BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of the Commission's Review of Ohio Power Company's Distribution Investment Rider Plan. | ) ) ) | Case No. 12-3129-EL-UNC |

ENTRY ON REHEARING

The Commission finds:

(1) Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company)[1] is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

(2) On August 8, 2012, the Commission issued its opinion and order in Case No. 11-346-EL-SSO, *et al.*, which approved, with certain modifications, AEP Ohio's application for a standard service offer in the form of an electric security plan (ESP), in accordance with Section 4928.143, Revised Code (ESP Case).[2] Among other provisions of the ESP, the Commission modified and approved AEP Ohio's proposed Distribution Investment Rider (DIR), specifically finding that adoption of the DIR and the Company's replacement of aging infrastructure will facilitate improved service reliability. Additionally, the Commission directed AEP Ohio to work with Staff to develop a DIR plan to emphasize proactive distribution maintenance that focuses spending on where it will have the greatest impact on maintaining and improving reliability for customers. Specifically, the Commission indicated that the DIR plan must quantify the reliability improvements expected, ensure no double recovery, and include a demonstration of DIR expenditures over projected expenditures and recent spending levels. The Commission directed AEP Ohio to file the DIR plan for Commission

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1 By entry issued on March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company (CSP) into Ohio Power Company (OP). *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376-EL-UNC.

2 *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Opinion and Order (August 8, 2012) (ESP Case Order); Entry on Rehearing (January 30, 2013) (ESP Case Entry on Rehearing).

review in a separate docket by December 1, 2012. Finally, the Commission noted that the DIR would be reviewed annually for accounting accuracy, prudency, and compliance with the DIR plan. ESP Case Order at 46-47.

(3) On December 3, 2012, in the above-captioned case, AEP Ohio filed the DIR plan developed with Staff, as required by the Commission in the ESP Case Order.

(4) By finding and order issued on May 29, 2013 (DIR Plan Order), the Commission directed AEP Ohio to implement its 2013 DIR plan, as specified in the order, and indicated that acceptance of the Company's plan is contingent upon a positive outcome with respect to several next steps enumerated by the Commission. DIR Plan Order at 10-12.

(5) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

(6) On June 28, 2013, the Ohio Consumers' Counsel (OCC) filed an application for rehearing of the DIR Plan Order. AEP Ohio filed a memorandum contra on July 8, 2013.

(7) On July 17, 2013, the Commission issued an entry on rehearing, granting rehearing for further consideration of the matters specified in the application for rehearing filed by OCC.

(8) In OCC's first assignment of error in its application for rehearing, OCC argues that the Commission erred in failing to require AEP Ohio to file a DIR plan that complies with the Commission's directives in the ESP Case Order. OCC asserts that the DIR Plan Order identifies several deficiencies in AEP Ohio's DIR plan but nevertheless directs the Company to quantify the actual reliability improvements that are achieved as a result of the plan, after customers have already paid for the investments, contrary to the ESP Case Order.

(9) In its memorandum contra, AEP Ohio argues that OCC ignores the fact that a basic underlying premise of the DIR is

to maintain, as well as to improve, reliability. AEP Ohio contends that the Commission recognized, in approving the DIR, that replacing aging infrastructure, before it fails, is an important justification for the DIR. AEP Ohio also points out that a review of the DIR plan shows that the Company has quantified the tangible reliability improvements, where applicable. AEP Ohio adds that, where a reliability improvement is not expected, such as for proactive replacement of aging distribution infrastructure, no improvement is reflected in the DIR plan, because the work is intended to address future outages and ensure that system performance does not deteriorate. AEP Ohio contends, therefore, that it has complied with the ESP Case Order by quantifying the expected reliability improvements for each program in the DIR plan.

