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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Columbus Southern Power Company to) Case No. 10-164-EL-RDR
Update Its gridSMART Rider.)

**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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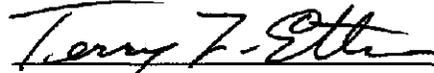
incur the cost associated with those charges if the disconnection or reconnection is accomplished by remote means.

3. The Commission's direction to CSP regarding its treatment of depreciation expenses it collects through the annual carrying charges under the gridSMART rider is vague.

The grounds for this application for rehearing are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On February 8, 2010, CSP filed an application to update its gridSMART Rider, associated with Phase I of the Company's smart grid deployment proposal included in the Company's ESP. In the Application, CSP asked the PUCO for authority to establish a new rate of 2.30342% for its gridSMART Rider,² which is a reduction from the rate of 2.55030% in CSP's current gridSMART Rider.³ The gridSMART Rider rate is applied to customers' distribution charges, excluding charges under any applicable riders.⁴

On April 30, 2010, OCC filed comments on the Application.⁵ OCC expressed concern that the additional \$41.3 million in costs the Company incurred in meeting requirements for a U.S. Department of Energy grant,⁶ though not collected from customers through the gridSMART Rider, might be collected through other means.⁷

² Application at 5.

³ See *id.*, CSP Attachment B.

⁴ See CSP Tariff P.U.C.O. 7, 1st Revised Sheet No. 84-1.

⁵ The comment and reply comment dates in this proceeding were established in the April 8 Entry. Also filing comments were the Ohio Partners for Affordable Energy and the PUCO Staff.

⁶ See Application, Attachment A.

⁷ OCC Comments (April 30, 2010) at 4-5.

OCC urged the Commission to not allow collection of gridSMART-related costs by any other means in this or other proceedings.⁸

The PUCO Staff also filed comments. The PUCO Staff found several discrepancies in CSP's accounting. The PUCO Staff recommended an adjustment of \$10,747,780 to 2009 capital expenditures for Advanced Metering Infrastructure, due to a double counting of capital investments, which was corrected in a period outside the audit.⁹ PUCO Staff also recommended an adjustment of \$171,756 to remove certain Operations and Management expenses that should have been incremental, but apparently were not,¹⁰ and recommended an adjustment of \$152,096 to reflect the removal of Interest Center expenses because the Center is not part of the gridSMART deployment.¹¹

But the PUCO Staff also alleged that CSP calculated the property tax on generation assets, which are assessed property taxes based on 24% of true value, instead of calculating the property tax on distribution assets, which are assessed property taxes based on 85% of true value.¹² Based on this miscalculation, the PUCO Staff recommended that the Commission approve an increase in the carrying charges CSP will collect from customers by \$560,378.¹³ The PUCO Staff did not provide its calculations in its comments.

In Reply Comments filed on May 10, 2010, OCC urged the Commission to reject this PUCO Staff proposal because the PUCO Staff did not show that the carrying charge

⁸ Id. at 5.

⁹ PUCO Staff Comments (April 30, 2010) at 11.

¹⁰ Id.

¹¹ Id. at 11-12.

¹² Id.

¹³ Id. at 14.

increase is warranted or necessary for gridSMART implementation.¹⁴ OCC also argued that the carrying charge increase further burdens consumers at a time of great economic difficulty.¹⁵

On July 21, 2010, CSP docketed a letter in this proceeding in which the Company “update[d] its position as originally reflected in the application....”¹⁶ Among other things, CSP revised the as-filed carrying cost to use the same weighted average cost of capital, debt/equity ratio, depreciation factor and Federal Income Tax factor, property taxes and Administrative and General expense factor approved in the Company’s ESP proceeding, with an adjustment reflecting that most of the environmental facilities are not exempt from personal property taxes.¹⁷

On August 9, 2010, OCC filed comments on CSP’s July 21 letter. OCC noted that the Commission did not specify a carrying charge for gridSMART investment in the ESP case, and CSP has not shown that the proposed annual carrying charge rates are just and reasonable.¹⁸ OCC also objected to the methods for calculating annual carrying charge rates CSP proposed in the July 21 Letter, particularly the use of 2006-2007 property tax data rather than the 2009 tax rate.¹⁹ OCC also objected to CSP’s averaging of the 2006 and 2007 Gross Plant in calculating the property tax rate, which significantly underestimated Gross Plant and significantly overestimated the property tax rates.²⁰

¹⁴ OCC Reply Comments (May 10, 2010) at 3.

¹⁵ Id.

¹⁶ July 21 Letter at 1.

¹⁷ Id.

¹⁸ OCC Comments on CSP’s Letter of July 21, 2010 (August 9, 2010) (“August 9 Comments”) at 4.

¹⁹ Id.

²⁰ Id. at 5.

OCC also urged the Commission, if it allowed capital investments in the gridSMART program to be treated as distribution-related assets, to order CSP to record all depreciation expenses it collects through the annual carrying charges under the gridSMART rider as accumulated depreciation.²¹ This would avoid the depreciation expenses associated with those capital investments in gridSMART program being collected twice from the Company's customers.

