

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus)
Southern Power Company for Approval of)
an Electric Security Plan; an Amendment to) Case No. 08-917-EL-SSO
its Corporate Separation Plan; and the Sale or)
Transfer of Certain Generating Assets.)

In the Matter of the Application of Ohio)
Power Company for Approval of its Electric) Case No. 08-918-EL-SSO
Security Plan; and an Amendment to its)
Corporate Separation Plan.)

ENTRY

The attorney examiner finds:

- (1) On March 18, 2009, the Commission issued its opinion and order in Columbus Southern Power Company's and Ohio Power Company's (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, the Commission affirmed and clarified certain issues raised in AEP-Ohio's ESP Order. As ultimately modified and adopted by the Commission, AEP-Ohio's ESP directed, among other things, that AEP-Ohio be permitted to recover the incremental capital carrying costs that would be incurred after January 1, 2009, on past environmental investments (2001-2008)² and approved a provider of last resort (POLR) charge for the ESP period.
- (2) The Commission's decision in the AEP-Ohio ESP cases was appealed to the Ohio Supreme Court. The Ohio Supreme Court determined that Section 4928.143(B)(2), Revised Code, does not authorize the Commission to allow recovery of items not enumerated in the section. The Court remanded the case to the Commission for further proceedings in which "the Commission may determine whether any of the listed

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 AEP-Ohio ESP Order at 24-28, 38-40; First ESP EOR at 10-13, 24-27.

categories set forth in Section 4928.143(B)(2), Revised Code, authorize recovery of environmental carrying charges.”³ In regards to the POLR charges, the Court concluded that the Commission’s decision that the POLR charge is cost-based was against the manifest weight of the evidence, an abuse of the Commission’s discretion and reversible error. While the Court specifically stated that “we express no opinion on whether a formula-based POLR charge is per se unreasonable or unlawful,” the Court noted two other methods by which the Commission may establish the POLR charge: a non-cost-based POLR charge or evidence of AEP-Ohio’s actual POLR costs.

- (3) By entry issued May 25, 2011, the Commission directed AEP-Ohio to file tariff pages that reflect that the POLR riders and environmental carrying charges included in rates are being collected subject to refund, until the Commission specifically orders otherwise on remand. Additionally, the Commission adopted a procedural schedule for the remand proceedings in order to afford AEP-Ohio and intervenors the opportunity to present testimony and additional evidence in regard to the POLR and environmental carrying charges remanded to the Commission. The entry requires, *inter alia*, that testimony on behalf of intervenors be filed by June 23, 2011, final discovery requests (excluding notices of depositions) be served by June 29, 2011, and that an evidentiary hearing commence on July 12, 2011.
- (4) On June 23, 2011, Staff filed a motion, pursuant to Rule 4901-1-13(A), Ohio Administrative Code (O.A.C.), for extension of time for the filing of testimony and for continuance of the hearing. Specifically, Staff requests that the deadline for filing Staff and intervenor testimony be extended to June 30, 2011, and that the deadline for discovery requests from AEP-Ohio to the intervenors be extended to July 8, 2011, with the response time remaining at 10 days. Staff specifies that the existing deadline for discovery requests from the intervenors to the Companies should remain June 29, 2011. Finally, Staff requests that the evidentiary hearing be continued until July 15, 2011. Staff notes that, on that date, AEP-Ohio would present the testimony of Dr. Anil Makhija. Upon the conclusion of witness

³ In re Application of Columbus S. Power Co. Slip Opinion No. 2011-Ohio-1788.

Makhija's testimony, Staff proposes that the hearing be continued to July 19, 2011, at which time the Companies and parties would present the testimony of the remaining witnesses.

In support of the motion, Staff submits that the parties have engaged in preliminary discussions regarding the possibility of settlement. Staff explains that additional time is needed to allow those discussions to progress and to determine whether the negotiations are likely to be productive.

Staff further notes that all parties have been contacted regarding the motion. Staff represents that all parties that have responded have either consented to the requested extension and continuance, or do not oppose the granting of the motion. For that reason, Staff concludes that the motion may be granted pursuant to Rule 4901-1-12(C), O.A.C.

- (5) The attorney examiner finds that Staff's motion is reasonable and should be granted. Accordingly, the procedural schedule established in the May 25, 2011, entry should be modified as follows. Staff and intervenor testimony should be filed by June 30, 2011, and final discovery requests from AEP-Ohio to the intervenors should be served by July 8, 2011. The evidentiary hearing shall commence with the testimony of witness Makhija on July 15, 2011, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-A, 180 East Broad Street, Columbus, Ohio, and shall be continued until July 19, 2011, upon the conclusion of witness Makhija's testimony. All other deadlines and procedures described in the May 25, 2011, entry shall remain unchanged.

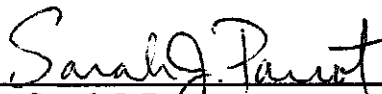
It is, therefore,

ORDERED, That the motion for extension of time for the filing of testimony and for continuance of the hearing, as filed by Staff on June 23, 2011, be granted. It is, further,


ORDERED, That the procedural schedule for these proceedings be modified as set forth in finding (5). It is, further,

ORDERED, That a copy of this entry be served upon all persons of record in these cases.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Sarah J. Parrot
Attorney Examiner

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Entered in the Journal

JUN 23 2011



Betty McCauley
Secretary