(10) In the DIR Plan Order, the Commission found that AEP Ohio's 2013 DIR plan does not quantify, for many of the components, the reliability improvements that are expected to occur through the DIR investments, nor does it address the issue of double recovery or demonstrate that DIR spending levels will exceed the Company's capital spending levels in recent years. We found, therefore, that AEP Ohio should quantify, as set forth in the order, the actual reliability improvements achieved as a result of implementing the 2013 DIR plan and file this data in conjunction with Staff's review of the Company's compliance with the 2013 DIR plan. The Commission also directed Staff to verify, as part of its review of AEP Ohio's compliance with the 2013 DIR plan, that the Company's actual 2013 DIR spending did exceed capital spending in recent years. Finally, we indicated that the issue of double recovery should be addressed in the annual audit of AEP Ohio's DIR expenditures. The Commission emphasized that our acceptance of AEP Ohio's 2013 DIR plan is contingent upon a positive outcome with respect to each of these next steps. DIR Plan Order at 10-11.

We disagree with OCC's contention that AEP Ohio should have been required to re-file its DIR plan. The DIR Plan Order outlines a reasonable approach to ensuring AEP Ohio's compliance with the ESP Case Order, while enabling the Company to move forward with its DIR programs. With respect to OCC's concern that AEP Ohio's quantification of actual reliability improvements will occur after customers have already paid for the DIR investments, we reiterate that the DIR will be reviewed annually for accounting accuracy and prudency, and any concerns regarding AEP Ohio's DIR spending may be raised by OCC at that time. Therefore, the Commission finds that OCC's first assignment of error should be denied.

(11) In its second assignment of error, OCC contends that the Commission erred by requiring customers to pay for reliability improvements that AEP Ohio is unwilling or unable to provide. OCC notes that the underlying premise supporting implementation of the DIR is that customers would receive improved reliability in exchange for paying the costs associated with the DIR. According to OCC, however, customers are getting no benefit from the DIR that they are funding, as evidenced by the shortcomings that OCC perceives in AEP Ohio's DIR plan. OCC argues that AEP Ohio should be directed to re-file the DIR plan, which should include the Company's expected quantified reliability improvements, within 60 days of the issuance of the entry on rehearing. Alternatively, OCC maintains that AEP Ohio should be admonished that failure to comply with the DIR Plan Order may result in enforcement action.

(12) AEP Ohio responds that the DIR plan encompasses several types of programs and not just programs intended to improve reliability: programs intended to prevent potential reliability problems through the replacement of aging infrastructure before it fails, programs intended to improve reliability that cannot be quantified but will nevertheless have a positive impact on customers, and programs that do reflect expected reliability improvement in a number of areas where improvement can be quantified. Additionally, AEP Ohio contends that OCC's arguments mistakenly rely on OCC's preferences with respect to how AEP Ohio should comply with past Commission orders. AEP Ohio further contends that OCC ignores the fact that the Commission intends to audit the DIR to ensure that funds are being appropriately expended.

(13) In the DIR Plan Order, the Commission stated:

> [A]lthough AEP Ohio's DIR spending should be focused on those components that will best improve or maintain reliability, we disagree with OCC's argument that components with no reliability impact should not be included in the DIR plan. Although a primary objective of the DIR is to enable AEP Ohio to improve or maintain its service reliability, the DIR also provides the Company with a timely cost recovery mechanism for its prudently incurred distribution infrastructure investment costs and is expected to reduce the frequency of base distribution rate cases. Accordingly, as proposed by AEP Ohio and approved by the Commission in the ESP Case, the DIR consists of net capital additions to gross plant in service occurring after August 31, 2010, as adjusted for accumulated depreciation (ESP Case Order at 42), and is not limited to investment in distribution assets that are expected to improve or maintain service reliability.

DIR Plan Order at 12. We recognized that, although a primary purpose of the DIR is to improve or maintain reliability, the DIR was also intended to provide AEP Ohio with timely recovery of prudently incurred distribution infrastructure investment costs. Contrary to OCC's assertion, AEP Ohio's recovery of costs through the DIR is not limited to investment in distribution assets that are expected to improve or even maintain service reliability. To the extent that OCC argues that customers should not be required to pay for DIR programs that are not expected to improve reliability, the Commission finds that OCC's argument, which is essentially a collateral attack on the ESP Case Order, was already rejected in the DIR Plan Order. Further, we disagree with OCC's contention that the DIR plan should be re-filed within 60 days due to OCC's claimed deficiencies in the DIR plan. The Commission reasonably directed AEP Ohio to quantify, as specified in the DIR Plan Order, the actual reliability improvements achieved through implementation of the 2013

