

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Columbus Southern Power Company and )  
Ohio Power Company to Adjust Each ) Case No. 06-1294-EL-UNC  
Company's Transmission Cost Recovery )  
Rider. )

ENTRY

The Attorney Examiner finds:

- (1) On October 26, 2006, Columbus Southern Power Company (Columbus Southern) and Ohio Power Company (Ohio Power) (jointly Companies or AEP-Ohio) filed an application for approval to adjust each company's Transmission Cost Recovery Rider (TCRR).<sup>1</sup> The application proposes to reduce Ohio Power's TCRR by approximately 30 percent and to reduce Columbus Southern's TCRR by approximately 25 percent. The application also includes various work papers that the Companies were directed to file pursuant to the Commission's decision establishing a biennial audit process in Case No. 06-273-EL-UNC (06-273), *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust the Transmission Component of Each Company's Standard Service Tariff to Combine that Component With its Transmission Cost Recovery Rider*.
- (2) On November 9, 2006, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene on behalf of AEP-Ohio's residential customers. OCC contends that residential customers may be adversely affected by the approval of this application. Further, OCC argues that granting its request for intervention will not unduly delay or prolong the processing of

<sup>1</sup> The Commission approved Columbus Southern Power Company's and Ohio Power Company's application to adjust their respective transmission charges in Case No. Case No. 04-169-EL-UNC (04-169), *In the Matter of the Application of The Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan* (Order issued January 26, 2005) and approved the implementation of the Transmission Cost Recovery Rider in Case No. 05-1194-EL-UNC (05-1194), *In the Matter of the Application of The Columbus Southern Power Company and Ohio Power Company to Adjust the Transmission Component of the Companies' Standard Service Tariffs to Reflect the Applicable FERC-Approved Charges or Rates Related to Open Access Transmission, Net Congestion and Ancillary Services* (Entry issued December 14, 2005).

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this case and that OCC will significantly contribute to the full development and equitable resolution of the issues raised. Accordingly, OCC requests intervention in this matter.

- (3) On November 22, 2006, AEP-Ohio filed a memorandum contra OCC's motion to intervene. AEP-Ohio notes that the process for the TCRR was authorized in 05-1194 and refined in 06-273. AEP-Ohio asserts that while it is not explicitly stated in the Order, the Commission did not contemplate a hearing as a part of the TCRR audit process. AEP-Ohio notes that OCC filed for intervention in 06-273 and the request was denied by the Commission because a hearing was not necessary to consider OCC's comments and arguments. Further, the Companies argue that consistent with Commission's precedent, unless a hearing is initiated by the Commission in this case, OCC's request for intervention should be denied.
- (4) On December 4, 2006, OCC filed a reply to the Companies' memorandum contra. OCC argues, among other things, that AEP-Ohio has not refuted that OCC has met the criteria for intervention as set forth in Section 4903.221(B), Revised Code. Further, OCC states that it requests intervention to be considered a party to this proceeding to file comments, conduct discovery, receive documents and to participate in any discussions. Further, OCC contends that AEP-Ohio's assertion that a hearing is not contemplated is misplaced. OCC notes that the process implemented in this proceeding allows for the suspension of the automatic approval process if issues are not resolved and for a hearing, if necessary. Thus, OCC request that the motion for intervention be granted.
- (5) In a recent decision the Ohio Supreme Court raised concerns regarding the denial of intervention. While acknowledging that in previous decisions the Court had concluded there was no right to intervene in cases if the Commission was not required to hold a hearing, in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384 (2006) (*Ohio Consumers' Counsel*), the Court stated:

Even if no hearing was scheduled or contemplated when the Consumers' Counsel sought to intervene, her motions and accompanying memoranda properly addressed

the relevant criteria of R.C. 4903.221. In our view, whether or not a hearing is held, intervention ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the PUCO.

OCC has demonstrated a real and substantial interest in the TCRR proceeding and no other party to the proceeding will adequately represent those interests. Further, OCC states, and the assigned attorney examiner agrees, that OCC's intervention will not cause undue delay nor unjustly prejudice existing parties. Further, OCC's participation in this proceeding will contribute to the just and expeditious resolution of the issues presented. Accordingly, based upon the Court's ruling in *Ohio Consumers' Counsel*, OCC's motion for intervention should be granted.

- (6) Pursuant to the TCRR review process established in 05-1194 and 06-273, Staff has 60 days to review financial aspects of the current application. If the financial review is not completed or issues develop that are not resolved by the end of the 60-day review period, in this case December 26, 2006, automatic approval of the updated TCRR rates may be suspended. OCC is directed to docket any issues or concerns with the financial review as soon as possible but by no later than December 19, 2006.

Additionally, although the adjusted TCRR rates may be permitted to go into effect, still pending before the Commission is the biennial audit of AEP-Ohio's management and operating processes. As discussed more fully in 06-273, the purpose of the biennial audit is to determine if the Companies are minimizing transmission costs that are within the Companies' control. Thus, the TCRR rates may be subject to further adjustment depending on the findings of the TCRR management and operating process audit.

It is, therefore,

ORDERED, That OCC's motion for intervention is granted. It is, further

ORDERED, That OCC file notice of any issues or concerns with the financial review as soon as possible but not later than December 19, 2006. It is, further,

ORDERED, That a copy of this entry be served upon AEP-Ohio and their counsel and all other interested persons of record in this case.

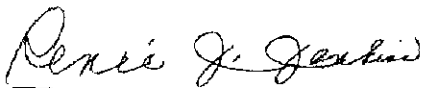
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: Greta See  
Attorney Examiner

RRG/vrm

Entered in the Journal

**DEC 08 2006**



Renee J. Jenkins  
Secretary