

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbus Southern Power Company)
and Ohio Power Company to Establish) Case No. 10-155-EL-RDR
Environmental Investment Carrying)
Cost Riders.)

ENTRY ON REHEARING

The Commission finds:

- (1) On March 18, 2009, the Commission issued its opinion and order in Columbus Southern Power Company's (CSP) and Ohio Power Company's (OP) (jointly, AEP-Ohio or the Companies) electric security plan (ESP) cases (ESP Order).¹ By entries on rehearing issued July 23, 2009 (First ESP EOR) and November 4, 2009 (Second ESP EOR), the Commission affirmed and clarified certain issues raised in AEP-Ohio's ESP Order. The Commission modified and approved ESP permits CSP and OP to establish environmental investment carrying cost riders to recover the incremental capital carrying costs incurred after January 1, 2009, on past environmental investments.²
- (2) On February 8, 2010, as updated by letter docketed July 21, 2010, AEP-Ohio filed an application to establish the environmental investment carrying cost riders (EICCR case). The Office of the Ohio Consumers' Counsel (OCC) and Industrial Energy Users-Ohio (IEU-Ohio) filed for, and were granted, intervention in the EICCR case.
- (3) After considering the application, the comments and reply comments, the Commission issued its finding and order on August 25, 2010, affirming the methodology for calculating

¹ *In re AEP-Ohio ESP cases*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order (March 18, 2009).

² *In re AEP-Ohio ESP Order* at 24-28; *First ESP EOR* at 10-14.

the revenue requirement and establishing the EICCR rider rate for each company (EICCR order).

- (4) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in the proceeding by filing an application within 30 days after the entry of the order upon the journal of the Commission.
- (5) On September 24, 2010, OCC filed an application for rehearing of the Commission's EICCR order asserting that the order was unjust, unreasonable, and/or unlawful in the following respects:
 - (a) The order allowed AEP-Ohio to determine the environmental carrying charge incorporating the method approved in the Companies' ESP case rather than using the rate for short-term debt and low-cost financing options for pollution control facilities, in violation of Sections 4905.22 and 4928.02(A), Revised Code.
 - (b) The order allowed AEP-Ohio to calculate the environmental carrying charges on a monthly accrual basis as opposed to a single-year basis resulting in unreasonable carrying charges in violation of Sections 4905.22 and 4928.02(A), Revised Code.
 - (c) The Commission failed to conduct a hearing to determine if the carrying charges proposed by the Companies were reasonable.
- (6) On October 4, 2010, as amended October 5, 2010, AEP-Ohio filed a memorandum contra OCC's application for rehearing.
- (7) First, OCC argues that the EICCR order established a carrying charge rate of 13.59 percent for CSP and 13.34 percent for OP. As OCC claimed in its comments, OCC again argues in its application for rehearing that AEP-Ohio has not demonstrated and the record does not justify

utilizing the revenue requirement calculation from the approved ESP cases to determine the environmental rider rate. OCC contends that the approved environmental rider rate is unjust and unreasonable. OCC explains that using the weighted average cost of capital (WACC) results in a higher rate for customers than using the cost of short-term debt. OCC further argues that the carrying charge should incorporate the cost of short-term debt actually incurred or low-cost special financing sources available to the Companies for environmental investments. In OCC's opinion, the Commission's use of the WACC in this case and its policy to use the most recently approved carrying charge rate is inappropriate, leads to unjust and unlawful rates in violation of Sections 4905.22 and 4928.02(A), Revised Code, fails to take into consideration changes in capital structures and economic conditions and, in this case, is based on data provided by the Companies in July 2008. OCC requests that the Commission abrogate the EICCR order and recalculate the carrying charges based on the rate for short-term debt.

- (8) AEP-Ohio argues that OCC's assertion that the EICCR order violates Sections 4905.22 and 4928.02(A), Revised Code, is misguided. AEP-Ohio interprets Section 4905.22, Revised Code, to require utilities to provide adequate service and follow the terms of the utility's approved tariffs and Section 4928.02(A), Revised Code, to be an expression of state policy to provide consumers adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service. As such, AEP-Ohio reasons that Sections 4905.22 and 4928.02(A), Revised Code, have no relevance or application in OCC's challenge of the Commission's decision in this case. According to AEP-Ohio, the EICCR order included a detailed discussion of each of the carrying charge issues raised by OCC in its request for rehearing.

