

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company to Adjust Their) Case No. 10-154-EL-RDR
Economic Development Cost Recovery)
Rider Pursuant to Rule 4901:1-38-08(A)(5),)
Ohio Administrative Code.)

FINDING AND ORDER

The Commission finds:

- (1) On February 8, 2010, Columbus Southern Power Company (CSP) and Ohio Power Company (OP) (collectively, AEP-Ohio or the Companies) filed an application to adjust their economic development cost recovery rider (EDR) rates. The Companies state that in accordance with the Commission's decision in AEP-Ohio's electric security plan (ESP) cases, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, the EDR rate for each company was initially set at 0.00 percent.¹ AEP-Ohio's EDR rates were subsequently revised to 10.52701 percent for CSP and 8.33091 percent for OP pursuant to the Commission's order issued on January 7, 2010 in *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Rates*, Case No. 09-1095-EL-RDR (09-1095), Order (January 7, 2010).
- (2) By Rules 4901:1-38-08(A)(5) and (C), Ohio Administrative Code (O.A.C.), the Commission requires that the electric utilities' EDR rates be updated and reconciled semiannually and permits affected persons to file a motion to intervene and comments to the application within 20 days of the date that the application is filed. Further, in 09-1095, the Commission directed AEP-Ohio to file its application to adjust its EDR rates to allow the Commission sufficient time to review the filing and perform due diligence with regard to the application in order to facilitate implementing the EDR rates with the first billing cycle of April and October.²

¹ *In re Columbus Southern Power Company and Ohio Power Company*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order (March 18, 2009) and Entry on Rehearing (July 23, 2009) (ESP cases).

² *In re AEP-Ohio*, Case No. 09-1095-EL-RDR, Finding and Order at 11-12 (January 7, 2010).

- (3) In accordance with the aforementioned Commission directives and Rule 4901:1-38-08(A)(5), O.A.C., AEP-Ohio filed this application to reduce CSP's EDR rate by 0.00246 percent to 10.52455 percent and to increase OP's EDR rate by 0.03602 percent to 8.36693 percent. According to AEP-Ohio, utilizing the same methodology approved by the Commission in 09-1095, the proposed adjustments to the EDR rates reflect a reduction in the recovery due to an over-estimation of recoverable delta revenues for CSP of \$8,017, and recovery of an under-estimation of recoverable delta revenues for OP of \$113,504 for the period September 2009 to December 2009 based on the actual delta revenues associated with the Companies' unique arrangement with Ormet Primary Aluminum Corporation (Ormet) and CSP's reasonable arrangement with Eramet Marietta, Inc. (Eramet). As a part of the application, AEP-Ohio provided the projected bill impact of the proposed EDR rider adjustments on all CSP and OP customers, by customer class.

In its application, AEP-Ohio requests that, at the conclusion of the 20-day comment period, the Commission find the Companies' EDR rates just and reasonable, without the need for a hearing, and approve the application to revise its EDR rates to be effective with the first billing cycle of April 2010.

- (4) On March 1, 2010, the Industrial Energy Users-Ohio (IEU-Ohio) filed a motion to intervene and comments. In its motion to intervene, IEU-Ohio asserts that AEP-Ohio's application may result in increases to the rates charged to IEU-Ohio members for electric service, and impact the quality of service that IEU-Ohio members receive from AEP-Ohio. As such, IEU-Ohio asserts that it has a direct, real, and substantial interest in the issues raised and the matters involved in this EDR proceeding. AEP Ohio stated that it did not oppose IEU-Ohio's motion to intervene.
- (5) The Commission finds that IEU-Ohio has set forth reasonable grounds for intervention and, therefore, its motion to intervene should be granted.
- (6) In its comments, IEU-Ohio raises four issues to which AEP-Ohio filed responses on March 8, 2010. First, IEU-Ohio claims that the Commission lacks subject matter jurisdiction over AEP-Ohio's EDR application. IEU-Ohio explains that the Commission did not issue its opinion and order on AEP-Ohio's ESP application until March 18, 2009, more than the 150 days after the application was filed. Thus, IEU-Ohio reasons that the Commission lost subject matter

jurisdiction over AEP-Ohio's ESP application when it did not issue an order within the 150-day timeframe.

