, and 52 nonregulated firms (Co. Ex. 13, p. 35, Att. pp. 16-20). The three average growth rates he then calculated are 5.85 percent, 5.56 percent and 10.27 percent, respectively (Id., Att. pp. 16, 17, 20). In support of selecting this approach rather than an historical analysis, Dr. O'Donnell asserted that "inflationary pressures and changing economic conditions make the recent past a very poor foundation upon which to judge future trends" (Id., at pp. 34-35). Staff witness Farrar, on the other hand, estimated the growth component by use of the "b x r" approach, with "b" equalling the retention rate of earnings and "r" representing the earnings on the common equity funds retained (Staff Ex. 1, p. 23). For the five year period of 1977 to 1981, Mr. Farrar determined that "b x r" averaged less than one percent (Staff Ex. 3, p. 7). This result, coupled with a low earnings growth (not in excess of 2.41 percent) during the same period and with an approximate three percent realized growth in dividends per share over the past five and ten year periods, lead the Staff witness to conclude that 1.50 percent is a fair and reasonable estimate of the investors' expected growth in dividends (Id., at p. 7, Table 2).

In assessing these recommendations, several observations we have made on prior occasions must be kept in view. First, although the growth component of the DCF formula actually represents "expected growth," a quantity not susceptible to empirical measurement, historical evidence should not be ignored in determining the dividend growth investors may realistically anticipate for a given firm. Second, in selecting the most relevant evidence for purposes of establishing an appropriate growth factor, it is important to recognize that a review encompassing only the dividend history of a company may not always provide a sufficient basis for estimating dividend growth. The earnings history must also be evaluated; management decisions to increase dividends in the absence of adequate earnings support represent borrowings against future earnings.

Based upon our review of the widely divergent approaches utilized by the witnesses to estimate growth, we find that Mr. Farrar's methodology most closely dovetails with the foregoing observations and that his recommended growth component of 1.5 percent should be adopted. Although this figure is less than the actual dividend growth rate experienced in recent years, we nevertheless believe that it is appropriate since a growth in dividends greater than a growth in earnings can reasonably be expected to endure only for the short-term (See Tr. VII, p. 118). With regard to Company witness O'Donnell's methodology, we are simply not convinced that any of the three growth rates he calculated for the various utility and nonregulated firm groupings are representative of the investor growth expectations for this company. Furthermore, the Value Line estimates which he relies upon appear to be overly optimistic (Tr. VII, pp. 145, 151-153; Staff Ex. 3, pp. 12-13). We accordingly find Mr. O'Donnell's approach unacceptable.

Having now adopted Mr. Farrar's yield component of 13.53 percent and growth component of 1.50 percent, we find Ohio Power's base line cost of equity to be 15.03 percent. The Staff recommends that this base line cost be multiplied by the customary adjustment factors of 1.032 and 1.100 in order to account for issuance costs, dilution, and the need for flexible financing (Staff Ex. 3, p. 8). Although OCC objected to such an adjustment, it did not pursue the matter in direct testimony or on brief. For the same reasons as set forth in Dayton Power and Light Company, Case No. 80-687-EL-AIR, Opinion and Order, July 15, 1981, at pp. 34-36, we find that the Staff's proposal should be adopted herein. This adjustment produces a recommended cost of equity range from 15.51 to 16.53 percent. In selecting a point within this spread, we believe that the totality of the record evidence supports the midpoint, 16.02 percent, as a reasonable estimate of Ohio Power's cost of equity.

Rate of Return Summary

Based on the foregoing discussion, the Commission finds the weighted cost of capital to be 11.97 percent as set forth on the table below and concludes that a rate of return of 11.97 percent is sufficient to provide reasonable compensation for the service rendered to customers affected by this application.

Cost of Capital Summary
(percentages)

	Capital Structure	Cost Rate	Weighted Cost
Long Term Debt	55.35	9.80	5.42
Preferred Stock	10.32	10.19	1.05
Common Equity	34.33	16.02	5.50
Overall Cost of Capital			11.97

AUTHORIZED INCREASE

A rate of return of 11.97 percent applied to the jurisdictional rate base of $2,108,651,000 approved for purposes of this proceeding results in an allowable return of $252,405,000. Certain expenses must be adjusted if the gross revenues authorized are to produce this dollar return. These adjustments, which have been calculated in a manner consistent with the findings herein, result in an increase in the allowance for federal income tax of $53,436,000, in the allowance for other taxes of $4,823,000, and in the allowance for uncollectibles of $182,000. The net effect of these adjustments is to increase allowable expenses to $939,475,000. Adding the approved return to these allowable expenses results in a finding that the applicant is entitled to place rates in effect which will generate $1,191,880,000 in gross annual operating revenues. This represents an increase of $121,169,000 over the rates which are presently in effect.

POWERPLANT PRODUCTIVITY

In the last rate case of the Company, this Commission directed the Applicant to report quarterly on the immediate past performance of its generating units. See Ohio Power Company, Case No. 80-367-EL-AIR, Opinion and Order, April 1, 1981, at p. 28. Data for the years 1976 through 1981 was presented by the Staff which showed that in 1981 Ohio Power was able to improve its already above average system equivalent availability (Staff Ex. 1, pp. 30 and 33). The Staff indicated that it was "encouraged by these results" (Staff Ex. 1, p. 30). Consumers' Counsel objected to the Staff's conclusion but never indicated why. This objection must be overruled. The Commission will adopt the Staff recommendation that the Company be required to continue to report quarterly on the immediate past performance of its generating units.

CURTAILMENT ADJUSTMENT

A great deal of attention and testimony was devoted to the issue of the curtailment adjustment proposed by the Company as four different witnesses addressed the subject. The Applicant proposed that the Commission permit a downward adjustment to pro forma revenues attributable to the residential class of $8,084,470 to recognize the price elasticity of demand of electricity (Co. Ex. 11A, TJR Attachment 5-3, p. 1 of 3). The Staff, Consumers' Counsel, and OFA-Interlake all opposed this adjustment. The Company objected to the Staff's recommendation.

