

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company for Authority to)
Recover Costs Associated with the Ultimate) Case No. 05-376-EL-UNC
Construction and Operation of an)
Integrated Gasification Combined Cycle)
Electric Generation Facility.)

ENTRY

The Attorney Examiner finds:

- (1) On March 18, 2005, Columbus Southern Power Company and Ohio Power Company (jointly, AEP-Ohio or Companies) filed an application for authority to recover \$23.7 million associated with the cost of the design, construction, and operation of an integrated gasification combined cycle (IGCC) electric generating facility to be built in Meigs County, Ohio.
- (2) On April 10, 2006, the Commission issued its opinion and order concluding that the Commission is vested with the authority to establish a mechanism for recovery of the costs related to the design, construction, and operation of an IGCC generating plant where that plant fulfills AEP-Ohio's provider of last resort (POLR) obligation. The April 10, 2006, order further approved the Phase I cost recovery mechanism included in the Companies' application.
- (3) Applications for rehearing of the April 10, 2006, order were timely filed by Industrial Energy Users-Ohio (IEU), FirstEnergy Solutions Corp. (FES), Direct Energy Services (Direct), The Ohio Energy Group (OEG) and the Office of the Ohio Consumers' Counsel (OCC).
- (4) By entry on rehearing issued June 28, 2006, the Commission denied each of the applications for rehearing. Further, the entry on rehearing conditioned the Commission's approval of the application, stating that: (a) all Phase I costs would be subject to subsequent audit(s) to determine whether such expenditures were reasonable and prudently incurred to construct the proposed IGCC facility; and (b) if the proposed

IGCC facility was not constructed and in operation within five years after the date of the entry on rehearing, all Phase I charges collected must be refunded to Ohio ratepayers with interest.

- (5) IEU, FES, and OCC appealed the Commission's decision to the Supreme Court of Ohio (Court). By decision issued March 13, 2008, the Court affirmed, in part, reversed, in part, and remanded the Commission's order. The Court affirmed the Commission's order to the extent that there may be merit to the Commission's regulation of the design, construction, and operation of the proposed generation facility as a distribution-ancillary service related to AEP-Ohio's POLR obligation. However, the Court concluded that the record did not support the Commission's regulation of a generation facility for distribution-ancillary services in support of the Companies' POLR obligation in this matter and remanded the case for further development of the record. The Court further declined to rule upon IEU's request for a refund of costs already collected from AEP-Ohio's customers stating that the matter was being remanded for further development of the record and the Commission's entry on rehearing included a conditional refund provision that remains in effect.
- (6) On September 17, 2008, OCC filed a motion on remand requesting that the Commission order AEP-Ohio to refund to customers, with interest, the revenues collected for the design, construction, and operation of the IGCC electric generation facility.
- (7) On October 2, 2008, AEP-Ohio filed a memorandum contra OCC's motion. AEP-Ohio argues, among other things, that the refund is not triggered until June 28, 2011, if at all, and only that portion of the revenues collected from Ohio customers that is transferable to other sites is subject to refund.
- (8) The Attorney Examiner notes that AEP-Ohio was issued a certificate for the construction, operation, and maintenance of the IGCC generation facility (Great Bend) by the Ohio Power Siting Board (Board) on April 23, 2007.¹ AEP-Ohio also opened

¹ *In the Matter of an Application of Columbus Southern Power Company and Ohio Power Company for a Certificate of Environmental Compatibility and Public Need to Construct an Electric Generation Facility in Meigs County, Ohio*, Case No. 06-30-EL-BGN, Opinion and Order (April 23, 2007).

a docket with the Board for an application to construct a transmission line to and from the Great Bend facility on February 14, 2006; however, to date, no application has been filed by AEP-Ohio.²

- (9) To provide the Commission with additional information, and to further develop the record in this matter, the Attorney Examiner believes it is imperative that AEP-Ohio provide a detailed statement outlining the status of the construction of the IGCC facility, including whether AEP-Ohio is engaged in a continuous course of construction on the IGCC facility. AEP-Ohio is directed to file its statement by February 7, 2009.

It is, therefore,

ORDERED, That AEP-Ohio file a statement by February 7, 2009, in accordance with Finding (9). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record in this matter.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Greta See
Attorney Examiner

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Entered in the Journal

FEB 08 2009



Renee J. Jenkins
Secretary

² In the Matter of an Application of Columbus Southern Power Company and Ohio Power Company for a Certificate of Environmental Compatibility and Public Need to Construct a 345-Kilovolt Transmission Line Loop for the Great Bend Integrated Gasification Combined Cycle Facility, Case No. 06-309-EL-BTX.