

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbus Southern Power Company)
and Ohio Power Company to Update) Case No. 11-1337-EL-RDR
the Environmental Investment)
Carrying Costs Riders.)

FINDING AND ORDER

The Commission finds:

I. BACKGROUND

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, 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 incurred on prior environmental investments (2001-2008) and on environmental investments made during the ESP, 2009, 2010 and 2011.²

In Case No. 10-155-EL-RDR (10-155), AEP-Ohio filed an application to update the environmental investment carrying cost rider (EICCR) rate for each company. By Order issued August 25, 2010, the Commission approved an adjusted EICCR rate for 2009 investments to be effective with the first billing cycle for September 1, 2010 (EICCR Order).

On March 18, 2011, AEP-Ohio filed the current application to adjust the EICCR riders for incremental environmental investments made in 2010. In this application, AEP-Ohio proposes that CSP's EICCR for 2010 be increased to 8.78602 percent from 4.55325 percent and OP's EICCR for 2010 increase to 6.55762 percent from the current rate of 4.46836 percent of the generation charges, excluding the fuel adjustment clause (FAC) charges. In support of the proposed EICCR rates, the Companies filed schedules setting forth the monthly environmental capital additions that occurred in 2010. The Companies request recovery of the 2010 environmental carrying costs over a six-month period, July - December 2011. The Companies also request that the updated rider rates commence with the first billing cycle in July 2011, to coincide with the update of the fuel adjustment clause

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 ESP Order at 24-28; First ESP EOR at 10-14.

(FAC), as any increase associated with the EICCR riders are limited by the rate caps established in the ESP cases.³ AEP-Ohio asserts that, because the EICCR riders were established in the ESP proceedings and the schedules attached to the application can be verified by Staff, a hearing is not necessary.

By entry issued April 1, 2011, as revised by entry issued April 18, 2011, a procedural schedule was established whereby interested persons were directed to file comments to this and/or two other AEP-Ohio rider applications by May 20, 2011. Reply comments were due by May 31, 2011. Motions to intervene in the case were filed by Ohio Consumers' Counsel (OCC) and Industrial Energy Users-Ohio (IEU-Ohio). OCC and IEU-Ohio assert that each has a substantial interest in this case and that the disposition of the case may impair or impede their ability to protect that interest. The Commission finds that OCC and IEU-Ohio have set forth reasonable grounds for intervention, and, therefore, their respective motions to intervene should be granted. Comments were filed by IEU-Ohio, OCC and Staff. IEU-Ohio and the Companies filed reply comments.

The Commission's decision in the AEP-Ohio ESP cases was appealed to the Ohio Supreme Court. By slip opinion issued April 19, 2011, 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 wherein "the Commission may determine whether any of the listed categories set forth in Section 4928.143(B)(2), Revised Code, authorize recovery of environmental carrying charges."⁴ Accordingly, by entry issued May 4, 2011, as revised by entry issued May 25, 2011, in the ESP cases, the Commission directed AEP-Ohio to file tariff pages that reflect that the environmental carrying charges included in rates are being collected subject to refund, until the Commission specifically orders otherwise on remand.⁵ In the May 25, 2011, entry, the Commission also established 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 provider of last resort (POLR) and environmental carrying charges issues remanded to the Commission.

II. AUTHORITY TO RECOVER ENVIRONMENTAL INVESTMENT CARRYING CHARGES

OCC and IEU-Ohio contend that AEP-Ohio has not demonstrated that the Companies' environmental investments are collectable under Section 4928.143(B)(2),

³ On a total bill basis, rate increases are capped at six percent for CSP and eight percent for OP in 2011. ESP Order at 22; First ESP EOR at 8-9.

⁴ *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2011-Ohio-1788.

⁵ The May 25, 2011 entry also indicated that, consistent with the Court's remand, the provider of last resort (POLR) charges set forth in the tariff rates are also being collected subject to refund.

Revised Code, and, therefore, the Commission must reject this application. OCC argues that the Ohio Supreme Court did not limit the Commission's determination on remand to just the collection of the revenue requirement associated with AEP-Ohio's environmental investments made from 2001 through 2008. OCC interprets the remand order to allow the Commission to determine whether any of the provisions of Section 4928.143(B)(2), Revised Code, authorize recovery of environmental carrying charges. IEU-Ohio interprets the Court's decision as an opportunity for the Commission to correct the revenue recovery approved in the ESP. Furthermore, since the Companies have not supplemented the EICCR application in light of the Court's decision, IEU-Ohio argues that the EICCR application is not legally authorized. (IEU-Ohio Comments at 3-4; IEU-Ohio Reply Comments at 2; OCC Comments at 3-4.)