Company witness Ringenbach developed separate models for residential customers with space heating and without space heating derived coefficients of price elasticity for each customer group (Co. Ex. 11, p. 8). He arrived at a price elasticity of demand for residential customers without space heat of -.1410 and a coefficient for the residential customers with space heat of -.3234 (Co. Ex. 11A, p. 6). These factors were estimated by Mr.

Ringenbach through use of a statistical analysis of historical KWH sales and other variables (Co. Ex. 11, p. 16). While Mr. Ringenbach indicated in his original testimony that income was one of the two most important factors that are considered in consumer purchase decisions (Co. Ex. 11, p. 11), he did not utilize any income variable in his final residential with space heat model (Co. Ex. 11A, pp. 10-11). He also indicated that while in theory he agreed with the premise that elasticity of demand is a phenomenon affecting all customer classes, he did not attempt to measure elasticity of demand for the commercial and industrial customers because of the recent restructuring of the rates for these customers (Co. Ex. 11A, pp. 11-12). The Company argued in brief that telephone utilities have routinely sought curtailment adjustments for some but not all of their customers classes (Co. Initial Brief, p. 10). Ohio Power pointed out that everyone agreed that price elasticity exists in theory and that curtailment will occur, but that the debate in this case is over the details of Mr. Ringenbach's models which it feels are statistically reliable (Co. Reply Brief, p. 10 and Co. Initial Brief, p. 11).

Staff witness Wissman reviewed and analyzed the Applicant's proposed curtailment adjustment from the basis of economic theory, the methods employed in determining the physical and revenue curtailment, and the method of determining avoidable costs. With respect to the structure of the Company's models, Mr. Wissman believed that the heat model should have contained an income variable, that the inclusion in the non-heat model of usage lagged four quarters resulted in none of the economic variables being statistically significant, and that the seasonal variable in the heat model was incorrectly applied in the third quarter (Staff Ex. 7, p. 4). The Staff was also concerned with the fact that the Company only proposed a curtailment adjustment for the residential class and not other classes (Staff Ex. 7, p. 2). Finally, Staff witness Wissman believed that Ohio Power's curtailment adjustment was one-sided because it did not reflect any reduction in costs attributable to the physical curtailment (Staff Ex. 7, p. 3). Company witness Ringenbach testified on rebuttal that the electric utility business is characterized by a high level of fixed costs and only a small portion of variable costs, and therefore such cost savings are relatively insignificant (Co. Ex. 11, pp. 3-4). Mr. Ringenbach did perform a calculation of what he termed a very conservative cost savings figure of $949,000 which he suggested could be used by the Commission as an avoidable cost offset (Tr. XIII, 15-16).

OCC witness Wilson agreed with the Staff's criticism of the Applicant's non-heat model with regard to the omission of the income variable and also with regard to the necessity of recognizing avoidable costs (OCC Ex. 1, pp. 17-18). In addition to those criticisms, Dr. Wilson also testified that the Company's model failed to recognize the fact that electricity demand responses are not instantaneous, but rather take place over time. He explained that in the short run, consumers are able to reduce consumption only by reducing their use of appliances, but in the long run, consumers may have time and the resources to change their stock of energy using appliances (OCC Ex. 1, pp. 18-19). Consumers' Counsel, in brief, also agreed with the Staff's concern that the curtailment adjustment was only being applied to the residential class (OCC Initial Brief, p. 71).

Although the interruptible class of customers (IRP) was not directly affected by the Company's curtailment adjustment, OFA-Interlake witness Chalfant also addressed this issue. Mr. Chalfant believed that the removal of the lagged dependent variable in the Company's revised models resulted in the estimates of elasticities being <u>long run</u> elasticities as opposed to short run elasticities (OFA-Interlake Ex. 3A, p. 2). He also believed that the Company's models were deficient in that no variable was included to measure the price of alternative fuels. Further, Mr. Chalfant did not necessarily agree with Mr. Ringenbach's assumption that price elasticity is constant at all levels of consumption (OFA-Interlake Ex. 3A, p. 3). On brief, OFA-Interlake cited a number of other reasons why it believed the curtailment adjustment should be denied. These include the arguments that the forecasted portion of the test year already considered energy prices in developing forecasted billing determinants, that the use of the forward looking DCF model in determining the rate of return already considers demand responses, and that the residential rates are already priced below cost which influences the relationship between a price related demand response and the demand for a substitute energy form (OFA-Interlake Initial Brief, pp. 4-6).

Based upon all of the evidence of record, the Commission has determined to deny the proposed curtailment adjustment. We believe that income as an explanatory variable is just too significant a factor to have been omitted from the heat model. While we understand the Company's preliminary use of income in the heat model produced a negative coefficient (where economic theory would suggest the coefficient should be positive), this could be due either to the omission of another explanatory variable or to the fact that the income measure used is not the appropriate measure of income for electric heat users (Tr. X, 136). In addition, the Commission is troubled by the application of the price elasticity for electricity only to the residential class. The Applicant's example of curtailment in telephone cases is inapposite here. In telephone cases, price elasticity of a particular service (such as message toll) or type of equipment (such as terminal equipment) may be determined but may only affect certain classifications of customer classes or parts of certain classes such as residential, commercial or industrial. Nevertheless, such price elasticity is applied to all customers who receive or utilize that type of service or piece of equipment, even though one or more generic classes of customers are not impacted. The omission of the income variable and the application of the adjustment to a single class render the proposed adjustment fatally defective for our purposes. Therefore, we need not discuss the other criticisms raised during the hearing. The Applicant's objection should be overruled.

