

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio       )  
Power Company to Update its                       ) Case No. 13-1406-EL-RDR  
Transmission Cost Recovery Rider Rates.       )

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**COMMENTS  
OF  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

Ohio Power Company (“AEP Ohio” or “Utility”) claims that it incurred \$23 million in PJM Reactive Supply charges from July 2011 through March 2013 but, because of an accounting error, didn’t include them in its Transmission Cost Recovery Rider (“TCRR”). Now, it is seeking to have customers pay the \$23 million in overlooked PJM charges plus an unspecified amount of carrying costs related to them. The carrying costs AEP Ohio wants to charge customers are for both the past – July 2011 to the present -- and for carrying the balance during the upcoming collection period.

But the Transmission Cost Recovery Rider, like other riders, provides reconciliation only for differences between forecasted transmission costs included in the TCRR and the actual amount of costs incurred during the reconciliation period. Here, the amount of \$23 million in PJM Reactive Supply Charges was not previously claimed to be costs for the TCRR. To the extent that the audit period(s) relating to these costs have passed, they are not now recoverable from customers and AEP Ohio should be denied recovery of such costs.

Additionally, if these costs had been claimed when they should have been, carrying charges would have been substantially less than the carrying charges being

claimed now. Customers should not bear financial responsibility for AEP's errors. To the extent any amount is allowed for carrying charges, the amount should be limited to what would have been paid had a timely claim been made for the PJM Reactive Supply charges in the first place. AEP Ohio should not be allowed to charge customers even more money for its delay in claiming the PJM Reactive Supply charges.

Before AEP Ohio's claim for PJM Reactive Supply Charges is even considered, however, AEP Ohio must fully explain how its error occurred, specify the carrying charges sought for the PJM Reactive Supply Charges, and revise its tariff to limit the period when it can make a claim for out-of-period costs.

## **II. COMMENTS**

### **A. AEP Ohio's Claim to Charge Customers A Lot of Money.**

AEP Ohio is claiming that it under-collected its TCRR by \$43,729,919. AEP Ohio is asking the PUCO to require customers to pay this amount of charges that it says it incurred during past periods. AEP Ohio is also claiming carrying charges for this undercollected amount of \$3,331,644. Of the \$43,729,919 of claimed undercollected amounts, \$11 million is for Black Start Service, which AEP Ohio claims resulted from changes made by PJM. Approximately \$7 million is claimed to be the result of regulatory lag in the collection of a previous undercollected balance. And about \$23 million is claimed to be the result of AEP Ohio "inadvertently omitting" a component from the TCRR calculation.

AEP Ohio claims that the \$23 million is for PJM Reactive Supply charges billed by PJM and paid by AEP Ohio, but not properly recorded by the Utility on its books for

the period from July 2011 through March 2013.<sup>1</sup> AEP Ohio claims that this amount was not reflected in rates in previous periods. The end result of AEP Ohio's proposed TCRR rate adjustment, along with the forecast increases in transmission-related charges, would be an increase to residential customer TCRR charges of 35.43%.<sup>2</sup> For a customer utilizing 1,000 kWh in a billing month, this would represent a monthly increase of \$4.10, or a 3% increase in a monthly total bill for CSP rate zone customers and a 3.2% monthly increase for OP rate zone customers. The increases to collect these charges from customers would be in effect for the period September 2013 through August 2014.<sup>3</sup>

**B. Deficiencies In AEP Ohio's Claim Make It Difficult To Assess Properly for Fairness to Customers.**

AEP Ohio's filing is deficient in a number of respects described below. OCC has submitted Interrogatories and Requests for Documents in this case in an effort to better understand the basis for AEP Ohio's claims. OCC is not contesting the \$11 million for Black Start Service or the \$7 million for regulatory lag, as the incurrence of these charges would appear to have been outside AEP Ohio's control. However, OCC may contest recovery of the \$23 million in PJM Reactive Supply charges that were "inadvertently omitted" from previous TCRR calculations due to Utility error. AEP Ohio's filing does not provide sufficient information to justify the \$23 million in PJM Reactive Supply Charges.

