

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION
REVIEW OF THE CAPACITY CHARGES OF
OHIO POWER COMPANY AND
COLUMBUS SOUTHERN POWER
COMPANY.

CASE No. 10-2929-EL-UNC

IN THE MATTER OF THE APPLICATION OF
COLUMBUS SOUTHERN POWER
COMPANY AND OHIO POWER COMPANY
FOR AUTHORITY TO ESTABLISH A
STANDARD SERVICE OFFER PURSUANT
TO SECTION 4928.143, REVISED CODE,
IN THE FORM OF AN ELECTRIC SECURITY
PLAN.

CASE No. 11-346-EL-SSO
CASE No. 11-348-EL-SSO

IN THE MATTER OF THE APPLICATION OF
COLUMBUS SOUTHERN POWER
COMPANY AND OHIO POWER COMPANY
FOR APPROVAL OF CERTAIN
ACCOUNTING AUTHORITY.

CASE No. 11-349-EL-AAM
CASE No. 11-350-EL-AAM

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY TO ADOPT A
FINAL IMPLEMENTATION PLAN FOR THE
RETAIL STABILITY RIDER.

CASE No. 14-1186-EL-RDR

ENTRY

Entered in the Journal on October 27, 2016

{¶ 1} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company)¹ is an electric light company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

¹ On March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company into Ohio Power Company. *In re Ohio Power Co. and Columbus Southern Power Co.*, Case No. 10-2376-EL-UNC, Entry (Mar. 7, 2012).

{¶ 2} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 3} On July 2, 2012, in Case No. 10-2929-EL-UNC, the Commission approved a capacity pricing mechanism for AEP Ohio. *In re Ohio Power Co. and Columbus Southern Power Co.*, Case No. 10-2929-EL-UNC (*Capacity Case*), Opinion and Order (July 2, 2012). The Commission established \$188.88/megawatt-day (MW-day) as the appropriate charge to enable AEP Ohio to recover, pursuant to its fixed resource requirement obligations, its capacity costs from competitive retail electric service (CRES) providers. However, the Commission also directed that AEP Ohio's capacity charge to CRES providers should be based on the rate established by the reliability pricing model (RPM) for PJM Interconnection, LLC, including final zonal adjustments, in light of the fact that the RPM-based rate would promote retail electric competition. The Commission authorized AEP Ohio to modify its accounting procedures to defer capacity costs not recovered from CRES providers to the extent the total incurred capacity costs do not exceed \$188.88/MW-day, with the recovery mechanism to be established in the Company's then pending second ESP proceedings. *Capacity Case* at 33.

{¶ 4} On August 8, 2012, the Commission issued its Opinion and Order in Case No. 11-346-EL-SSO, et al., which approved, with certain modifications, AEP Ohio's application for a standard service offer in the form of an ESP, in accordance with R.C. 4928.143. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 11-346-EL-SSO, et al. (*ESP 2 Case*), Opinion and Order (Aug. 8, 2012). Among other provisions of the ESP, the Commission modified and approved AEP Ohio's proposed retail stability

rider (RSR), which, in part, was intended to enable the Company to begin to recover the deferred amount of its capacity costs, consistent with the Commission's directives in the *Capacity Case*. Specifically, AEP Ohio was permitted to collect a monthly charge of \$3.50 per megawatt hour (MWh) through May 31, 2014, and \$4.00 per MWh between June 1, 2014, and May 31, 2015, with \$1.00 per MWh allocated toward the capacity deferral. Additionally, the Commission found that any remaining capacity deferral balance at the conclusion of the ESP term should be amortized over a three-year period, unless otherwise ordered by the Commission. The Commission also directed AEP Ohio to file its actual shopping statistics at the end of the ESP term and noted that all determinations for future recovery of the capacity deferral balance would occur following the Company's filing of its actual shopping statistics. *ESP 2 Case* at 36.

{¶ 5} On April 2, 2015, in Case No. 14-1186-EL-RDR, the Commission modified and approved an application filed by AEP Ohio to continue the RSR, until the capacity deferral and carrying costs are fully recovered, with a collection period of approximately 32 months. *In re Ohio Power Co.*, Case No. 14-1186-EL-RDR, Finding and Order (Apr. 2, 2015) at 12-13. By Entry on Rehearing issued on May 28, 2015, the Commission granted applications for rehearing of its Finding and Order in that case for further consideration of the matters specified in the applications for rehearing.

