

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio       )  
Power Company to Update Its Enhanced       ) Case No. 17-1914-EL-RDR  
Service Reliability Rider.                       )

---

**INITIAL POST-HEARING BRIEF  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

Bruce Weston (0016973)  
Ohio Consumers' Counsel

William J. Michael, (0070921)  
Counsel of Record  
Ambrosia E. Logsdon (0096598)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: [Michael] (614) 466-1291  
Telephone: [Logsdon] (614) 466-1292  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[ambrosia.logsdon@occ.oh](mailto:ambrosia.logsdon@occ.oh)  
(Will accept service via email)

June 27, 2019

## **TABLE OF CONTENTS**

	<b>PAGE</b>
I. INTRODUCTION .....	1
II. BACKGROUND .....	2
III. STANDARD OF REVIEW .....	4
IV. RECOMMENDATIONS.....	6
A. The PUCO should consider AEP’s current reliability performance and disallow its request for additional funding because its proposal is inconsistent with the terms of the order, including the spending cap, approving the 2016 tree-trimming rider.....	6
1. The PUCO should disallow the total amount of \$3,428,508 from AEP’s original request because its spending is not consistent with the terms of the orders approving the Electric Service Reliability Rider.....	7
2. Ohio law requires that every public utility furnish necessary and adequate service and facilities, and that all charges for any service be just and reasonable. ....	8
B. Under O.A.C. 4901-10-30, the PUCO should enforce reliability standards against AEP.....	11
1. AEP has failed to comply with the minimum reliability performance standards established under OAC 4901:1-10-10. ....	11
2. Consumers are not receiving the reliability benefits associated with the proactive four-year cycle-based tree-trimming program as required by O.A.C. 4901:1-10-26 and O.A.C. 4901:1-10-27. ....	14
V. CONCLUSION.....	18

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio                    )  
Power Company to Update Its Enhanced                    ) Case No. 17-1914-EL-RDR  
Service Reliability Rider.                                    )

---

**INITIAL POST-HEARING BRIEF  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

**I. INTRODUCTION**

The Public Utilities Commission of Ohio (“PUCO”) approved Ohio Power Company’s (“AEP”) Enhanced Service Reliability Rider (“tree-trimming rider”) allowing it to charge customers additional money for alleged incremental tree-trimming costs. The expectation for this vegetation management program proposed by AEP and funded by the tree-trimming rider was for AEP to perform end-to-end tree-trimming of its distribution system every four years.

But AEP has failed to meet the required, proactive four-year cycle-based tree-trimming program. Despite significant costs to consumers and spending by AEP, the number of tree-caused outages have increased substantially since the tree-trimming rider was initiated in 2009. Regrettably, AEP’s reliability performance has not met the minimum PUCO reliability standards. And this all while spending more than the PUCO authorized it to spend in 2016.

As explained by OCC’s expert witnesses, Mr. James Williams and Mr. Jeffrey Hecker, certain 2016 tree-trimming expenses should not be recovered under the tree-trimming rider. AEP’s spending in 2016 substantially exceeded the cap on the tree-trimming rider set by the PUCO.

The tree-trimming rider should be discontinued immediately (or at the latest, after AEP's next distribution base rate case in June 2020). It has not resulted in increased reliability. And there is no reason why the costs associated with AEP's tree-trimming program should not be integrated in base rates during the next distribution rate case in 2020.

## **II. BACKGROUND**

The PUCO initially approved the tree-trimming rider in AEP's first Electric Security Plan ("ESP") in 2009.<sup>1</sup> It was supposed to support a proactive four-year cycle-based tree-trimming program combined with performance-based incentive mechanisms authorized under R.C. 4928.143(B)(2)(h). The program is funded through collections from customers in base rates - \$10,401,813 for 2009-2011 and \$24,200,000 for 2012-2016.<sup>2</sup> The tree-trimming rider was intended to collect from customers the yearly incremental tree trimming expenditure –those expenses above and beyond the amounts already included in customers' base rates.

The transition to the proactive four-year cycle vegetation management was expected to take five years to complete.<sup>3</sup> In approving the initial tree-trimming rider, the PUCO found that AEP had demonstrated that the tree-trimming rider would improve the customer's overall electric service experience by reducing or eliminating momentary

---

<sup>1</sup> *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets.*, Case 08-917-EL-SSO (March 18, 2009), pages 31-34.

<sup>2</sup> From the Schedule 1 provided with AEP Ohio's yearly ESRR applications.

<sup>3</sup> Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order (March 18, 2009) at 33.

interruptions and sustained outages caused by vegetation.<sup>4</sup> The tree-trimming rider was not limited to tree-trimming within the right-of-way. It also included removal of dangerous trees outside the right-of-way.<sup>5</sup>

After the initial five years, AEP requested in its second ESP to extend the tree-trimming rider for an additional three years.<sup>6</sup> The PUCO granted AEP's request.<sup>7</sup> Then, in AEP's most recent ESP, the tree-trimming rider was extended yet again by another three years.<sup>8</sup> The tree-trimming rider that was intended to support a five-year transition to a four-year trim cycle has morphed into an 11-year charge that has become a permanent source of revenue for AEP.

The PUCO has concluded that while the electric security plan statutes might permit single issue ratemaking in an ESP, there was no intent to provide electric utilities with a "blank check" to perform these initiatives, including the vegetation management program funded in part by the tree-trimming rider.<sup>9</sup> Unfortunately for consumers, this appears to be how AEP is managing the costs associated with the tree-trimming rider – with a blank check written by AEP's customers.

From 2009 to 2016, AEP has collected \$231.2 million<sup>10</sup> in vegetation management costs in addition to the yearly amount customers already pay for tree

---

<sup>4</sup> *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets.*, Case 08-917-EL-SSO (March 18, 2009), pages 31-34.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at page 32.

<sup>10</sup> From the sum of the Schedule 1 amounts in AEP's yearly ESRR applications.

trimming in base rates. AEP's base rates in 2016 include approximately \$20.6 million in Operating and Maintenance ("O&M") charges and about \$3.6 million in capital related costs for vegetation management.<sup>11</sup> In its third ESP, AEP was approved to collect annually through the tree-trimming rider up to \$25 million for O&M expenses and no more than \$1 million for capital investment, above the amount in base rates.<sup>12</sup>

This means that AEP can spend up to a cap of \$50.2 million on a yearly basis for tree trimming and other vegetation management purposes and not exceed the tree-trimming rider expenditure caps previously approved by the PUCO in AEP's prior ESPs.<sup>13</sup> Despite all of this spending, the vegetation management spending is having little, if any, impact on improving customer reliability.

### **III. STANDARD OF REVIEW**

The ultimate question to be answered is whether, in light of the record, AEP's proposals for updating its 2016 tree-trimming rider rates are just and reasonable,<sup>14</sup> and comply with Ohio law.<sup>15</sup>

---

<sup>11</sup> *In re the Application of the Ohio Power Company to Update its Enhanced Service Reliability Rider*, Case 17-1914-EL-RDR, Direct Testimony of Jeffrey P. Hecker on Behalf of the Ohio Consumers' Counsel at 4:13-15 ("Hecker Direct").

<sup>12</sup> *In re matter of the application of Ohio Power Company for authority to establish a standard service*, Case No. 13-2385-EL-SSO Opinion and Order at 47 (February 25, 2015).

<sup>13</sup> *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan.*, Case No. 08-918-EL-SSO, Opinion and Order (March 18, 2009); *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 11-346-EL-SSO et al., Opinion and Order (August 8, 2012); *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 13-2385-EL-SSO et al, Opinion and Order (February 25, 2015); *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 16-1852-EL-SSO et al, Opinion and Order (April 25, 2018).

<sup>14</sup> R.C. 4905.22.

<sup>15</sup> R.C. 4928.

First, AEP must show that its spending is consistent with the terms of the orders approving<sup>16</sup> the tree-trimming rider.<sup>17</sup> As OCC shows below, Ohio Power does not meet this standard.