The Companies argue that OCC's appeal of the ESP Order was limited to pre-ESP environmental investments, and, therefore, the scope of the Court's remand is limited to the statutory basis for recovery of the carrying charges for environmental investments from 2001 to 2008 before the ESP. The Companies further assert that the Commission's review of this EICCR application is a separate aspect of the ESP. According to AEP-Ohio, the Commission no longer has continuing jurisdiction over the ESP Order as the decision became final and non-appealable in 2009. Thus, AEP-Ohio reasons that it would be unlawful to modify the ESP Order at this stage and remove the authorization for the EICCR despite OCC's and IEU-Ohio's requests otherwise. Furthermore, the Companies state that the Commission need not revisit the issue of the statutory basis for the EICCR but notes there are multiple bases for the recovery of environmental investments during the ESP. (AEP-Ohio Reply Comments at 2-5.)

The Commission notes that IEU-Ohio made the same arguments in its application for rehearing of the Commission's May 25, 2011 entry in the AEP-Ohio ESP remand proceedings. By entry on rehearing issued June 22, 2011, in the remand proceeding, the Commission concluded that the scope of the Court's remand ruling is limited to the recovery of carrying charges on incremental environmental investments made from 2001 to 2008 and that neither OCC nor IEU-Ohio or any other party appealed the Commission's ESP Order with regard to recovery of carrying cost on environmental investments for 2009, 2010 or 2011⁶. Therefore, recovery on environmental investments for 2009-2011 as set forth in the ESP Order is final and non-appealable and is not subject to challenge at this point in either the remand proceedings or this case. Nevertheless, the Commission notes that Section 4928.143(B)(1), Revised Code, directs that electric security plans include provisions relating to the supply and pricing of electric generation service. As we noted in the ESP Order, environmental investments which are made during the ESP period and are necessary for the provision of generation service may be recovered through the EICCR.⁷

⁶ First ESP EOR at 10-14.

⁷ ESP Order at 28-30.

III. AUDIT PROCESS, RECOMMENDATIONS AND COMMENTS

The revenue requirement rate consists of four components: (1) a rate of return factor; (2) a depreciation expense factor; (3) a federal income tax (FIT) factor; and (4) a combined property tax and administrative and general (A&G) factor. As part of its investigation, Staff reviewed invoices and source documents for capital expenditures the Companies made at the Conesville and Amos power plants in 2010. Staff found no discrepancies in the Companies' associated property records. Staff also reviewed the Companies' calculation of the revenue requirement and the revenue utilized and found no errors in the calculation. Staff verified that the revenue factors are consistent with the Commission's decision in 10-155. Accordingly, Staff recommends that the Companies' proposed total revenue requirement of \$10,120,000 for CSP and \$6,140,000 for OP be approved. (Staff Comments at 2-3.)

OCC argues that the incremental carrying charges associated with the 2009 environmental investments are the same for years 2010 and 2011. OCC asserts that such approach is not a reasonable method for calculating the annual incremental carrying charges. According to OCC, this method for determining the annual carrying charges for the environmental investments made in 2009 will never decrease even though the book values of the 2009 environmental investments have decreased as a result of depreciation. OCC reasons that permitting AEP-Ohio to continue to collect the 2009 EICCR (for 2009 environmental investments) and the 2010 EICCR (for 2010 environmental investments) for July 2011 through December 2011 will cause the Companies' customers to pay more than their fair share of environmental costs. OCC recommends that the Commission direct AEP-Ohio, when it updates the EICRR, to revise the previously approved EICCR to be carried over to the new collection period and that the amount of environmental investments earning carrying charges should be reduced by the actual amount of depreciation recorded. (OCC Comments at 5-6.)