In the paperwork filed with the Application, PJM Reactive Supply charges to AEP Ohio are indicated to be only around \$3,700 per month in January, February, and

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<sup>1</sup> Ohio Power Company: *In the Matter of the Application of Ohio Power Company to Update Its Transmission Cost Recovery Rider*, Case No. 13-1406-EL-RDR.

<sup>2</sup> Application at Schedule B-2.

<sup>3</sup> Application at Schedule B-5.

March, 2013, and the amount increases to \$24,019,281 million for April 2013.<sup>4</sup> However, no billing to show the source of this amount is provided. Moreover, AEP Ohio is claiming approximately \$23 million in charges for PJM Reactive Supply for a period of 21 months (July 2011 through March 2013, Application at 5), or about \$1.1 million per month, while forecasting PJM Reactive Supply Charges of \$7.6 million for the next year, or about \$630,000 per month.<sup>5</sup> It is essential for AEP Ohio to explain why the amount that it seeks to charge customers for the past 21 months is so much more than what has been spent in the past and what is forecast going forward.

AEP Ohio is also requesting recovery of Forecast Carrying Costs of \$3,331,644, but does not provide information indicating what period of time these carrying charges are for, and what carrying charges directly relate to the \$23 million in PJM Reactive Supply charges “inadvertently omitted.”<sup>6</sup> Similarly, no information is provided in the filing to indicate where the “inadvertently omitted” charges were recorded instead of the proper account for recording. And AEP Ohio does not explain whether or not the charges have already been paid by customers through some other rider or rate schedule.

**C. Customers Should Not Pay For AEP Ohio’s Accounting Errors.**

Customers should not pay for accounting mistakes by the Utility that resulted in undercollections where the costs were incurred prior to the audit period. In a determination upheld by the Supreme Court of Ohio, the PUCO stated that “[F]or reasons of law, fairness, and finality, however, we believe we are constrained to go no further in

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<sup>4</sup> Application at Schedule D-1 and D-3.

<sup>5</sup> Application at Schedule B-1.

<sup>6</sup> Application at Schedule B-1.

this case than the audit period.”<sup>7</sup> In that case, the PUCO found that it could not reimburse customers for amounts Cleveland Electric collected that were in excess of amounts actually incurred prior to the audit period.<sup>8</sup> Thus, adjustments that pre-date the audit period should generally not be allowed.

In this case, AEP Ohio appears to have underrecovered amounts prior to the audit period. Such amounts, which appear to be the result of its accounting mistakes, should not now be recoverable in the current audit period. Valid claims for undercollections should only include amounts that were necessary to adjust amounts forecasted to be incurred during the audit period to actual charges incurred during the audit period. It should not include charges that the Utility never claimed in the first place would be incurred.

However, if the PUCO finds it reasonable to impose \$23 million in additional charges on customers even though they are first claimed after the audit period has passed, the PUCO should disallow AEP Ohio’s claim for carrying charges. This disallowance should be for both carrying charges AEP Ohio claims were incurred in the past and for any carrying charges during the collection period. The PUCO should not allow carrying charges to be charged to customers where the Utility failed to make a timely claim for such charges. The PUCO has previously held that if a utility collects carrying charges on amounts that should be flowed back to customers, then the carrying charges should also

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<sup>7</sup> *In the Matter of the Regulation of the Electric Fuel Component Contained Within the rate Schedules of The Cleveland Electric Illuminating Company and Related Matters*, Case No. 83-38-EL-EFC, 1984 Ohio PUC LEXIS 65 at 36, (PUCO February 28, 1984), *affirmed Office of Consumers' Counsel v. Public Utilities Com.*, 16 Ohio St. 3d 9, 475 N.E. 2d 782 (1985).

<sup>8</sup> *Id.* See also *In the Matter of the Review of the 2005 Annual Automatic Adjustment of Charges for All Electric and Gas Utilities*, 768 N.W.2d 112; 2009 Minn. LEXIS 360 (Sup. Ct. Minnesota 2009) (upholding Minnesota Public Utility Commission’s denial of recovery of approximately \$21 million in out-of-period charges from 2000-2005 relating to accounting errors).

be returned to customers.<sup>9</sup> Other commissions have addressed the issue presented in this case more directly, finding that carrying charges should not be paid to utilities where utility accounting errors caused the delay in collection.<sup>10</sup>

We hasten to add that any PUCO consideration of allowing AEP Ohio to charge customers for its “inadvertently omitted” costs should be preceded by appropriate proceedings and scrutiny. For example, AEP Ohio should be required to explain the causes of the \$23 million omission and fully respond to OCC’s discovery requests. If needed, a hearing should be held to develop the record on this substantial amount of money that would increase customers’ bills.

Finally, to prevent the Utility from charging customers for its own errors, the PUCO should require AEP Ohio to revise its rider tariffs to make clear that only charges that are claimed in an audit period are recoverable from customers.

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<sup>9</sup> *In the Matter of the Regulation of the Electric Fuel Component Contained Within the Rate Schedules of Columbus Southern Power Company and Related Matters*, Case No. 93-102-EL-EFC, 1994 Ohio PUC LEXIS 480 at 3; 153 P.U.R.4th 60 (PUC Ohio June 16, 1994) (stating that carrying charges paid by customers on EPA emission allowance auction proceeds included in the Electric Fuel Component should be returned to customers if auction proceeds should be flowed through to customers); *In the Matter of the Regulation of the Electric Fuel Component Contained Within the Rate Schedules of the Ohio Power Company and Related Matters*, Case No. 93-101-EL-EFC, 1994 Ohio PUC LEXIS 653 at 19 (PUC Ohio July 21, 1994) (reiterating decision in Columbus Southern Power that carrying charges should be returned to customers if EPA emission allowance auction proceeds to be returned).

<sup>10</sup> *Northern Utilities, Inc. Request for an Accounting Order to Defer Costs Related to an Under-Collection in its Cost of Gas Factor*, Docket No. 2008-462, 2009 Me. PUC LEXIS 414 at 12 (Me. PUC July 1, 2009) (denying Northern Utilities’ request for carrying charges on unclaimed costs resulting from repeated accounting errors over 5 years); *In the Matter of a Petition by Northern States Power d/b/a Xcel Energy for Approval of its Electric Lower Income Program Meter Surcharge*, Docket No. E-002/M-10-854, 2011 Minn. PUC LEXIS 20 at 8 (Minn. PUC January 28, 2011) (accepting utility’s proposed non-recovery of underlying costs and related carrying charges on low-income meter reading expenses where resulting from accounting errors); *Illinois Commerce Commission On Its Own Motion*: Revision of 83 Ill. Adm. Code 525, 94-0403, 1995 Ill. PUC LEXIS 640 at 16 (ICC October 3, 1995) (implementing rules requiring refund of carrying costs on any amounts not prudently incurred or from reconciliation statement errors).

### **III. CONCLUSION**

OCC appreciates the opportunity to comment on AEP Ohio's Transmission Cost Recovery Rider. The PUCO should carefully review AEP Ohio's TCRR, especially its claim for \$23 million in PJM Reactive Supply Charges. And the PUCO should prohibit the Utility from placing the burden of these costs on customers when it failed to make a timely claim for them. If any amount is allowed, the PUCO should not, additionally, place the burden of carrying charges on customers.

If any carrying charges are allowed, they should be limited to those that would have been allowed had a timely claim for these costs been included in AEP's 2011 and 2012 TCRR adjustment filings. This limitation means that customers should not be paying carrying charges to AEP Ohio for time periods of non-collection that exist only because of AEP's error.

The PUCO should require the Utility to document all of its charges and specify the amount of charges claimed. The Commission should also require the revision of the Utility's rider tariffs to make clear that only charges claimed when first incurred or first anticipated to be incurred, whichever is earlier, qualify for collection from customers in later proceedings.

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*/s/ Edmund "Tad" Berger*

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these *Comments* was served on the persons stated below via electronic transmission to the persons listed below, this 29<sup>th</sup> day of July 2013.

/s/ Edmund "Tad" Berger

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/29/2013 1:28:23 PM**

**in**

**Case No(s). 13-1406-EL-RDR**

Summary: Comments Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Berger, Tad Mr.