- (7) Next, IEU-Ohio argues that AEP-Ohio cannot take the benefits of the Commission's ESP Order and simultaneously reserve judgment on whether to withdraw and terminate its ESP. IEU-Ohio opines that even if the Commission concludes that it has subject matter jurisdiction over the EDR application, the Commission must dismiss the EDR application unless and until AEP-Ohio accepts the ESP, as modified by the Commission, and withdraws its appeal of the ESP at the Ohio Supreme Court.
- (8) AEP-Ohio responds that IEU-Ohio failed to raise either of these arguments in regards to the Companies' ESP cases or to the previous EDR proceeding in which the current EDR rates were established, 09-1095. For this reason, AEP-Ohio contends that IEU-Ohio has waived these objections. Nonetheless, AEP-Ohio notes that the Commission, in its Merit Brief to the Supreme Court on the ESP cases, argues that a statute providing a time for the performance of an official duty is directory and not an expressed intent to restrict the Commission's jurisdiction.
- (9) As we state in the entry on rehearing issued today in 09-1095, the Commission finds that IEU-Ohio unsuccessfully raised the subject matter jurisdiction argument in its Writ of Prohibition action (Case No. 2009-1907) before the Supreme Court of Ohio. We find IEU-Ohio's attempt to raise this argument in this case to be an improper attempt to relitigate the Court's decision on this issue.
- (10) We also find IEU-Ohio's assertion that the Commission must prohibit AEP-Ohio from accepting the benefits of the rates approved in the ESP while simultaneously preserving its right to withdraw and terminate the modified and approved ESP, to be without merit. The Commission, in our entry on rehearing to the ESP cases, declined to address this argument noting that the Companies had not filed a notice of intent to withdraw its ESP and, therefore, it is unnecessary to address the issue. *In re AEP-Ohio*, Case No. 08-917-EL-SSO, et al., Second Entry on Rehearing at 7 (November 4, 2009). The Commission finds that IEU-Ohio's attempt to raise this argument in the context of the current proceeding is an attempt to relitigate the Commission's decision on this issue. The Commission affirms its decision in the ESP case, as also stated in the entry on rehearing issued today in 09-1095, this

issue is not ripe for review, given that AEP-Ohio has not withdrawn or attempted to withdraw its ESP.

- (11) Next, IEU-Ohio argues that it is unreasonable and unlawful for the EDR rates not to be subject to the maximum rate increase cap imposed in the approved ESP. AEP-Ohio points out that IEU-Ohio previously raised the same argument in 09-1095 and the Commission confirmed that the EDR is not subject to the rate cap set forth in the ESP.
- (12) The Commission affirms its decision that the EDR is not subject to the percentage increase cap set forth in the approved ESP, as previously explained in 09-1095, and as affirmed in the entry on rehearing issued this same day in 09-1095.
- (13) Finally, IEU-Ohio reiterates its claim that the carrying cost rate should not be each company's weighted average cost of long-term debt. IEU-Ohio asserts that the Commission should explore whether a lower cost carrying rate methodology would be more appropriate. AEP-Ohio states that this argument has previously been raised and rejected by the Commission. AEP-Ohio argues that IEU-Ohio has not presented any new arguments concerning this issue which would warrant any conclusion other than that already reached by the Commission.
- (14) As AEP-Ohio notes, the Commission has previously considered the arguments of IEU-Ohio regarding the carrying cost rate. The Commission affirms its decision that the long-term debt rate is the appropriate mechanism for calculating carrying charges, as previously explained in 09-1095, and affirmed in the entry on rehearing issued this same day in 09-1095.
- (15) The Commission finds that AEP-Ohio's application to adjust its EDR rates to 10.52455 percent for CSP and to 8.36693 percent for OP, including POLR credits, is reasonable. As we previously recognized in 09-1095, we also find that the levelized approach proposed by AEP-Ohio for the collection of EDR costs is a just and reasonable means of collection, as it will operate to avoid the extreme swings in EDR costs linked to the structure of the Ormet unique arrangement. We find it reasonable for AEP-Ohio to accrue carrying costs on the under-recovery of delta revenues due to levelized rates and, to the extent that there is an over-recovery of delta revenues, customers shall be afforded symmetrical treatment. Therefore, if the over-recovery of delta revenues occurs, AEP-Ohio

shall credit customers with the value of the equivalent carrying costs, calculated according to the weighted average costs of long-term debt.

- (16) Upon review of the application and the comments filed by IEU-Ohio, the Commission finds that AEP-Ohio's application to adjust its EDR rates does not appear to be unjust or unreasonable, and should be approved. Therefore, the Commission finds that it is unnecessary to hold a hearing in this matter. The Commission additionally authorizes AEP-Ohio to implement its adjusted EDR rates of 10.52455 percent for CSP and 8.36693 percent for OP, effective with bills rendered in the first billing cycle of April 2010.

It is, therefore,

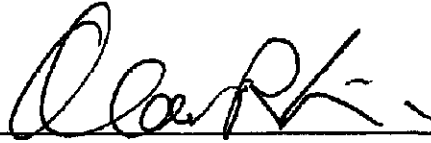
ORDERED, That IEU-Ohio's motion to intervene be granted. It is, further,

ORDERED, That AEP-Ohio's application to adjust its EDR rates be approved as discussed herein. It is, further,

ORDERED, That AEP-Ohio implement its adjusted EDR rates of 10.52455 percent for CSP and 8.36693 percent for OP, effective with bills rendered in the first billing cycle of April 2010. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

Cheryl L. Roberto

RLH/GNS/dah

Entered in the Journal

MAR 24 2010



Renee J. Jenkins
Secretary