Second, R.C. 4905.22 requires that every public utility furnish necessary and adequate service and facilities, and that all charges for any service must be just and reasonable. AEP, as the applicant, bears the burden of proof.<sup>18</sup>

Finally, under OAC 4901:1-10-30, AEP is required to comply with the Reliability Performance Standards under OAC 4901:1-10-10, 4901:1-10-26, 4904:1-10-27. Despite spending over \$26 million dollars,<sup>19</sup> AEP has failed to comply with its proactive four-year cycle-based tree-trimming program.<sup>20</sup>

---

<sup>16</sup> *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan.*, Case No. 08-918-EL-SSO, Opinion and Order (March 18, 2009); *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 11-346-EL-SSO et al., Opinion and Order (August 8, 2012); *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 13-2385-EL-SSO et al, Opinion and Order (February 25, 2015); *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 16-1852-EL-SSO et al, Opinion and Order (April 25, 2018).

<sup>17</sup> R.C. 4928.143; R.C. 4905.54 (“Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission...”).

<sup>18</sup> *See* R.C. 4905.22 (“All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission.”).

<sup>19</sup> Williams’ Direct at 7-8.

<sup>20</sup> System Improvement Plan Reports filed pursuant to Ohio Adm. Code 4901:1-10-26 in Case No.’s 10-996-EL-ESS, 11-996-EL-ESS, 12-996-EL-ESS, 13-996-EL-ESS, 14-996-EL-ESS, 15-996-EL-ESS, 16-996-EL-ESS, 17-996-EL-ESS, 18-996-EL-ESS, and 19-996-EL-ESS.

#### IV. RECOMMENDATIONS

- A. The PUCO should consider AEP's current reliability performance and disallow its request for additional funding because its proposal is inconsistent with the terms of the order, including the spending cap, approving the 2016 tree-trimming rider.**

In its most recent rider update filing, AEP proposed a collection from customers of \$33,379, 649, which consists of \$28.1 million in operations and management costs and \$5.3 million in capital related expenditures (the carrying charged for capital investments made in 2016 and prior years). This is an additional \$3,428,508 above what the PUCO approved in AEP's last rate case.<sup>21</sup>

As OCC expert witness Hecker testified, OCC agrees with Staff's recommendation that AEP should be held to the forecasted O&M expenses of \$25 million and \$1 million of capital expenditures – the cap set by the PUCO.<sup>22</sup> According to OCC witness Hecker, when past over-recoveries are factored in, the amount of collections from customers OCC recommends is \$5,759,255, which is consistent with PUCO Staff's recommendation.<sup>23</sup> Mr. Hecker points out that although these tree-trimming charges have continued far beyond the original expiration period envisioned in the electric security plans, service quality to consumers has actually deteriorated, as explained further by OCC Witness Williams' testimony.<sup>24</sup>

---

<sup>21</sup> Case No.13-2385-EL-SSO Opinion and Order (February 25, 2015) at 47.

<sup>22</sup> Hecker Direct at 8:9-10; *In re the Application of the Ohio Power Company to Update its Enhanced Service Reliability Rider*, Case 17-1914-EL-RDR, Updated Review and Recommendations of the Staff of the Public Utilities Commission of Ohio.

<sup>23</sup> *Id.* at 8:12.

<sup>24</sup> *Id.* at 8:13-14.



To approve a collection from customers above \$5.7 million is unreasonable and inconsistent with the terms of the order approving AEP's most recent electric security plan.<sup>25</sup> Consumers have already been paying millions of dollars over eleven years only to see service quality worsen. Therefore, the PUCO should not allow AEP to charge consumers above the cap set by the PUCO and collected from customers in base rates.

**1. The PUCO should disallow the total amount of \$3,428,508 from AEP's original request because its spending is not consistent with the terms of the orders approving the Electric Service Reliability Rider.**

As OCC witness Hecker explained, AEP proposes to collect from customers \$33,379,649, which consists of approximately \$28.1 million in O&M charges and \$5.3 million in capital-related expenditures (specifically, the carrying charges for capital investments made in 2016 and prior years).<sup>26</sup> Mr. Hecker further explained that when accounting for over-collections from prior years and carrying charges, the total collection for customers requested for this case is \$9,187,763, which would equal 1.44775% of base distribution revenue.<sup>27</sup>

OCC Witness Hecker agreed with Staff's calculation of a collection from customers of \$5,759,255, which was recommended in Staff's March 29, 2019 comments.<sup>28</sup> Mr. Hecker calculated that Staff's adjustment represents a reduction of \$3,428,508 from AEP's request.<sup>29</sup> Disagreeing with AEP witness Andrea Moore,<sup>30</sup> who

---

<sup>25</sup> *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan*, Case No. 16-1852-EL-SSO et al, Opinion and Order (April 25, 2018).