{¶ 6} The Commission's orders in the *Capacity Case* and *ESP 2 Case* were appealed to the Supreme Court of Ohio. Although the Court affirmed the Commission's orders in both cases in many respects on April 21, 2016, the Court remanded the *Capacity Case* to the Commission to address alleged flaws in certain inputs to the calculation of the energy credit used to offset AEP Ohio's capacity costs with projected revenues from off-system sales. *In re Comm. Rev. of Capacity Charges of Ohio Power Co.*, Slip Opinion No. 2016-Ohio-1607, at ¶ 57. Upon review of the *ESP 2 Case*, the Court found, regarding the RSR, that AEP Ohio "is entitled to recover only its actual capacity costs" and, therefore, the *ESP 2 Case* was remanded to the Commission

“to adjust the balance of [the Company’s] deferred capacity costs to eliminate the overcompensation of capacity revenue recovered through the nondeferral part of the RSR during the ESP.” *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2016-Ohio-1608, at ¶ 40. The Court also determined that the Commission failed to explain its decision to establish a significantly excessive earnings test threshold of 12 percent to be applied during the term of the ESP for purposes of the annual earnings review required by R.C. 4928.143(F). *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2016-Ohio-1608, at ¶ 66.

{¶ 7} By Entry dated May 18, 2016, the Commission directed AEP Ohio to file revised tariffs that provide that the RSR is being collected subject to refund, effective with bills rendered for the first billing cycle of June 2016, until otherwise ordered by the Commission.

{¶ 8} On August 29, 2016, the attorney examiner issued an Entry to establish a procedural schedule, in order to afford the parties an opportunity to present testimony and to offer additional evidence in regard to the matters remanded to the Commission in the *Capacity Case* and the *ESP 2 Case*. Among other deadlines, the Entry directed that testimony on behalf of Staff should be filed by October 25, 2016. The Entry also scheduled a prehearing conference and an evidentiary hearing to occur on November 1, 2016, and November 8, 2016, respectively.

{¶ 9} On October 24, 2016, Staff filed a motion to suspend the remaining procedural schedule until further notice, along with a request for expedited treatment. In the memorandum in support of the motion, Staff requests that the procedural schedule be suspended, in order to allow Staff to engage in settlement discussions with the parties in an effort to reach a global settlement that resolves all of the issues. Staff notes that it will immediately report any change in the status of the settlement negotiations to the attorney examiner, in the event that further process or scheduling is

needed in these cases. Staff also requests, pursuant to Ohio Adm.Code 4901-1-12(C), an expedited ruling on the motion. Staff states that it is unable to certify that no party objects to the issuance of an expedited ruling.

{¶ 10} AEP Ohio filed correspondence in response to Staff's motion on October 24, 2016. AEP Ohio states that, although it supports Staff's request for time to pursue a settlement agreement, the Company does not agree that it is necessary to suspend the procedural schedule indefinitely. AEP Ohio, therefore, requests that the current procedural schedule be extended by two or three weeks, in order to ensure that a timely process remains in place for litigation of the issues in the event that a settlement agreement is not reached.

{¶ 11} The Ohio Consumers' Counsel (OCC) filed a memorandum contra Staff's motion on October 25, 2016. OCC asserts that Staff has not shown good cause for its motion. In particular, OCC contends that Staff's request for an indefinite suspension of the procedural schedule would further delay the implementation of the Ohio Supreme Court's decisions, which, according to OCC, should be promptly implemented to reduce the rates of AEP Ohio's customers. OCC also notes that, because testimony has already been filed by AEP Ohio, OCC, and the Ohio Energy Group, Staff should be required to file its testimony on October 25, 2016, in order to facilitate the parties' settlement efforts. OCC concludes that Staff's motion should be denied, because settlement negotiations can continue along with the existing procedural schedule.

{¶ 12} The attorney examiner finds that Staff's request for additional time to pursue a settlement agreement is reasonable and should be granted, in part, pursuant to Ohio Adm.Code 4901-1-12(F). Specifically, the attorney examiner finds that the prehearing conference set to take place on November 1, 2016, should occur, as scheduled. At the prehearing conference, the parties and Staff should be prepared to discuss the remaining procedural schedule, including a deadline for the filing of Staff's

testimony and a date for the evidentiary hearing, which will be established by subsequent entry.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That Staff's motion for a suspension of the procedural schedule be granted, in part, as set forth in Paragraph 12. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

JRJ/sc

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Case No(s). 10-2929-EL-UNC, 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Attorney Examiner Entry granting Staff's motion in part to suspend the procedural schedule as set forth in Paragraph 12. - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio