

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the )  
Fuel Adjustment Clauses for Columbus ) Case No. 11-5906-EL-FAC  
Southern Power Company and Ohio )  
Power Company and Related Matters. )

In the Matter of the Fuel Adjustment )  
Clauses for Columbus Southern Power ) Case No. 12-3133-EL-FAC  
Company and Ohio Power Company. )

In the Matter of the Fuel Adjustment ) Case No. 13-572-EL-FAC  
Clauses for Ohio Power Company. )

In the Matter of the Fuel Adjustment ) Case No. 13-1286-EL-FAC  
Clauses for Ohio Power Company. )

In the Matter of the Fuel Adjustment ) Case No. 13-1892-EL-FAC  
Clauses for Ohio Power Company. )

FINDING AND ORDER

The Commission finds:

- (1) Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company)<sup>1</sup> is a public utility as defined in R.C. 4905.02 and an electric utility as defined in R.C. 4928.01(A)(11), and, as such, is subject to the jurisdiction of this Commission.
- (2) In Case No. 11-346-EL-SSO, et al., the Commission modified and approved, pursuant to R.C. 4928.143, AEP Ohio's application for an electric security plan (ESP), including a Fuel Adjustment Clause (FAC) mechanism under which the Company is intended to recover prudently incurred fuel and fuel-related costs. *In re Columbus Southern Power Company and Ohio Power Company*, Case No. 11-346-EL-SSO, et al. (ESP Case), Opinion and Order (Aug. 8, 2012) at 18. In addition, a

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<sup>1</sup> On March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company (CSP) into Ohio Power Company (OP). *In re Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2376-EL-UNC, Entry (Mar. 7, 2012).

new Alternative Energy Rider (AER) was established to enable AEP Ohio to recover alternative energy costs, which were previously recovered through the FAC. Annual audits are to be performed of AEP Ohio's fuel costs, fuel management practices, and alternative energy costs. In the *ESP Case*, the Commission also established a series of competitive energy auctions for AEP Ohio's standard service offer (SSO) load. *ESP Case* at 15-16, 38-40.

- (3) In Case No. 12-3254-EL-UNC, the Commission approved a competitive bid procurement (CBP) process for AEP Ohio's energy auctions. *In re Ohio Power Company*, Case No. 12-3254-EL-UNC (*CBP Case*), Opinion and Order (Nov. 13, 2013). The Commission also approved AEP Ohio's proposal to unbundle the FAC, including the Company's request for authority to establish an Auction Phase-In Rider (APIR) to recover FAC-related energy costs, auction purchase costs, and costs from conducting the auctions, as well as a Fixed Cost Rider (FCR) to recover the non-energy costs of the FAC. *CBP Case* at 16.
- (4) On December 20, 2012, Ormet Primary Aluminum Corporation (Ormet) filed a motion to intervene in Case No. 12-3133-EL-FAC. On January 13, 2014, the Ohio Consumers' Counsel (OCC) filed separate motions to intervene in Case No. 12-3133-EL-FAC, 13-572-EL-FAC, 13-1286-EL-FAC, and 13-1892-EL-FAC. On that same date, Industrial Energy Users-Ohio (IEU-Ohio) filed a single motion to intervene in Case No. 12-3133-EL-FAC, 13-572-EL-FAC, 13-1286-EL-FAC, and 13-1892-EL-FAC. On February 4, 2014, Ohio Energy Group (OEG) filed a single motion to intervene in all five of the above-captioned proceedings. No memoranda contra were filed. The Commission finds that the motions to intervene filed by Ormet, OCC, IEU-Ohio, and OEG are reasonable and should be granted.
- (5) On March 3, 2014, in Case No. 13-1892-EL-FAC, AEP Ohio filed its initial rate schedules for the APIR and FCR for the second quarter of 2014, as well as its AER quarterly filing for the same period. AEP Ohio notes that the APIR includes the 10 percent slice-of-system, energy-only auction clearing price of \$42.78/megawatt-hour (MWh) recently accepted by the Commission in Case No. 14-300-EL-UNC. *In re Ohio*

*Power Company*, Case No. 14-300-EL-UNC, Finding and Order (Feb. 26, 2014). AEP Ohio proposes that the new APIR, FCR, and AER rates take effect on April 1, 2014.