<sup>26</sup> Hecker Direct at 5:8-11.

<sup>27</sup> *Id.* at 5:13.

<sup>28</sup> Case 17-1914-EL-RDR, Staff's Updated Review and Recommendations.

<sup>29</sup> Hecker Direct at 5:19 (\$9,187,763 - \$5,759,255 = \$3,428,508).

<sup>30</sup> *Id.* at 6:20-21, 7:1-2.

asserts that there is no cap on AEP's tree-trimming rider spending except for the check of a "prudence" review,<sup>31</sup> OCC witness Hecker pointed out that "prudence" necessitates "careful" and "responsible" actions. There would be neither careful nor responsible actions – or prudent expenditures – without a cap.<sup>32</sup> Therefore, Mr. Hecker testified, he agrees with Staff that without some control (a cap), AEP has what the PUCO has called a "blank check" to spend whatever it wants.<sup>33</sup>

OCC witness Hecker concluded that AEP should be allowed to collect only those vegetation management expenditures (including O&M expenses and carrying charges on capital investments) under the caps previously approved by the PUCO., This includes O&M expenses of \$25 million and capital expenditures of \$1 million.<sup>34</sup> No more.

**2. Ohio law requires that every public utility furnish necessary and adequate service and facilities, and that all charges for any service be just and reasonable.**

AEP has not provided necessary and adequate service for just and reasonable charges. It has greatly exceeded the cap set by the PUCO. Therefore, to protect consumers, the PUCO should disallow the total amount of \$3,428,508 from AEP's requested 2016 collection from customers. The PUCO should discontinue the Enhanced Service Stability Rider immediately (or at the latest, in AEP's next rate case) because the rates are not just and reasonable as required by R.C. 4905.22.

---

<sup>31</sup> *Id.* at 6:20-21; *In re the Application of the Ohio Power Company to Update its Enhanced Service Reliability Rider*, Case 17-1914-EL-RDR, Direct Testimony of Andrea E. Moore on Behalf of the Ohio Power Company at 4 ("Moore Direct").

<sup>32</sup> Hecker Direct at 6:4-5.

<sup>33</sup> Case 17-1914-EL-RDR, Staff Response Regarding Reply Comments of Ohio Power Company.

<sup>34</sup> Hecker Direct at 8:9-11.

OCC expert witness Mr. James Williams explained that AEP is required to file a distribution rate case by June 1, 2020.<sup>35</sup> As Mr. Williams pointed out, that rate case provides the opportunity for AEP to establish new base rates that include the reasonable costs to provide an effective vegetation management program without separate incremental funding through the tree-trimming rider.<sup>36</sup> The rate case also provides the opportunity for a full examination of revenues and expenses to help ensure that customers are charged just and reasonable rates for electric service.<sup>37</sup>

Consequently, Mr. Williams testified that his principal recommendation is that the PUCO discontinue the tree-trimming rider because it has resulted in more charges to consumers all the while customers are receiving inadequate service..<sup>38</sup> Mr. Williams testified that if the PUCO determines that the tree-trimming rider should continue (it should not), then he alternatively recommends that the tree-trimming rider be discontinued after the next rate case.<sup>39</sup>

OCC witness Williams also explained that AEP's current vegetation management program is funded in part through base rates and through multiple riders.<sup>40</sup> This funding method impedes the ability to determine the effectiveness of the overall tree-trimming

---

<sup>35</sup> *In re the Application of the Ohio Power Company to Update its Enhanced Service Reliability Rider*, Case 17-1914-EL-RDR, Direct Testimony of James D. Williams on Behalf of the Ohio Consumers' Counsel at 13:3 ("Williams Direct").