OCC also asked the PUCO to require CSP to waive its \$30 charge for disconnection or reconnection of service at the customer's request if the disconnection or reconnection is accomplished through remote means.²² OCC noted that in such instances CSP will not incur the cost of sending an employee to the customer's premises to disconnect service, and that the Commission has not determined the reasonableness of the costs and that the costs are attributable to the service actually being provided.²³

On August 10, 2010, CSP filed a response to OCC's August 9 Comments. The Company defended the carrying charge calculations, and asserted that it is "recording depreciation of the gridSMART equipment on its books with a contra credit entry to accumulated depreciation which would be deducted from rate base in any future distribution or ESP case."²⁴ The Company also argued that the \$30 charge should not be waived for remote disconnections of service because "for nonpayment disconnections

²¹ Id.

²² Id. at 7.

²³ Id.

²⁴ CSP Additional Response (August 10, 2010) at 4.

[CSP] would not avoid a trip to the customer's premises and would not result in avoidance of the trip charge."²⁵

On August 11, 2010, the Commission issued the Order in this proceeding. Among other things, the Order permitted CSP to collect from customers an additional \$560,378 in carrying charges for gridSMART investment.²⁶ Although the Commission ordered CSP to record all depreciation expenses it collects through the annual carrying charges under the gridSMART rider as accumulated depreciation, the directive was vaguely worded.²⁷ In the Order, the Commission did not address the issue of waiver of the \$30 charge for disconnecting or reconnecting service at the customer's request.

II. STANDARD OF REVIEW

Applications for rehearing are governed by R.C. 4903.10. The statute allows that, within 30 days after issuance of a PUCO order, "any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding." OCC filed a motion to intervene in this proceeding on February 23, 2010, which was granted in an Entry issued on April 8, 2010 (at 4). OCC also filed comments and reply comments regarding the original application, and comments regarding CSP's July 21 Letter.

R.C. 4903.10 requires that an application for rehearing must be "in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful." In addition, Ohio Adm. Code 4901-1-35(A)

²⁵ Id. at 5.

²⁶ Order at 10.

²⁷ Id.

states: "An application for rehearing must be accompanied by a memorandum in support, which shall be filed no later than the application for rehearing."

In considering an application for rehearing, R.C. 4903.10 provides that "the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear." The statute also provides: "If, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed." As shown herein, the statutory standard for abrogating and modifying the Order is met here.

III. ARGUMENT

- A. **The Commission's approval of \$560,378 in carrying charges for gridSMART investment violates R.C. 4905.22 and R.C. 4928.02(A), because CSP did not show the carrying charges were just and reasonable.**

R.C. 4905.22 states, in part, "[a]ll 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...." In addition, R.C. 4928.02(A) makes it state policy to ensure the availability of reasonably priced retail electric service to consumers.

The PUCO Staff recommended that CSP be allowed to collect from customers an additional \$560,378 in carrying charges for gridSMART investment.²⁸ In its July 21

²⁸ PUCO Staff Comments at 14.

Letter, CSP agreed to apply the PUCO Staff's recommendation.²⁹

In its Reply Comments, OCC opposed the PUCO Staff's recommendation. OCC noted that the PUCO Staff did not show that the carrying charge increase is warranted or necessary for gridSMART implementation. The increase would also burden consumers at a time of great economic difficulty, and would needlessly raise customer's rates.³⁰ In comments on CSP's July 21 letter, OCC also stated that the Commission did not specify a carrying charge for gridSMART investment in the ESP case, and that CSP has not shown that the proposed annual carrying charge rates are just and reasonable.³¹

In the Order, the Commission approved the carrying charge rate proposed by the PUCO Staff and the Company.³² The Commission stated: "As part of AEP-Ohio's ESP cases, the Commission evaluated and approved the carrying cost rate for the Companies' gridSMART and environmental investments."³³ In support of this statement, the PUCO cited to the ESP Order at 24-28 and the Entry on Rehearing in the ESP case at 10-13.³⁴ A review of these documents, however, shows that the Commission approved carrying charges only for the Company's environmental investments for the ESP period. Carrying charges for gridSMART investment were neither evaluated nor approved in the pages cited for support for the statement, nor anywhere else in the ESP Order or the Entry on Rehearing.

²⁹ See July 21 Letter at 1.

³⁰ OCC Reply Comments at 3.

³¹ Id.

³² Order at 10.

³³ Id.

³⁴ Id., n. 10.

The Commission has not evaluated the carrying charges sought by CSP for its gridSMART investment to determine whether the charges CSP wants customers to pay are just and reasonable. Because the Commission has made no such evaluation, the Order violates R.C. 4905.22 and R.C. 4928.02(A). The Commission should abrogate the Order and require CSP to prove, if it can, that its proposed carrying charges for gridSMART investment are just and reasonable.

B. The Commission violated R.C. 4905.22 and R.C. 4928.02(A) by allowing CSP to charge customers its tariffed rate for customer-requested disconnection and reconnection by remote means, even though the Company will not incur the cost associated with those charges if the disconnection or reconnection is accomplished by remote means.