DIR plan and to file the results in conjunction with Staff's review of the Company's compliance with the plan. Given that the Commission has already emphasized that AEP Ohio should focus DIR spending on programs that are expected to improve or maintain reliability, as well as directed the Company to provide the actual reliability improvement data, we find no merit in OCC's assertions that the Company has no obligation to improve reliability and that the DIR provides no benefit to customers. Accordingly, OCC's second assignment of error should be denied.

(14) In its third assignment of error, OCC asserts that the Commission erred in failing to require AEP Ohio to separate the components of the DIR plan for the rate zones of CSP and OP, given that each rate zone has different reliability standards. OCC argues that, without separate reporting of quantified reliability improvements for CSP and OP, there is no means to evaluate whether the DIR is achieving improved reliability performance in each service area.

(15) According to AEP Ohio, the DIR is properly focused on the distribution system of the merged entity as a whole and not on a redundant application of programs in the service territories of two former distribution companies. AEP Ohio points out that the DIR rate is the same in the CSP and OP rate zones and that the current reliability standards, which were established for CSP and OP before the merger, are expected to be revised to account for the merger. AEP Ohio also notes that the DIR is more effective if it is allowed to operate and address the distribution system as a whole. Finally, AEP Ohio argues that the Commission already addressed this issue in the ESP Case Entry on Rehearing.

(16) In the DIR Plan Order, the Commission specifically noted that OCC's argument that the DIR components should be separate for the CSP and OP rate zones had already been considered and rejected by the Commission in the ESP Case. DIR Plan Order at 12, citing ESP Case Entry on Rehearing at 46-47. OCC has raised no new argument on this issue, and its third assignment of error should, therefore, be denied.

(17) In its fourth assignment of error, OCC contends that the Commission erred by relying on information not in the

record. OCC claims that the DIR Plan Order relies on Staff's comments, which are based on information from discussions with AEP Ohio that is not in the record and, therefore, not able to be reviewed by other parties. Additionally, OCC argues that the Commission should have directed AEP Ohio to file publicly its report of actual reliability improvements rather than order that the information be provided directly to Staff. OCC also asserts that AEP Ohio should be required to file the 2014 DIR plan in the open record.

(18) AEP Ohio replies that OCC ignores the fact that the Company was directed in the ESP Case Order to work with Staff to develop the DIR plan. AEP Ohio argues that any attack on the process required by the Commission in the ESP Case Order is an improper and untimely request for rehearing of that order.

(19) The Commission finds that OCC's fourth assignment of error lacks merit and should be denied, as the DIR Plan Order did not rely on non-record information. The DIR Plan Order refers only to information explicitly contained within the comments filed by Staff and the other parties to this proceeding. Further, we find OCC's argument that the 2014 DIR plan be filed publicly is superfluous, as the Commission already directed AEP Ohio to file the plan by December 15, 2013 (DIR Plan Order at 13). Pursuant to Rule 4901-1-02(E), Ohio Administrative Code, documents filed with the Commission are considered public records in the absence of a request for protective order. With respect to OCC's contention that AEP Ohio's quantification of actual reliability improvements should be filed publicly rather than provided to Staff, Staff specifically requested, in its comments, that the information be provided to Staff, which has been tasked by the Commission to work with the Company to develop the DIR plan. However, nothing in the DIR Plan Order precluded OCC from requesting the reliability improvement data that is provided by AEP Ohio to Staff. In any event, the Commission clarifies that AEP Ohio should provide its reliability improvement data to Staff by means of a compliance filing in the docket of this proceeding.

(20) Accordingly, the Commission finds that the application for rehearing filed by OCC on June 28, 2013, should be denied in its entirety.

It is, therefore,

ORDERED, That the application for rehearing filed by OCC be denied. It is, further,

ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Steven D. Lesser

Lynn Slaby

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AUG 2 1 2013

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Secretary