In regard to the Commission's practice of using the most recently approved carrying charge rate, the Companies posit that the Commission acknowledged that, while the practice may not perfectly reflect costs, OCC has not presented any basis on which the Commission may conclude that customers are harmed or the utility benefits. Furthermore,

AEP-Ohio states the issue was already addressed by the Commission in the EICCR order.

- (9) Section 4905.22, Revised Code, states, in relevant part, that "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...." Section 4928.02(A), Revised Code, expresses the policy of the state of Ohio to "ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service." OCC asserts that the EICCR order violates Sections 4905.22 and 4928.02(A), Revised Code. We disagree with OCC's claims. First, the Commission notes that the carrying charge, on which the EICCR order relies, as presented in the Companies' ESP cases, is, as OCC notes, slightly more than two years old. If the carrying charge rate were significantly older than two to three years, and the economic situation drastically different than when the WACC was last determined, the Commission agrees that it may be appropriate to reevaluate the reasonableness of using the company's most recently approved carrying charge rate. Further, OCC mischaracterized the "carrying charge" which, as noted in the order, is based on four factors: a rate of return factor of 8.11 percent, a depreciation expense factor, a federal income tax factor, and a combined property tax and administrative and general factor. The rate of return factor approved by the Commission in the Companies ESP order is comparable to that of other Ohio electric utilities. The Commission also considered and rejected the intervenors' arguments regarding the use of short-term debt or special low-cost financing for environmental investments in the ESP cases and the EICCR order. OCC has not presented any new arguments that convince the Commission that our decision on this aspect of the EICCR order was in error. For these reasons, we find OCC's claims that the EICCR order violates Sections 4905.22 and 4928.02(A), Revised Code, to be without merit and deny the request for rehearing.
- (10) Next, OCC takes issue with the monthly accrual. OCC claims the Companies failed to justify the use of a monthly compounding carrying charge calculation which unjustly

inflates the carrying charges on incremental environmental investments. Further, OCC asserts that the monthly compounding of carrying charges is a departure from the end-of-year method the Companies offered in the ESP cases or in the enhanced service reliability riders the Commission recently approved.³ OCC notes that the annual carrying cost rates in AEP-Ohio's ESP cases were calculated assuming the environmental capital additions are spread evenly over each year.⁴ The Companies' monthly compounding methodology adopted in this case is not justified and AEP-Ohio did not demonstrate that the carrying charges are reasonable. For these reasons, OCC contends that the Commission's approval of the carrying charges in this case violate Sections 4905.22 and 4928.02(A), Revised Code.

- (11) AEP-Ohio reiterates the explanation presented in the Companies' comments. According to AEP-Ohio, OCC's application for rehearing on the monthly accrual issue fails to recognize that in the ESP cases AEP-Ohio was not attempting to calculate the carrying costs they incurred during the period 2001 through 2008 on the environmental investments made during that period. In the ESP cases, AEP-Ohio was calculating the going forward carrying cost associated with those past investments and, for that reason, there was no need to perform a 2001-2008 monthly carrying cost calculation. On the other hand, AEP-Ohio explains, the EICCR is focused on the carrying costs incurred in 2009 associated with the incremental 2009 environmental investments. The Companies assert that performing the carrying costs calculation incurred in 2009 associated with the incremental 2009 environmental investments on a monthly basis is the proper way to determine the true carrying costs during 2009. AEP-Ohio notes that the Commission agreed with AEP-Ohio's position on this issue, as explained in the EICCR order, and request that OCC's application for rehearing be denied.

³ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Update Their Enhanced Service Reliability Riders*, Case No. 10-163-EL-RDR, Application (February 11, 2010), CSP Schedule 1 and OPC Schedule 1. The Commission approved the application in an Order issued on August 25, 2010.

⁴ ESP Case, AEP-Ohio Ex. 7 (Nelson) at 16-17.