RATES AND TARIFFS

Language Changes in the Tariff

The Company has proposed to modify the language in Section 8 (Service Voltage Levels), Section 9 (Work Performed on Company's Facilities at Customer's Request) and Section 15 (Location and Maintenance of Company's Equipment) of its tariff (Co. Ex. 3, Schedules E-1 and E-2). The Staff reviewed these proposed modifications, found them to be reasonable, and recommended approval. No one objected. The Commission will authorize the proposed language modifications here.

Bad Check Charge

The current charge for dishonored checks received by the Company is $8.25 per check. Ohio Power proposed to increase this charge to $8.95 per check. The Staff reviewed the Applicant's cost study which was done on a per check basis. The Staff believed that a yearly or monthly analysis would have been more appropriate and instead compared this charge with the charge made by other utility companies and banks (Staff Ex. 1, p. 39). Based on that comparison, the Staff recommended that the present charge be maintained (Staff Ex. 1, p. 39).

The Company objected to this recommendation. Company witness Hoover felt that comparisons with other utilities and banks were not appropriate and that the full cost of the time it takes to process bad checks ought to be imposed upon those customers who write the Company bad checks (Co. Ex. 18A, p. 2). Mr. Hoover also testified that it was not possible to accumulate total costs because so many different people are involved with the processing of such bad checks and that there were no time records kept which would continually isolate this type of activity (Co. Ex. 18A, p. 2). Staff witness Fox believed that the Company's work papers reflected an overly simplistic methodology loaded with broad estimates (Staff Ex. 5, p. 17). Specifically, he pointed out that the range for the wage rate of a senior clerk who would do most of the work varied between $7.15 an hour to $8.94 an hour and would take between 30 and 50 minutes (Tr. XI, 108-109). Such ranges create quite a variance in the cost of processing bad checks. As part of his investigation, he determined that the cost of processing bad checks for two other Ohio electric utilities was under $6.00 and under $5.00 (Tr. XI, 109 and Staff Ex. 5 p. 17). Based on this record, we will overrule the Applicant's objection and maintain a bad check charge of $8.25 per check.

Rural Extension Charge and Case No. 81-1139-EL-CSS

The current rural extension charge is $190 per month which was established in Ohio Power's last rate case. The purpose of the rural extension charge is to offer some assurance that a rural customer is not unduly subsidized by the other customers (Co. Ex. 18A, p. 5). Company witness Hoover explained that there are two components of the current rural extension charge: the installation cost of $10,144.52 and a carrying charge rate of 23 percent. The installation cost is a very minimum cost line and includes only small wire, long distances between poles, no right of way or tree trimming costs and few guys and dead ends (Co. Ex. 18A, p. 4). There are also construction costs for transformers, meters, and service laterals which are not included in the installation cost component. The carrying charge rate is the annual cost of owning, operating, and maintaining the facility and includes components for the return, federal income tax, depreciation, property tax, administrative and general, expenses, and operation and maintenance expenses.

The Commission does have a rule which specifies a rural line extension plan to be offered by all electric utilities. See Rule 4901:1-9-07 of the Ohio Administrative Code. This rule provides for a monthly minimum charge of two percent (24 percent annually) of the total construction cost of the line extension including rights of way, tree trimming, transformer service and meters. The rule also permits a utility to offer an optional plan and Ohio Power has offered such an optional plan which Mr. Hoover indicated is always less than the charge produced by the Commission's plan.

As indicated in the "History of the Proceedings" section of this Opinion and Order, complaint case docketed as Case No. 81-1139-EL-CSS was consolidated with Case No. 81-782-EL-AIR. The Commission has determined not to decide the remaining issue in the complaint case in this Opinion and Order, but rather will decide the case in a subsequent Opinion and Order.

As for Case No. 81-782-EL-AIR, the Applicant has proposed to increase the rural extension charge from the current $190 per month to $260 per month. The increase is based on the same methodology described above with a minimum construction cost of $12,703 per mile and a carrying charge of 24.6 percent. The Staff found the labor and material multipliers to be too high and the proposed charges excessive. The Staff recommended a charge of $230 per month based on data which is actual instead of estimated (Staff Ex. 1, pp. 39-40 and Staff Ex. 4, pp. 17-18). The Applicant and OCC both objected to the Staff's recommendation. Consumers' Counsel presented no testimony on the issue, but in brief now concurs with the Staff's recommendation (OCC Initial Brief, p. 106). The Commission believes that the Staff-recommended $230 per month charge, which is based on data which is actual as opposed to estimated, is the more appropriate charge and should be adopted. Both sets of objections will be overruled.

Temporary Service

The table below sets out the current, Applicant-proposed, and Staff-recommended charges for reading-in and reading-out an existing meter and for providing a small single phase service from a permanent source.

	Current	Applicant Proposed	Staff Recommended
Reading-In and Reading-Out	$ 12.25	$ 14.25	$ 13.75
Single Phase Temporary Service	$ 85.00	$ 120.00	$ 114.00

The difference between the Staff's recommendation and the Applicant's proposal is that the Staff found the Company's trend factors to be overstated (Staff Ex. 1, p. 40). Although the Applicant and OCC objected, we find the Staff's proposal to be reasonable and will adopt it here.

Disconnection and Reconnection Charges

The table below sets out the current, Applicant-proposed, and Staff recommended charges for 1) disconnection of service, 2) disconnection and reconnection of service, and 3) disconnection of service with reconnection being performed after regular working hours.

	Current	Applicant Proposed	Staff Recommended
Disconnection	$ 8.25	$ 9.55	$ 9.20
Disconnection and Reconnection	$ 15.50	$ 18.00	$ 17.32
Disconnection and Overtime Reconnection	$ 28.25	$ 32.70	$ 31.43

Again, the difference between the Staff's recommendation and the Applicant's proposal is due to the fact that the Staff used more actual labor and transportation factors then did the Company. The Commission will adopt the Staff's recommended approach, but will authorize a "rounded" charge of $17.30 and $31.40 for the latter two charges shown in the table above.

Discontinued Service Notice

Consumers' Counsel objected to the Staff's failure to modify the number of days' notice required to discontinue to serve any customers as specified in the tariff and also the provision in the tariff regarding the need to provide and maintain adequate service for the payment of bills. The Commision is unsure of the thrust of Consumers' Counsel objection. However, there was no evidence presented on this issue nor was there any mention of this issue in OCC's briefs. This objection should be overruled.

Revenue Distribution

The Company had a cost of service study performed to determine the various class rates of return relative to the system average rate of return. This cost of service study was based upon the test year and utilized 12 months of forecasted data (Co. Ex. 16, p. 3 and Tr. V, 21). The Company then established parameters of gradualism or rate continuity before applying the specific increases to each class. Mr. Hoover testified that the Applicant determined not to impose an increase on any class of more than 125 percent of the average percentage increase applied on a total revenue basis nor less 60 percent of the average percentage increase applied on a total revenue basis (Co. Ex. 18, p. 6). Given those parameters and the results of the cost of service study, the Company proceeded to distribute the requested revenue increase in a manner so that the class rates of return would tend to get closer to the average system rate of return, at least in the judgment of the Company. As for the cost study itself, there was really only one criticism of it and that was a philosophical difference of opinion between the Company on the one hand and the Staff and OFA-Interlake on the other hand. That difference will be discussed later. In any event, Ohio Power's revenue distribution proposal was based upon the results of its cost of service study as tempered by its self-determined parameters of gradualism.

The Staff accepted the Company's proposed revenue distribution for all but three classes: the Interruptible class (IRP), the Outdoor Lighting class (OL), and the Residential class. The Company, OCC, Owens-Corning, and OFA-Interlake all objected to the Staff's recommended revenue distribution.

Owens-Corning is served by Ohio Power under the Industrial Power (IP) (23-69 KV) rate schedule. Owens Corning pointed out at the hearing that the Staff and the Company are each proposing an increase of 66.6 percent on a base rate revenue basis for the IP 23-69 KV class which is the largest increase proposed for any class (Owens-Corning Ex. 1). This works out to a 27.1 percent increase to the class on a total revenue basis (Staff Ex. 1, p. 42). While not criticizing the cost of service study, Owens Corning is complaining that principles of gradualism ought to dictate that a lesser increase should be imposed upon its class (Owens Corning Brief, pp. 3-13). But as the Company points out in brief, Owens Corning is currently paying less than its fair share (according to the cost of service study) and would still pay less than its fair share under the Applicant's and Staff's proposed increases (Co. Reply Brief, p. 23; See also Staff Ex. 1, p. 44). Although the 66.6 percent increase to base rate revenues is not insubstantial, we do not find it to be unreasonable given the results of the cost of service study. However, the Commission does find Owens-Corning's alternative argument (that in no event should the increase to the IP 23-69 KV class exceed 66.6 percent on a base revenue basis) to be reasonable. See Owens Corning Brief, pp. 11-12; Tr. XI, 13-14; Tr. XII, 41-44. Therefore, the IP 23-69 KV class should bear no more than a 66.6 percent increase (on a full rate relief basis) on a base rate revenue basis or a 13.096 percent share of base rate revenues. The increment of revenues resulting from adjustments to the OL and IRP classes should not be redistributed to the IP 23-69 KV class.

The Applicant had proposed a 25.8 percent increase to the Outdoor Lighting (OL) class on a base rate revenue basis. The Staff believed that, in view of its position on the IRP class, the OL class should bear more of an increase. It recommended a 50 percent increase on a base rate revenue basis to the OL class (Staff Ex. 1, p. 45). The Company objected and pointed out that such an increase would change the position of the class from one paying less than the average rate of return to a class paying more than its fair share (Co. Ex. 18A, p. 9 and LRH Ex. S-3). Further, Ohio Power believed that the Staff-recommended increase would tend to drive away customers causing premature retirement of a large investment (Co. Ex. 18, p. 10). The Outdoor Lighting tariff is available to individual customers for overhead lighting service and post-type lighting service (Co. Ex. 3, Schedule E-2, p. 31). At the hearing, Staff witness Sarap revised her recommendation and indicated that an increase sufficient to generate a rate of return equal to the system average return should be imposed (Staff Ex. 6, p. 8). In view of the results of the cost study, the Commission believes that the Staff's revised recommendation is appropriate and should be adopted.

This brings us to the allocation of revenue responsibility to the IRP class. The interuptible class is a class of four customers who receive power at the 138 KV level, but whose service may be interrupted by Ohio Power at any time depending on system load conditions (Tr. V, 105). This condition distinguishes this class from "firm customers" whose load is not subject to interruptions other than power outages due to storms and other factors beyond the control of the utility. In its cost of service study, the Applicant used the demands of the IRP class as they were estimated to occur during the test year in allocating plant and expenses to the interruptible class (Tr. V, 89). Company witness Jahn testified that the IRP loads are used by Ohio Power and AEP in planning generation and therefore he felt that such customers ought to be allocated a portion of the investment in generating plants (Tr. V, 93). However, Company witness Hoover testified that instead of strictly using the results of the cost study, the Company proposed an increase equal to the average overall increase inclusive of fuel for the IRP class (Co. Ex. 18A, p. 9). This works out to a proposed increase of 22.1 percent on a total revenue basis and a 60.6 percent increase on a base rate revenue basis (Co. Ex. 5, Schedule E-4).

The Staff did not accept the Company's proposed revenue distribution to the IRP class. The Staff believed that since the IRP class was served from spinning reserve, it was not appropriate to fully allocate plant and expenses to the IRP class on the basis of this class's energy and capacity usage (Staff Ex. 1, p. 45). Instead, the Staff recommended that the IRP class receive an average increase on a base rate revenue basis. This results in a Staff recommended increase of 41.1 percent on a base rate revenue basis as compared to the 60.6 percent increase proposed by the Company on a base rate revenue basis. The testimony of OFA-Interlake witnesses Knobloch and Brubaker supported the Staff's recommendation. Mr. Knobloch performed two alternative cost of service studies. In one of the studies he did not allocate any production plant to the IRP class and in the other he did not allocate any production or transmission plant to the IRP class (other than the transmission plant which is directly assignable) (OFA-Interlake Ex. 1, pp. 7-8 and Exhibit TJK-1, Schedules 5 and 6). These studies reflect a substantial impact upon the class rate of return. Based upon this approach, OFA-Interlake witness Brubaker recommended that the average percentage increase based on nonfuel revenues be imposed upon the IRP class (OFA-Interlake Ex. 2, p. 16).

The Commission is of the opinion that the Staff and the OFA-Interlake recommendations to impose the average percentage increase based on base rate revenues upon the IRP class are reasonable under the facts of this case and should be adopted. Although we understand that Ohio Power and AEP consider IRP loads in the planning of generation, the record reflects that this class is served only out of available spinning reserve. The Commission believes that the character of interruptible service, which is different from the character of firm service, should somehow be reflected in rates. Therefore, we believe that the full allocation of plant and expenses to this particular class, as done in the Company's cost of service study, is inappropriate. While the Company has proposed an average percentage increase on a total revenue basis, the Commission has consistently taken the approach that an average percentage increase on a base revenue basis is the most appropriate way to determine the amount of the increase to a class where there is inadequate or no cost data available. See, e.g., Dayton Power and Light Company, Case No. 78-92-EL-AIR, Opinion and Order, March 9, 1979, at pp. 29-30 and East Ohio Gas Company, Case No. 80-769-GA-AIR, Opinion and Order, August 12, 1981, at p. 35. The Commission will assign a 41.1 percent increase to the IRP class based upon the average percentage base rate revenue increase (assuming full rate reflief). However, the Commission does note that in the last three years (1979, 1980 and 1981), the number of interruptibles and the total duration of such interruptions has been decreasing (OFA-Interlake Ex. 1, Exhibit TJK-3). If this trend continues, it may be appropriate in future rate cases to recognize this trend by increasing the IRP class by more than an average percentage base rate revenue increase but less than what a fully allocated cost of service study would suggest.

In summary, the Commission will adopt the Staff's recommended revenue distribution as modified by Staff witness Sarap at the hearing. The difference between what the Staff originally recommended for Outdoor Lighting and what Staff witness Sarap recommended for Outdoor Lighting (i.e., to bring the rate of return of the OL class to the system average) should be spread to the Residential Service, Large Power Secondary, Industrial Power Primary (2.3-12 KV), and Industrial Power Transmission (138 KV) classes in a proportional manner based on base rate revenues.

Residential Electric Service

No one presented any testimony or evidence tending to show that the current $4.00 per month residential customer charge should be changed. Consumers' Counsel objected to the retention of the $4.00 customer charge and argued in brief that the customer charge should only include the costs booked in Accounts 902 and 903 related to customer billings and meter reading (OCC Initial Brief, pp. 108-109). The Staff-recommended method for determining customer charges resulted in a customer cost of $3.81 per month (Staff Ex. 1, p. 47). The Staff believed that the maintenance of the $4.00 current charge was reasonable in light of considerations of continuity, stability, and customer understanding (Staff Ex. 1, p. 47). There being no other evidence on the issue, the Commission will overrule the objection and maintain the $4.00 monthly customer charge.

The current blocking for the residential rate schedule is a three step declining block rate. Both the Company and the Staff recommended that such a rate structure be retained, although each of the Staff blocks is slightly higher than the corresponding Company-proposed block because the Staff recommended that a higher amount of revenue responsibility be distributed to the residential class. Since we have adopted the Staff's position on revenue responsibility, we will adopt the Staff's recommended rate structure for the residential class. However, in developing its proposed tariffs, the Company should reduce the energy blocks proportionately to reflect the fact that we have authorized a revenue increase less than the level proposed.

Residential Experimental Time of Day and Load Management Time of Day

Ohio Power has within its RS tariffs two optional offerings: the Experimental Time of Day and the Load Management Time of Day. The Experimental Time of Day rate was designed to provide the same revenue as the residential tariffs from the average residential customer plus additional revenue to cover additional metering costs (Co. Ex. 18A, p. 10). The Load Management Time of Day rate was designed to allow a customer installing a heat storage furnace and water heater to recoup over a five year period the $1600 incremental cost of such facilities in two ways compared to the average heat customer who does not install such facilities. These two ways are the savings on energy storage a customer would realize from being on the Time of Day Rate and the load management credit. The current load management credit is 1.37 cents per KWH.

The Experimental Time of Day and the Load Management Time of Day rates are identical in that both have a customer charge of $6.50 per month, an on-peak energy rate of 3.66 cents per KWH and an off-peak rate of 1.83 cents per KWH. The Company proposed to maintain the customer charge at $6.50 and to increase the peak and off-peak rates to $0.0478 and $0.0323, respectively.

The Staff did not find the proposed rate structure to be appropriate because of the substantial increase to the off-peak rate (Staff Ex. 1, p. 48). The Staff also was concerned that the Company-proposed 3rd block of the energy charge in the Residential Service tariff would be lower than the off-peak charge. It recommended that no more than a 50 percent increase be imposed on the off-peak charge and advocated a peak rate and an off-peak rate of $0.0534 per KWH and $0.0275 per KWH, respectively.

Although the Applicant objected, Company witness Hoover agreed to modify this rate by allocating the residual customer costs entirely to the peak charge (Co. Ex. 8A, p. 11). His modified recommendation was a peak charge of $0.0525 per KWH and as off-peak rate of $0.0276 per KWH (Co. Ex. 18A, p. 12). This proposal satisfies the concerns of the Staff, is very close to the original Staff proposal, and should be adopted. The load management credit should remain at 1.37 cents per KWH as established by the Commission's Entry of April 21, 1982 in Case No. 82-414-EL-ATA. As with the Residential Service tariff, the Company should maintain the proposed customer charge, but should reduce the peak and off-peak charges proportionately in developing tariffs to meet the authorized (not the proposed) revenue increase.

General Service

The Company proposed several changes to the General Service tariff. First, the Applicant proposed that a 100 KW maximum demand be imposed upon this service. This restriction is intended to prevent migration from other classes to this class so as to prevent the dilution of the current load characteristics (Co. Ex. 18A, p. 13). The Company also advocated the deletion of the provision in its tariff regarding the measurement of energy through more than one meter (Co. Ex. 3, Schedule E-2, p. 21). The Applicant also proposed to allow demand metered customers whose demand does not exceed 5 KW to be served as a non-demand metered customer (Co. Ex. 3, Schedule E-1, p. 21).

Ohio Power also proposed to make the minimum bill include the customer charge plus the metered demand for demand metered customers, to increase the metered voltage credit to $0.97 to reflect line losses, and to increase the charge for welders, X-ray machines and other similar electrical equipment from $2.04 per kva to $2.46 per kva (Co. Ex. 3, Schedule E-1, pp. 21-22). The Company also redesigned its General Service tariff to distinguish between non-demand and demand customers and also replaced the hour's use structure with a customer charge, a flat energy charge, and a flat demand charge (for demand customers). Specifically, the Company proposed a $10.00 monthly customer charge and an energy charge of $0.0401 per KWH for all customers with demands less than 5 KW. For all other demand customers with metered demands, the Applicant proposed a $14.34 monthly customer charge, a flat billing demand of $3.42 per KW, and a flat energy charge of $0.0275 per KWH. The Staff recommended approval of all these modifications and there were no objections. The Commission will adopt the Company's proposal. The Applicant should reduce the energy and demand charges, the metered voltage credit, and the "welders and x-ray" charge proportionately to reflect the fact that the authorized increase is less than the increase in revenues proposed. The customer charges of $10.00 and $14.34 should not be reduced.

Electric Heating General

The Electric Heating General tariff is available to General Service customers who have installed and actively use electric heating equipment which supplies the entire space heating of the customer's premises. However, this rate is closed to new customers and will eventually be eliminated. The differences between the Company proposed rates and the Staff's recommended rates are relatively minor. The Company proposes to reduce the customer charge from $13.40 to $12.56 per month while the Staff believes that in light of continuity and customer impact, and a customer charge of $13.00 per month is more appropriate. The Staff went on to reflect the difference between customer charges in the second block of the energy charge (Staff Ex. 1, p. 50). The demand charge and the first block of the energy charge recommended by both parties are $2.85 per KW for each KW in excess of 30 KW and $0.0357 per KWH, respectively. Although the Company objected to the Staff's modification, it presented no evidence on this issue. The Commission will adopt the Staff's rate design, but directs the Applicant to reduce the energy and demand charges proportionately due to the lower than requested authorized revenue increase.

Large Power

The Company, the Staff, and St. Regis Paper Company stipulated to the Staff recommended rate structure of a monthly customer charge of $123.25, a demand charge of $8.46 per kva and a flat energy charge of $0.0060 per KWH (Joint Ex. 1). There were no objections to this rate structure. The Commission will adopt this rate structure and directs the Company to reduce proportionately each of the three components so as to account for the difference between the proposed revenue increase and the authorized revenue increase.

Industrial Power

The Industrial Power tariff is available for commercial or industrial service and is divided into three sub-groups depending upon the voltage level at which service is taken. The three groups are the primary level (2.3 to 12 KV), the sub-transmission level (23 to 69 KV), and the transmission level (138 KV and above). The current rate structures for each of these rate groups consist of a monthly customer charge, a flat demand charge, and a flat energy charge. The Applicant proposed to reduce the customer charges significantly, increase the demand charges somewhat, and to drastically increase the energy charges between 154.5 percent to 193.2 percent (Co. Ex. 3, Schedule E-1, p. 26). The Staff found that the magnitude of the increases imposed upon the energy charges were unreasonable (Staff Ex. 1, p. 51). It recommended more moderate increases to the energy charges and higher demand and customer charges than what the Applicant originally proposed (Staff Ex. 1, p. 51). Although Ohio Power objected to the Staff's recommended rate structure, Company witness Hoover agreed with the Staff's consideration of gradualism and stated that the Staff's recommended energy charges were reasonable (Co. Ex. 18A, p. 14). The Company, Owens-Corning, and the Staff also stipulated to the Industrial Power (23 to 69 KV) rate structure recommended by the Staff (Joint Ex. 2). The Commission believes the Staff's recommended rate structures are reasonable and should be adopted. In developing its tariffs, the Applicant should reduce the customer charge, the demand charge, and the energy charge proportionately to produce the authorized revenue yield.

Interruptible Power

The interruptible class of customers receives power at the 138 KV level (Tr. V, 105). The Company proposed that this class have the same monthly customer and flat energy charge as would the Industrial Power (138 KV and higher) group (referred to as IP [138 and higher]) (Co. Ex. 3, Schedule E-1, p. 29). The proposed demand charge for the Interruptible Power tariff was lower than the proposed demand charge for the IP (138 KV and higher). The Staff's proposed rates were different than the Company's in part due to the difference in the allocation of revenue responsibility. The Staff recommended that the energy charge be tied to the IP (138 KV and higher) rate, that the demand charge be the same as what the Company had proposed for the interruptible class, and that the customer charge pick up the remainder of the revenue to be derived from this class (Staff Ex. 1, pp. 51-52).