In its comments on CSP's July 21 letter, OCC noted that CSP would no longer incur the cost of sending an employee to the premises if the Company is allowed to disconnect and reconnect service by remote means.³⁵ OCC specifically mentioned the Company's \$30 charge for disconnection, and subsequent reconnection, of service at the customer's request.³⁶ OCC stated that, in such cases, CSP should waive the disconnection and reconnection charges.³⁷

The Commission did not address the issue in its Order, apparently relying on CSP's assurance, in its August 10 additional response, that it will follow all aspects of the PUCO's disconnection rules and will not seek a waiver of the rules.³⁸ But in its response, CSP apparently misread OCC's recommendation. Instead of addressing instances where the customer requests disconnection (and subsequent reconnection), the Company

³⁵ August 9 Comments at 7.

³⁶ Id.

³⁷ Id.

³⁸ Entry at 13, citing CSP's Additional Response at 4-6.

referred to disconnections for nonpayment: “[I]t would not be the case under the example provided above for nonpayment disconnections would not avoid a trip to the customer’s premises and would not result in avoidance of the trip charge.”³⁹ OCC’s August 9 Comments did not refer to disconnections for nonpayment.

Instead, OCC’s August 9 Comments referenced CSP’s tariffed charge for disconnecting and reconnecting service at the customer’s request. The Company’s tariff states the following: “When service has been terminated, at the customer’s request, for non-credit related reasons, the customer will be assessed a \$30.00 charge for the disconnection, as well as a \$30.00 charge for the subsequent reconnection.”⁴⁰ This is the charge that CSP should waive if it disconnects or reconnects a customer’s service by remote means.

Although the Order requires CSP to follow the PUCO’s rules, and thus to send an employee to the customer’s premises for disconnection for nonpayment, the rules do not require CSP to send an employee to the customer’s premises for other types of disconnections. The rules also do not require the Company to send an employee to the customer’s premises for any types of reconnections. In instances of remote disconnection or reconnection in response to a customer request, the Company would not send an employee to the customer’s premises and thus would not incur the cost on which the charge is based.

R.C. 4905.22 requires that the charges utilities require customers to pay be just and reasonable.⁴¹ The \$30 charge for disconnection or reconnection of a customer’s

³⁹ CSP Additional Response at 5 (emphasis added).

⁴⁰ CSP Tariff P.U.C.O. No. 7, Original Sheet No. 5-1.

⁴¹ See also R.C. 4928.02(A).

service, at the customer's request, for non-credit related reasons is not just or reasonable if the disconnection or reconnection is accomplished by remote means. The Commission's Order is unlawful in this regard. The Commission should thus modify its Order and require CSP to waive the \$30 charge for such disconnections and reconnections that are done remotely.

C. The Commission's direction to CSP regarding its treatment of depreciation expenses it collects through the annual carrying charges under the gridSMART rider is vague.

In its comments on CSP's July 21 letter, OCC opposed treating the capital investments in the gridSMART program as distribution-related assets.⁴² In the alternative, OCC stated, CSP should be ordered to record all depreciation expenses it collects through the annual carrying charges under the gridSMART rider as accumulated depreciation, and the amount of accumulated depreciation should then be deducted from the rate base of distribution-related assets in the next distribution case or ESP case.⁴³ Otherwise, the depreciation expenses associated with those capital investments in gridSMART program would be recovered twice from the Company's customers.⁴⁴ In its response, CSP stated that it "is recording depreciation of the gridSMART equipment on its books with a contra credit entry to accumulated depreciation which would be deducted from rate base in any future distribution or ESP case."⁴⁵

In the Order, the Commission agreed that such treatment of depreciation expenses associated with capital investments in the gridSMART program is necessary in order to

⁴² August 9 Comments at 4-5.

⁴³ Id. at 5.

⁴⁴ Id.

⁴⁵ CSP Additional Response at 4.

“avoid double recovery of capital investments in gridSMART.”⁴⁶ But the sentence ordering CSP to record gridSMART-related depreciation expenses as accumulated depreciation is incomplete: “Further, to the extent that CSP is recording depreciation on gridSMART equipment with an entry to accumulated depreciation to be deducted from rate base in any future distribution or ESP proceeding.”⁴⁷ Thus, the Order is unclear on this matter.

To clarify the treatment of gridSMART-related depreciation expenses, the Commission should modify the Order. The sentence cited above should be changed as follows (deletions are in ~~strike through~~ and additions are in **bold**: “Further, ~~to the extent that CSP is~~ **shall** recording depreciation on gridSMART equipment ~~with an entry to~~ **as** accumulated depreciation to be deducted from rate base in ~~any future~~ **the next** distribution or ESP proceeding.”

IV. CONCLUSION

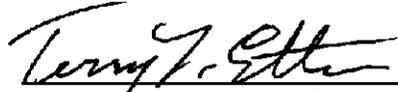
For the reasons stated herein, the Commission should grant OCC rehearing and modify the Order as recommended by OCC.

⁴⁶ Order at 10.

⁴⁷ Id.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Application for Rehearing by the Office of the Ohio Consumers' Counsel* was served by first class United States Mail, postage prepaid, to the persons listed below, on this 10th day of September 2010.



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