<sup>36</sup> Williams Direct at 13:13-14.

<sup>37</sup> *Id.*

<sup>38</sup> Williams Direct at 8:16-17.

<sup>39</sup> *Id.*

<sup>40</sup> Williams Direct at 13:13-14. (AEP claims that the tree-trimming rider primarily supports trimming trees inside the right of way, and that outages caused by trees outside the right of way are funded through the DIR). Moore Direct at 11-12.

program.<sup>41</sup> Mr. Williams gave an example to illustrate this point. Although AEP claims that the tree-trimming rider primarily supports trimming trees *inside* the right of way,<sup>42</sup> the scope of the tree-trimming rider and the vegetation management plan includes requirements for tree-trimming *outside* the right of way.<sup>43</sup> Yet, Mr. Williams points out, AEP claims that outages caused by trees outside the right of way are funded through the Distribution Improvement Rider.<sup>44</sup> As Mr. Williams describes it, this shell game that AEP is playing has resulted in customers paying for tree-trimming through base rates and in multiple riders and has proven ineffective in reducing tree-caused outages.<sup>45</sup>

OCC witness Mr. Hecker also recommends that the PUCO discontinue the tree-trimming rider.<sup>46</sup> Mr. Hecker demonstrated that the tree-trimming rider is a failed experiment.<sup>47</sup> It was intended to allow AEP to charge customers for its expenditures to convert from a reactive vegetation management program to a proactive four-year, cycle-based distribution vegetation management program.<sup>48</sup> Mr. Hecker emphasizes that the implementation of the proactive program (and the tree-trimming rider) has already been extended twice and explained that what started as a rider to implement a four-year, cycle-based vegetation management program has morphed into a permanent source of extra revenue for AEP.<sup>49</sup> Mr. Hecker concluded that although tree-trimming costs are an

---

<sup>41</sup> *Id.*

<sup>42</sup> Direct Testimony of Ms. Moore (April 18, 2019) at 10.

<sup>43</sup> Williams Direct at 13:6-7.

<sup>44</sup> Direct Testimony of Ms. Moore (April 18, 2019) at 11.

<sup>45</sup> Williams Direct at 13:10.

<sup>46</sup> Hecker Direct at 8:17-18.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

integral part of providing safe and reliable electric service, they should be addressed in base rate proceedings where all distribution related revenues and expenses are examined simultaneously to ensure that rates being charged to customers are just and reasonable as required by R.C. 4909.15(A).<sup>50</sup>

The PUCO should also discontinue the tree-trimming rider. It has resulted in extra charges on customers all for inferior service quality. This results in rates that are not just and reasonable as required by R.C. 4905.22 and harms consumers.

**B. Under O.A.C. 4901-10-30, the PUCO should enforce reliability standards against AEP.**

**1. AEP has failed to comply with the minimum reliability performance standards established under OAC 4901:1-10-10.**

AEP has not complied with the minimum reliability performance standards under O.A.C. 4901:1-10-10 due to its failure to comply with its tree-trimming requirements. AEP is required to meet the minimum reliability performance standards established under Ohio Adm. Code 4901:1-10-10.<sup>51</sup> The two minimum performance standards in Ohio are the System Average Interruption Frequency Index (“SAIFI”) and Customer Average Interruption Duration Index (“CAIDI”).<sup>52</sup> AEP did not meet these minimum performance standards for 2018.<sup>53</sup> Therefore, the PUCO should enforce its reliability performance standards under O.A.C. 4901:1-10-30, which provides the consequences for failure to comply with PUCO rules, standards, or orders.

---

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *In the Matter of the Annual Report of Electric Distribution System Reliability Pursuant to Rule 4901:1-10-10(C)*, Case No. 19-0992-EL-ESS (March 29, 2019) at 2.

Mr. Williams explained that SAIFI measures the average number of outages that customers will experience in a year.<sup>54</sup> He further explained that CAIDI measures the average duration of outages or the average duration of time to restore service.<sup>55</sup> A lower SAIFI value indicates better reliability performance and service quality for customers, while a higher CAIDI value indicates consumers are receiving less reliable service..<sup>56</sup>

AEP filed its most recent maintenance repair and inspection program that includes vegetation control in Case No. 15-2071-EL-ESS.<sup>57</sup> As OCC witness Williams testified, the vegetation management work plan specifically identifies tree-trimming requirements both inside and outside the right of way.<sup>58</sup> Additionally, the work plan requires AEP to proactively reduce outages caused by infested ash trees that are generally outside the normally cleared right-of-way.

