

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. )

FINDING AND ORDER

The Commission 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 1 Order).<sup>1</sup> By entries on rehearing issued July 23, 2009 (First ESP 1 EOR) and November 4, 2009, the Commission affirmed and clarified certain issues raised in AEP-Ohio's ESP 1 Order. As ultimately modified and adopted by the Commission, AEP-Ohio's ESP 1 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)<sup>2</sup> and approved a provider of last resort (POLR) charge for the term of the ESP.
- (2) The Commission's decision in AEP-Ohio's ESP 1 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 categories set forth in Section 4928.143(B)(2), Revised Code,

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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.

authorize recovery of environmental carrying charges.”<sup>3</sup> 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 on Remand issued October 3, 2011, the Commission concluded that, in accordance with the provisions of Section 4928.143(B)(2)(d), Revised Code, the Companies should be authorized to continue to recover the incremental capital carrying costs incurred after January 1, 2009, on environmental investments made from 2001-2008. As to the POLR charge, the Commission ruled that AEP-Ohio had not provided any evidence of its actual POLR costs, and found that its unconstrained option model did not measure its POLR cost and, therefore, directed AEP-Ohio to deduct the amount of the POLR charges reflected in the Companies’ rates and file revised tariffs consistent with the Entry on Remand.
- (4) On October 6, 2011, AEP-Ohio filed two sets of tariffs in response to the Entry on Remand. AEP-Ohio advocates that the first set of tariffs, which reflects a reduction of the POLR charge to the level in effect prior to the implementation of the ESP 1 Order, is appropriate. The POLR charges reflected in this version are as established in Case No. 04-169-EL-UNC, *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan* (Rate Stabilization Plan). In the alternative, in the event that the Commission intended that the entire POLR charge be eliminated, AEP-Ohio offers a second set of tariffs which reflects the elimination of all POLR charges without conceding its right to request rehearing on the issue.

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<sup>3</sup> *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512 (2011).

- (5) Motions in support of the adoption of the alternate set of tariffs were filed by Industrial Energy Users-Ohio (IEU), and jointly by, Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAE). The alternate set of tariffs eliminates all POLR charges, including those AEP-Ohio claims to be approved prior to the ESP 1 Order. IEU argues that in the Companies' Rate Stabilization Plan the Commission authorized the collection of regional transmission organization (RTO) administrative charges and the recovery of the deferred construction work in progress which the Commission replaced in the ESP Order with the POLR charges. IEU reasons that there is no basis for AEP-Ohio asserting that the increase in POLR charges in the ESP 1 Order had any connection to the pre-ESP charges in the Rate Stabilization Plan. In their motion, OCC and OPAE argue that in the development of the POLR charges in the ESP 1 case, AEP-Ohio included and added to the pre-2009 "POLR" charges to support its total POLR revenue requirement. As such, OCC and OPAE claim that the total POLR charge of \$152 million annually approved by the Commission in the ESP 1 Order includes all POLR charges. OCC and OPAE oppose AEP-Ohio's attempt to separate and retain any portion of the POLR charges as embedded in pre-ESP 1 rates.
- (6) AEP-Ohio filed a reply to both motions on October 19, 2011. The Companies reiterate their position that the only POLR charges at issue in the ESP 1 Order and, therefore, the Entry on Remand is the incremental increase in POLR charges authorized pursuant to the ESP 1 Order. AEP-Ohio points to specific language in the Entry on Remand in support of its interpretation of the Entry on Remand. Further, AEP-Ohio contends that the very arguments presented by IEU and OCC/OPAE support the Companies interpretation.
- (7) The Commission finds, at this time, without prejudging any issue which may be raised on rehearing in these matters, that the alternate tariffs eliminating all POLR charges from the rates should be approved to be effective with the first billing cycle of November 2011. The Commission further recognizes that in conjunction with the elimination of all POLR charges and the resulting adjustments to the fuel adjustment charge, the Companies must determine the amount of the credit, if any,

due customers. Accordingly, the Companies shall file tariffs to be effective with the first billing cycle of November 2011 which reflect the customer credit, if any, in accordance with the October 3, 2011, Entry on Remand. While such tariffs shall be effective upon filing, they shall be subject to Commission review and subsequent adjustment, if appropriate.

It is, therefore,

ORDERED, That the Companies' proposed alternate tariffs filed on October 6, 2011, are approved as set forth in Finding (7). It is, further,

ORDERED, That the Companies are authorized to file in final form four complete copies of the tariffs consistent with this Finding and Order. One copy shall be filed with this case docket, one shall be filed with the Companies' TRF docket and the remaining two copies shall be designated for distribution to the Rates and Tariffs Division of the Commission's Utilities Department. The Companies shall also update their tariffs previously filed electronically with the Commission's Docketing Division. It is, further,

ORDERED, That the effective date of the alternate tariffs, including the customer credit, if any, shall be for bills rendered with the first billing cycle of November 2011. It is, further,

ORDERED, That the Companies shall notify all affected customers via a bill message or a bill insert within 30 days of the effective date of the tariffs. It is, further,

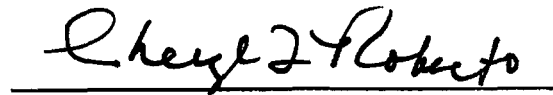
ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Todd A. Snitchler, Chairman  
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Paul A. Centolella

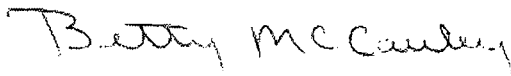
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GNS/vrm

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**OCT 26 2011**

  
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Betty McCauley  
Secretary