Ohio Power objected to the Staff's recommendation. While Company witness Hoover ultimately agreed with the Staff's recommended lower energy charge, he believed that the customer charge for the interruptible class should be, if anything, greater than the IP (138 KV and higher) customer charge, because of the additional communication and telemetering facilities required to coordinate the interruptions (Co. Ex. 18A, p. 15). Mr. Brubaker, testifying on behalf of OFA-Interlake, stated that the customer charge and the energy charge for the interruptible class ought to be the same as the IP (138 KV and higher) service and that the demand charge (and to a very small extent, the miscellaneous reactive charge) pick up the difference in revenue responsibility (Tr. XII, 40). The Staff recognized that some consistency between the interruptible class and the IP (138 KV and higher) should exist, but believed that the relative relationship between the demand and energy portions were more important than the customer charges (Staff Ex. 6, p. 11).

The Commission is of the opinion that the customer costs and energy costs for the interruptible customers are similar to the customer costs and energy costs for the Industrial Power customers who take service at the transmission or 138 KV level. The difference between the two classes is in the capability of the IP (138 KV or higher) customer to demand and receive a firm, uninterrupted flow of power while the interruptible customer may not always receive an uninterrupted level of electricity as demanded, depending upon the system load conditions. We agree with the Company and OFA-Interlake that such a difference is demand related and should be reflected in the demand charge, not in the customer charge. Therefore, the Commission directs the Applicant to file tariffs for the Interruptible Power Schedule which utilize the identical customer charges and energy charges as are authorized for the IP (138 KV and higher) class and to proportionately reduce the demand charge and the miscellaneous reactive charge to account for the difference between proposed revenues and authorized revenues.

School Service and Electric Heating Schools

The Staff recommended approval of the Applicant's proposed rates for School Service and to maintain the current rate for Electric Heating Schools schedules. These schedules are closed to new customers and are in the process of being eliminated. There was no objection to this recommendation. When the Company files its School Service tariffs, it should reduce the energy charges proportionately and not reduce the customer charge in recognizing the difference between the proposed revenue level and the authorized revenue level. The Applicant should not reduce the proposed (and current) rate for the Electric Heating Schools tariff.

Outdoor Lighting

The Commission has authorized a larger share of revenue responsibility for the Outdoor Lighting Class than what the Company had proposed. But at the same time, the Commission has also authorized a smaller overall revenue increase than what was requested by the Applicant. Ohio Power should adjust its Outdoor Lighting rates proportionately, taking into account both factors.

Optional Service for Residences Primarily Heated by Electricity

Although there are apparently no customers served under this tariff, the Company has proposed to increase the rates on file with the Commission (Co. Ex. 3, Schedule E-1, p. 19). The Commission will authorize an increase, but only in proportion to the amount of the total authorized revenue level or in proportion to the increase authorized for the Residential Service class.

Renegotiations of Contract Demands

The Interruptible Power tariff sets out the manner in which an IRP customer is billed for its demand for power. All IRP customers must pay at a minimum for 20 MW of power whether they actually demand it or not each month. However, they may be actually billed for the greatest of 1) the actual monthly demand, 2) 67 percent of the highest actual demand which previously occurred during the term of the contract, or 3) 67 percent of the "contract demand." The "contract demand" is a level of demand which is negotiated by the customer and Ohio Power as part of the contract for interruptible service. These contracts contain the tariff provisions of the Interruptible Power tariff and the negotiated contract demand and have a term of two years (Tr. XIV, 10). To terminate a contract, a party must give written notice to the other party at least one year prior to the expiration date.

There are currently four interruptible customers being served by Ohio Power. Three of these customers have already given notice to the Company of their intent to cancel or terminate their contracts, the first due to expire in April, 1983. Ohio Ferro Alloy and Interlake have proposed to insert a provision in the tariff or the contract which would allow the parties to renegotiate the level of the contract demand when the structure of the rate was significantly altered, or in other words, after a rate increase had been granted. This proposal, if approved, would become effective beginning with this case. The Staff also recommended approval of this provision (Staff Ex. 6, p. 11). The record indicates that at one point in time, this type of option was included in the contract between the Applicant and interruptible customers. However, beginning about the mid-1970's this provision began to be excluded from such contracts and now none of the IRP contracts have the option to renegotiate provision.

The Company opposes the insertion of this provision, citing legal, evidentiary and practical problems which would result (Co. Initial Brief, p. 25). The practical problems cited by the Company involve the level of the revenue shortfall anticipated to result by virtue of a renegotiation of the contract demand downward and how to adjust for the rates for such a shortfall. While Company witness Hoover estimated this reduction in revenue to be between \$2.6 million and \$3.3 million on an annual basis (Co. Ex. 18C, p. 3), the Staff and OFA-Interlake both point out that the actual revenue reduction would be less (Staff Brief, p. 21 and OFA-Interlake Initial Brief, pp. 15-19). However, we are not persuaded by the Staff and OFA-Interlake that such a provision is necessary. The Commission has heard arguments about the revenue shortfall and the manner in which it should be recouped, but the record does not really indicate to us just <u>why</u> such a provision is necessary. The current contracts contain no such provision, yet within the last two years the interruptible customers have signed or agreed to extend contracts without this provision. There has been no allegation of fraud or duress. These industrial customers knowingly entered into these contracts. The mere fact that some of the interruptible customers would benefit sooner than they otherwise would if we inserted a renegotiation clause in the contract now, is not a sufficient reason for adopting such a recommendation. This proposal will be rejected.

<u>Misellaneous</u>

In the event the Commission's estimates of percentage increases to various classes in its discussion of revenue distribution or specific rate structures prove to be less than precise or accurate, the Applicant should prepare and submit tariffs consistent with the principles set forth in this Opinion and Order, if not the precise percentages.

<u>Effective Date</u>

It has been the practice of the Commission to provide in its rate orders that tariffs filed pursuant to such orders shall be applicable to service rendered thirty days following the issuance of the entry accepting those tariffs for filing. In recent cases, the Commission has also permitted applicants to make a special mailing of their notice and to have their tariffs effective three days following completion of the mailing. The purpose of delaying the effective date of the tariffs has been to give notice of the authorized increase to the affected customers through mailings by the company prior to the time those rates go into effect. The Commission continues to believe that this is a reasonable practice, but finds that there are circumstances presented by this case which compel a departure from this policy.

Section 4909.42, Revised Code provides that if the Commission has not acted upon a rate application filed pursuant to Section 4909.18, Revised Code within 275 days of the date of filing, the applicant utility, upon the filing of an undertaking in an amount determined by the Commission, may place the proposed rates into effect, subject to the condition that amounts charged and collected in excess of those finally determined to be reasonable by the Commission shall be refunded. Ohio Power has not attempted to place its proposed rates in Case No. 81-782-EL-AIR into effect by filing an undertaking, even though the 275 day time period for that case expired on July 2, 1982. The Commission believes that basic principles of fairness dictate that the company should not be penalized for its forebearance, and that the appropriate course in this case is to establish the effective date of the tariffs filed pursuant to this order as the date they are approved by Commission Entry. The new tariffs will be effective for all service rendered on an after the date the Commission approves such tariffs. The customary notification requirement will be retained; the notice should be mailed to customers upon approval of its form by the Commission.

FINDINGS OF FACT:

From the evidence of record in Case No. 81-782-EL-AIR, the Commission now makes the following findings:

1) The value of all of the Company's property used and useful for the rendition of electric service to the customers affected by this application, determined in accordance with Sections 4909.05 and 4909.15, Revised Code as of the date certain of September 30, 1981 is not less than $2,108,651,000.

2) For the twelve month period ending March 31, 1982, the test period in this proceeding, the revenues, expenses, and income available for fixed charges realized by the Company under its present rate schedules were $1,070,711,000, $881,034,000, and $189,677,000, respectively.

3) This net annual compensation of $189,677,000 represents a rate of return of 9.00 percent on the jurisdictional rate base of $2,108,651,000.

4) A rate of return of 11.97 percent is insufficient to provide the Company reasonable compensation for the electric service rendered customers affected by the application.

5) A rate of return of 11.97 percent is fair and reasonable under the circumstances presented by this case and is sufficient to provide to the Company just compensation and return on the value of its property used and useful in furnishing electric service to its jurisdictional customers.

6) A rate of return of 11.97 percent applied to the rate base of $2,108,651,000 will result in income available for fixed charges in the amount of $252,405,000.

7) The allowable annual expenses of the Company for purposes of this proceeding are $939,475,000.

8) The allowable gross annual revenue to which the company is entitled for purposes of this proceeding is the sum of the amounts stated in Findings 6 and 7, or $1,191,880,000.

9) The Company's present tariffs should be withdrawn and cancelled and the company should submit new tariffs consistent in all respects with the discussion and findings set forth above.

CONCLUSIONS OF LAW:

1) The application herein is filed pursuant to, and this Commission has jurisdiction thereof,

under the provisions of Sections 4909.17, 4909.18 and 4909.19, Revised Code; further, the Company has complied with the requirements of the aforesaid statutes.

2) A Staff investigation has been conducted and a report duly filed and mailed and public hearings have been held herein, the written notice thereof having complied with the requirements of Section 4909.19, Revised Code.

3) The existing rates and charges as set forth in the Company's tariffs governing electric service to customers affected by this application are insufficient to provide the Company with adequate net annual compensation and return on its property used and useful in the rendition of electric service.

4) A rate of return of 11.97 percent is fair and reasonable under the circumstances of this case and is sufficient to provide to the Company just compensation and return on its property used and useful in the rendition of electric service to its customers.

5) The Company should be authorized to cancel and withdraw its present tariffs on file with this Commission and to file tariffs consistent in all respects with the discussion and findings set forth above.

ORDER:

It is, therefore,

ORDERED, That the application of Ohio Power Company for authority to increase its rates and charges for electric service in Case No. 81-782-EL-AIR be granted to the extent provided in this Opinion and Order. It is, further,

ORDERED, That the Company be, and hereby is authorized to cancel and withdraw its present tariffs and to file new tariffs consistent with the discussion and findings set forth above. Upon receipt of three (3) complete copies of tariffs conforming to this Opinion and Order, the Commission will review and approve same by entry. It is, further,

ORDERED, That the effective date of the new tariffs shall be three days after notice has been mailed to all customers of the Company, or thirty days following approval of the tariffs by Commission entry, whichever is earlier. The new rates included therein shall be applicable to all service rendered on or after the effective date. The Applicant shall immediately commence notification of its customers of the increase in rates authorized herein by insert or attachment to its billings, by special mailing, or by a combination of the above. The Applicant shall submit a proposed form of notice to the Commission when it files its tariffs for approval and the Commission will review same and, if proper, approve it by entry. It is, further,

ORDERED, That the recommendation of the Staff discussed in the Powerplant Productivity section of this Opinion and Order be adopted, and that the Company comply with that recommendation. It is, further, ORDERED, That all objections and motions not specifically addressed in this Opinion and Order or rendered moot thereby be, and hereby are, overruled and denied. It is, further,

ORDERED, That a copy of this Opinion and Order be served upon all parties of record and all interested persons.

THE PUBLIC UTILITIES COMMISSION OF OHIO

[illegible]
(Chairman)

Dennis Parms

Michael Del Bane - Voted No
(Commissioners)

SMH/BAB;geb/ksb

ENTERED IN THE JOURNAL JUL 14 1982
(date)
Elaetta K. Erwin