As OCC witness Williams testified, for 2018, AEP was required to maintain minimum performance standards for SAIFI of 1.19 and for CAIDI of 149.00 minutes.<sup>59</sup> But AEP's actual performance for 2018 was a SAIFI of 1.3 and a CAIDI of 150.32 minutes.<sup>60</sup> Therefore, Mr. Williams concluded, AEP failed to maintain minimum reliability performance for 2018.<sup>61</sup> He explained that this means customers experienced

---

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Williams Direct at 12:9.

<sup>58</sup> *Id.*

<sup>59</sup> In the Matter of the Annual Report of Electric Distribution System Reliability Pursuant to Rule 4901:1-10-10(C). Case No. 19-0992-EL-ESS (March 29, 2019) at 2.

<sup>60</sup> Williams Direct at 5:3.

<sup>61</sup> *Id.* at 5:3-4.

more outages and for much longer periods of time than permitted by the PUCO minimum distribution reliability performance standards.<sup>62</sup>

Mr. Williams further testified<sup>63</sup> that as a result of tree caused outages, there were 7,503 outage events across the AEP service territory resulting in 416,672 customers being interrupted for over 98.4 million minutes.<sup>64</sup> Importantly, Mr. Williams explained that tree caused outages are having a significant negative impact on distribution reliability performance.<sup>65</sup> This is despite the hundreds of millions of dollars were charged to consumers through the tree-trimming rider (and other single-issue ratemaking riders) that are intended to improve reliability performance.<sup>66</sup> Ironically, says Mr. Williams, AEP is arguing in this proceeding that there are no limits on the amount of money that it can spend on the tree-trimming rider,<sup>67</sup> even though it is providing inadequate service to its customers.<sup>68</sup>

As Mr. Williams explained, failure to meet the same reliability performance standard for two years in a row constitutes a violation of Ohio Adm. Code 4901:1-10-10(E).<sup>69</sup> Therefore, if AEP fails to meet either the CAIDI or SAIFI standard in 2019,

---

<sup>62</sup> Williams Direct at 5:5.

<sup>63</sup> Williams Direct at 5:11.

<sup>64</sup> Moore Direct at 25 (The data excludes outages that are associated with major events and transmission outages).

<sup>65</sup> Williams Direct at 5:11-12.

<sup>66</sup> Moore Direct at 10-13.

<sup>67</sup> Moore Direct at 7-8.

<sup>68</sup> Williams Direct at 5:17.

<sup>69</sup> Moore Direct at 10-13.

OCC urges the PUCO to protect consumers by enforcing the rules as provided in Ohio Adm. Code 4901:1-10-30.<sup>70</sup>

Customers have been and are charged hundreds of millions of dollars through the tree-trimming rider and other riders to improve reliability.<sup>71</sup> Accordingly, Mr. Williams explained that there must be consequences for failing to provide the reliability and quality of service customers are paying for.<sup>72</sup> Based on Mr. Williams' testimony, if AEP again fails to comply with reliability performance standards in 2019, the PUCO should use O.A.C. 4901:1-10-30 to enforce its rules. O.A.C. 4901:1-10-30 provides that any failure of an electric utility to comply with the rules and standards in Chapter 10, or with any Commission order, direction, or requirement may result in the utility's forfeiture of not more than ten-thousand dollars for each failure, per day.<sup>73</sup>

**2. Consumers are not receiving the reliability benefits associated with the proactive four-year cycle-based tree-trimming program as required by O.A.C. 4901:1-10-26 and O.A.C. 4901:1-10-27.**

As OCC witness Williams testified,<sup>74</sup> AEP is required by Ohio Administrative Code 4901:1-10-26 to file an Annual System Improvement Plan Report that contains compliance reporting for the particular inspection, maintenance, repair, and replacement programs that are required by Ohio Administrative Code 4901:1-10-27.<sup>75</sup> Mr. Williams

---

<sup>70</sup> Williams Direct at 6:4.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> O.A.C. 4901:1-10-30.

<sup>74</sup> *Id.* at 7-8.

<sup>75</sup> Ohio Adm. Code 4901:1-10-26(B)(3)(f).



provided a summary of AEP's compliance with its four-year cycle-based vegetation management program between 2009 and 2018.<sup>76</sup>

Year	Compliance with tree-trimming rider Requirements <sup>77</sup>
2009	Yes
2010	Yes
2011	No
2012	No
2013	Yes
2014	Yes
2015	No
2016	No
2017	No
2018	No

Mr. Williams explained that AEP was complying with the proactive four-year cycle-based tree-trimming program during the early years of the tree-trimming rider.<sup>78</sup> In fact, AEP was even trimming more circuit miles on an annual basis than the minimum requirements under the program.<sup>79</sup> But as Mr. Williams points out, since 2015 AEP has not complied with the proactive four-year cycle-based tree-trimming program.<sup>80</sup>

---

<sup>76</sup> Williams Direct at 7:20.

<sup>77</sup> System Improvement Plan Reports filed pursuant to Ohio Adm. Code 4901:1-10-26 in Case No.'s 10-996-EL-ESS, 11-996-EL-ESS, 12-996-EL-ESS, 13-996-EL-ESS, 14-996-EL-ESS, 15-996-EL-ESS, 16-996-EL-ESS, 17-996-EL-ESS, 18-996-EL-ESS, and 19-996-EL-ESS.

<sup>78</sup> Williams Direct at 8:3.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

Mr. Williams summarizes AEP claims<sup>81</sup> that there are budget constraints, changes in work plan mileage, availability and cost for maintaining a qualified work force, work force redirection, and prior year carryover mileage as the reasons for non-compliance.<sup>82</sup>

But Mr. Williams explained that these factors are not reasonable because each of them are well within the control of AEP.<sup>83</sup> For example, AEP controls when there are changes in work plan mileage, redirections, and carryover mileage from one year to the next.<sup>84</sup> Regarding the claimed budget constraints, AEP collects money from customers for tree-trimming through base distribution rates, the tree-trimming rider, and the DIR.<sup>85</sup> The bottom line is that vast amounts of customer money are being poured into AEP to supposedly manage an effective tree-trimming program.<sup>86</sup> Yet tree-caused outages have increased substantially since 2009 and AEP has not met its four-year trim cycle.

Mr. Williams also described the increase in tree-caused outages between 2009 and 2018 and the impact it is having on AEP customers.<sup>87</sup> AEP is required by Ohio Administrative Code 4901:1-10-10 to file an annual report (the “Rule 10 Report”) of the distribution system’s reliability performance.<sup>88</sup> Mr. Williams provided a summary of the number of tree-caused outages, number of customers interrupted, and customer minutes interrupted for each year between 2009 and 2018.<sup>89</sup> Mr. Williams explained that the

---

<sup>81</sup> Moore Direct at 10-11.

<sup>82</sup> Williams Direct at 8:6-7.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Williams Direct at 10.

<sup>88</sup> *Id.* at 11.

<sup>89</sup> *Id.*

reliability performance data in the summary excludes outage events and the impact on customers during major storm events or other significant major events that can impact the reliability performance of the distribution system.<sup>90</sup>

<b>Year</b>	<b>Interruptions</b>	<b>Customers Interrupted</b>	<b>Customer Interruption Minutes</b>	<b>Average Interruption Duration<sup>91</sup> (Minutes)</b>
2009 <sup>92</sup>	5,876	261,804	54,716,513	209
2010	6,336	274,163	57,840,607	211
2011	7,003	312,118	69,624,736	223
2012	5,490	250,943	51,227,123	204
2013	4,845	213,659	46,485,876	218
2014	4,568	201,716	46,545,188	231
2015	4,852	223,697	45,262,937	204
2016 <sup>93</sup>	5,083	257,540	51,219,163	199
2017 <sup>94</sup>	6,449	313,173	68,222,667	218
2018 <sup>95</sup>	7,387	411,100	97,681,526	238

Based on the foregoing data, Mr. Williams testified that there were over 1,500 more outage events in 2018 compared with 2009 when the tree-trimming rider was initiated.<sup>96</sup> There were over 149,000 more customer interruptions in 2018 compared with the interruptions in 2009.<sup>97</sup> Customers that were interrupted in 2018 experienced almost 43 million more minutes of interruption compared with interruptions in 2009.<sup>98</sup> Mr.