- (12) The Commission notes that the intervenors in this case raised in comments the issue of monthly accrual of carrying charges as compared to the annual accrual of carrying charges. In the EICCR order the Commission specifically discussed this issue. We reiterate our decision in the order that pursuant to accounting principles it is acceptable for AEP-Ohio to calculate environmental carrying cost on a monthly basis as the purpose is to include carrying cost on incremental environmental investments made during 2009. As such, the Commission finds that OCC has not presented any new arguments for the Commission's consideration that were not previously considered and rejected. Nor has OCC presented any argument that persuades the Commission that the use of a monthly accrual methodology to determine the carrying cost on incremental environmental investments made during 2009 violates Section 4905.22, Revised Code, or the state policy set forth in Section 4928.02(A), Revised Code. Accordingly, OCC's request for rehearing on this issue is denied.
- (13) Last, OCC argues that the Commission should have held a hearing on the EICCR application to determine whether the environmental investments are justified and may lawfully be collected from consumers and to determine the appropriate rate for the collection of carrying charges as required by Sections 4905.22 and 4928.02(A), Revised Code. OCC asserts that certain environmental investments were installed by the Companies to comply with the Consent Decree and, therefore, OCC argues the cost of those environmental investments should be excluded from the EICCR rider calculation. OCC reasons that, included in the penalties portion of the Consent Decree were requirements for AEP-Ohio to install pollution control devices that the U.S. Environmental Protection Agency (EPA) alleged AEP-Ohio should have installed decades ago. OCC contends that, had AEP-Ohio installed those devices when the New Source Review (NSR) rules required them to be installed, AEP-Ohio would not have needed to install controls on the equipment to also satisfy the Clean Air Interstate Rule (CAIR). OCC interprets the Consent Decree to have allowed AEP-Ohio to get credit for complying with NSR and with CAIR by installing the same control equipment. OCC argues that the

Commission has compounded the problem by making ratepayers contribute to the cost for equipment that should have been installed before the ESP cases even began. The Commission, in OCC's opinion, should have held a hearing to determine whether it would be unreasonable, under Sections 4905.22 and 4928.02(A), Revised Code, to include the cost of installing the controls ordered by the Consent Decree in the environmental carrying charges under consideration in this proceeding.

- (14) AEP-Ohio surmises that OCC's renewed request for a hearing in this matter is based on OCC's claim that AEP-Ohio failed to provide sufficient detail regarding the environmental investments and appropriate carrying charge. The Companies view this as another instance of OCC second-guessing the Commission's determination that AEP-Ohio adequately demonstrated the appropriateness of the investment and proposed carrying charge. In AEP-Ohio's opinion, the EICCR order includes a detailed discussion of the carrying charge issues, including each of OCC's substantive claims on rehearing. The Companies remind OCC, as well as the Commission, that the hearing and the decision in the Companies' ESP cases provides the basis for this rider proceeding. Further, AEP-Ohio reasons that conducting a hearing in this case is not required by law and is within the discretion of the Commission and notes that OCC did not cite any basis to assert that the Commission is required to conduct a hearing in this case. The Commission considered the issues raised by OCC and addressed such in the EICCR order. Thus, AEP-Ohio concludes that OCC's assertion that a hearing is required is without merit.
- (15) Although a hearing is not required in this rider proceeding, the Commission considered each of the issues raised by OCC on rehearing in its finding and order. OCC has not raised any new arguments which the Commission did not previously consider. Accordingly, OCC's request for rehearing is denied.

It is, therefore,

ORDERED, That OCC's application for rehearing is denied. It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman




Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser

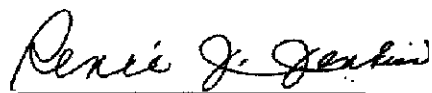
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Cheryl L. Roberto

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Entered in the Journal

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Renee J. Jenkins

Renee J. Jenkins
Secretary

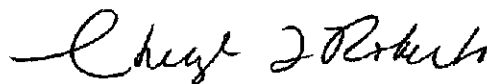
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CONCURRING OPINION OF COMMISSIONER CHERYL L. ROBERTO

As I explained in my concurring opinion to the finding and order in this case, I concur in the result of this matter only. I continue to disagree with the conclusion that these environmental investment costs are appropriately recovered absent a showing that they were prudently incurred. See, *In re AE-Ohio ESP Cases*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Entry on Rehearing (July 23, 2009) (Roberto, Concurring). Despite my misgivings, I find that the environmental investment carrying cost riders are consistent with the Commission-approved ESP, which, as my prior concurrence indicated, I agree is more favorable in the aggregate than what would be expected under an MRO.



Cheryl L. Roberto, Commissioner