IEU-Ohio argues that the method for calculating the revenue requirement for 2010 incremental environmental investments should be revised. IEU-Ohio notes that the Companies' carrying cost rates are over 13 percent and argues that the lack of any significant regulatory lag in this case does not justify the carrying cost rates. IEU-Ohio claims that the revenue requirement methodology allows AEP-Ohio to recover revenues during the ESP for the full carrying cost plus compounding and the compounding is then embedded in the annual recovery thereafter. Therefore, IEU-Ohio submits, the revenue requirement methodology violates the policy expressed in Section 4928.02(A), Revised Code, which requires the Commission to make reasonably priced retail electric service available to consumers. (IEU-Ohio Comments at 5-6; IEU-Ohio Reply Comments at 3.)

Further, IEU-Ohio proposes that the Commission mitigate the rate effects of the EICCR by recalculating the Companies' revenue requirement using the debt rate cost of

capital, 5.7 percent according to IEU-Ohio, rather than the weighted average cost of capital (WACC) of 8.11 percent. IEU-Ohio also requests that the Commission require more substantive detail about the Companies' expenditures to determine whether such costs are prudent, that only appropriate elements are included in construction work in-progress, and that the costs associated with establishing the incremental revenue requirement for the rider be clearly defined. (IEU-Ohio Comments at 6-7; IEU-Ohio Reply Comments at 3-4.)

AEP-Ohio offers that IEU-Ohio's and OCC's objections regarding the EICCR carrying costs should be rejected. AEP-Ohio notes that in the ESP the Commission considered the arguments of the parties regarding the carrying costs and the matter was again raised in 10-155. The Companies note that the Commission has considered and approved the method used in the current EICCR application in the ESP, in the 10-155 application and on rehearing and rejected the arguments. Accordingly, AEP-Ohio requests that the Commission approve the EICCR application.

The Commission finds that sufficient information has been presented in the EICCR application and supporting exhibits for the parties to evaluate the environmental investments for 2010. After considering the application, the comments and positions of the parties to this case, the Commission finds that the application does not appear to be unjust or unreasonable and, therefore, concludes that a hearing on the application is not necessary.

As to the issues raised by OCC and IEU-Ohio regarding the development of the revenue requirement and components of the calculation, we find that such matters have already been addressed by the Commission in the ESP Order, First ESP EOR, the 10-155 Order and 10-155 EOR.⁸ For this reason, the Commission finds that the issues raised regarding the carrying cost methodology and calculation for the Companies' EICCR riders has been adequately and reasonably addressed. Therefore, the Commission approves the Companies' proposed total revenue requirement for environmental investments of \$10,120,000 for CSP and \$6,140,000 for OP and directs AEP-Ohio to file tariffs to update its EICCR rider rates to be effective with the first billing cycle of July 2011, consistent with the Commission's decision in this finding and order.

Finally, to support the Commission in evaluating the necessity and reasonableness of new environmental investments for which AEP-Ohio seeks recovery in the EICCR, the Commission directs Staff to work with AEP-Ohio to provide, within any future application for recovery during the current ESP, a demonstration that the new environmental investments made during the current ESP were to comply with laws, statutes, rules, regulations, or court order related to environmental requirements, or changes therein, a

⁸ In re AEP-Ohio ESP Order at 24-28; First ESP-EOR at 11-13; In re AEP-Ohio, Case No. 10-155-EL-RDR, Finding and Order at 10 (August 25, 2010) and Entry on Rehearing at 3-6.

description of AEP-Ohio's long-term environmental compliance strategy with the basis for the new environmental investment and an explanation for how the current investment supports its overall strategy. The strategy may include consideration of factors such as the state of its equipment, existing or likely environmental regulatory requirements, and available alternatives and options, including repair, replacement or retirement. AEP-Ohio should also address the cost allocation issue, including capacity and non-jurisdictional sales.

It is, therefore,

ORDERED, That OCC's and IEU-Ohio's motions for intervention be granted. It is, further,

ORDERED, That AEP-Ohio is directed to file tariffs consistent with this finding and order. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all persons of record in this case.

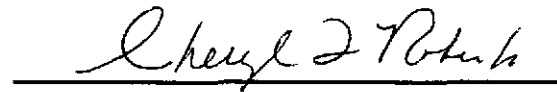
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


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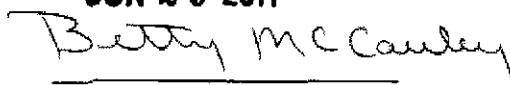

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Entered in the Journal

JUN 29 2011

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