---

<sup>90</sup> *Id.*

<sup>91</sup> Customer Interruption Minutes/ Customers Interrupted.

<sup>92</sup> AEP Ohio Response to OCC INT-1-149 and OCC INT-1-150 for 2009 through 2015 in Case No. 16-1852-EL-SSO (attached herein as JDW-3). Pending discovery request with AEP Ohio requesting this data for 2009 through 2018.

<sup>93</sup> *In the Matter of the Annual Report of Electric Distribution System Reliability Pursuant to Rule 4901:1-10-10(C)*, Case No. 17-890-EL-ESS (March 31, 2017) at 6a.

<sup>94</sup> *Id.*

<sup>95</sup> *In the Matter of the Annual Report of Electric Distribution System Reliability Pursuant to Rule 4901:1-10-10(C)*, Case No. 19-992-EL-ESS (March 29, 2019) at 6a.

<sup>96</sup> Williams Direct at 11:4.

<sup>97</sup> *Id.* at 11:5.

<sup>98</sup> *Id.*

Williams concluded that average interruption durations increased from 209 minutes in 2009 to approximately 238 minutes in 2018. This is a stark contrast to the outage duration information that is presented by AEP that attempts to minimize the customer impact of tree-caused outages.<sup>99</sup>

OCC recommends that the PUCO find that consumers are not receiving the reliability benefits associated with the proactive four-year cycle-based tree-trimming program as required by O.A.C. 4901:1-10-26 and O.A.C. 4901:1-10-27. This is unreasonable, does not comply with Ohio law, and is not in the public interest.

## **V. CONCLUSION**

AEP has failed to comply with Ohio law and PUCO orders by spending above its approved cap by more than \$3.4 million. The PUCO should disallow this amount as recommended by PUCO Staff and the OCC.

AEP has also failed to maintain the proactive four-year cycle-based tree-trimming program that it was required to maintain, and customers have been asked to pay for when the PUCO approved the tree-trimming rider. Despite significant spending by AEP and cost to consumers, the number of tree-caused outages have increased substantially since the tree-trimming rider was initiated in 2009. AEP has failed to comply with the reliability standards for the past several years.

---

<sup>99</sup> Moore Direct at 12, Figure 2.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Ambrosia E. Logsdon  
William J. Michael, (0070921)  
Counsel of Record  
Ambrosia E. Logsdon, (0096598)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7<sup>th</sup> Fl.  
Columbus, Ohio 43215  
Telephone: [Michael] (614) 466-1291  
Telephone: [Logsdon] (614) 466-1292  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[Ambrosia.Logsdon@occ.ohio.gov](mailto:Ambrosia.Logsdon@occ.ohio.gov)  
(Will accept service via email)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Initial Post-Hearing Brief was served on the persons stated below via electronic service, this 27th day of June, 2019.

*/s/ Ambrosia E. Logsdon*  
Ambrosia E. Logsdon  
Assistant Consumers' Counsel

### **SERVICE LIST**

[Werner.margard@ohioattorneygeneral.gov](mailto:Werner.margard@ohioattorneygeneral.gov)

[stnourse@aep.com](mailto:stnourse@aep.com)  
[cblend@aep.com](mailto:cblend@aep.com)

Attorney Examiners:

[Sarah.parrot@puco.ohio.gov](mailto:Sarah.parrot@puco.ohio.gov)  
[Greta.see@puco.ohio.gov](mailto:Greta.see@puco.ohio.gov)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/27/2019 4:05:02 PM**

**in**

**Case No(s). 17-1914-EL-RDR**

Summary: Brief Initial Post-Hearing Brief by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Logsdon, Ambrosia E.