- (6) AEP Ohio notes that it has proposed separate APIR, FCR, and AER rates for the CSP and OP rate zones, pursuant to the Commission's Opinion and Order in the *ESP Case*. AEP Ohio further notes that its filing includes actual fuel data for September through December 2013 and projected information for the second quarter (April, May, and June) of 2014 for the APIR and FCR. AEP Ohio adds that it has also included forecasted information for the renewable energy credits for the second quarter of 2014, which was used to develop the proposed AER rates.
- (7) Additionally, AEP Ohio notes that, with respect to the APIR, the Company has provided two sets of certain schedules, which reflect recovery of the reconciliation adjustment component over three-month and nine-month periods.
- (8) Objections to AEP Ohio's quarterly filing in Case No. 13-1892-EL-FAC were filed by OEG and OCC on March 12, 2014, and March 17, 2014, respectively. AEP Ohio filed a reply on March 18, 2014.
- (9) OEG argues that AEP Ohio's proposed FCR charges of \$6.8844/MWh and \$8.1246/MWh for the OP and CSP rate zones, respectively, which would apply during the period of April through June 2014, have substantially increased since February 2013, when the Company first proposed the FCR, with a projected charge of \$4.00/MWh, during the *CBP Case*. According to OEG, the higher charges constitute unauthorized rate increases that result from a flaw in the design of the FCR, which enables AEP Ohio to recover the same amount of fixed costs regardless of the amount of its SSO load, to the detriment of non-shopping customers. OEG points out that, as the number of non-shopping customers dwindles, the FCR charge will continue to increase on a quarterly basis. OEG recommends that the Commission eliminate the FCR, subject to the ultimate audit findings addressing the double-recovery allegations deferred to these proceedings from the *CBP Case*. Alternatively, OEG proposes that the FCR charge be frozen at the level where it

would have been as of August 8, 2012, which is the approval date of AEP Ohio's current ESP. OEG asserts that this approach has already been in place with respect to AEP Ohio's base generation rates, which also recover fixed costs, since August 8, 2012. OEG concludes that, by freezing the FCR charge at its August 8, 2012 level, the Commission would prevent additional unauthorized rate increases as shopping grows.

- (10) OCC argues that the Commission should not permit the FCR and APIR to be implemented before the double-recovery allegations raised in the *CBP Case* have been resolved, in order to ensure that customers are not charged twice for the same purchased power costs. OCC notes that it supports OEG's recommendation that the FCR be eliminated, subject to the auditor's findings on the double-recovery allegations. Next, OCC asserts that AEP Ohio seeks to significantly increase rates in a single-issue ratemaking action that lacks adequate scrutiny. OCC points out that the combined monthly charge for the FCR and APIR for a typical residential customer will increase the current fuel-related rates by \$10.24 and \$11.10 for the OP and CSP rate zones, respectively, which OCC believes requires a thorough examination before the proposed rates take effect. Further, OCC contends that the Commission should not allow AEP Ohio to implement the FCR and APIR rates, because the Company has not adequately explained or justified its request, particularly with respect to the FCR and the Company's estimates of its non-energy costs. OCC also reiterates OEG's arguments regarding the design of the FCR. Finally, OCC maintains that the FCR and APIR should be rejected until the charges have been reviewed and found reasonable and prudent, in light of the fact that electric utilities, including AEP Ohio, have argued on appeal that refunds or similar adjustments ordered by the Commission following an audit are barred as retroactive ratemaking.
- (11) AEP Ohio responds that OEG and OCC falsely characterize the proposed FCR rate as being a rate increase, despite the fact that it is the initial rate. AEP Ohio points out that OEG and OCC rely on prior FCR estimates that were never implemented or presented for approval. According to AEP

Ohio, OEG's and OCC's arguments regarding the rate impact are also misleading. AEP Ohio notes that a true comparison of its fuel rates for the first and second quarters of 2014 reflects an overall increase of \$4.34/MWh and \$5.12/MWh for the OP and CSP rate zones, respectively. AEP Ohio adds that the change in the FCR component is \$0.93/MWh and \$1.10/MWh for the OP and CSP rate zones, respectively. AEP Ohio emphasizes that the overall rate change is within the range of recent historical fluctuations in the FAC, which the Company contends was designed to address a certain level of volatility in fuel costs.

- (12) Further, AEP Ohio maintains that OEG's and OCC's recommendations that the FCR be eliminated or frozen at the August 8, 2012 level are contrary to the final orders in the *ESP Case* and *CBP Case*. AEP Ohio points out that, in the *CBP Case*, the Commission explicitly adopted the FCR, effective April 1, 2014, and approved the Company's request to continue full recovery of certain non-energy purchased power costs from SSO customers, on a bypassable basis, regardless of whether shopping continues to increase. AEP Ohio also contends that OCC's remaining arguments lack merit and conflict with the final orders in the *CBP Case*. AEP Ohio emphasizes that it is prepared to refute the double-recovery allegations, although the Company has challenged the pursuit of such allegations as undermining prior decisions approving its base generation rates and the FAC. In any event, AEP Ohio asserts that the Company understands that the FAC and its new components are subject to audit and reconciliation and, therefore, OCC's claims should be rejected.
- (13) The Commission finds that AEP Ohio's request to implement its initial APIR and FCR rates, and to revise its AER rates, should be approved, consistent with Schedules 1 through 11, including recovery of the APIR's reconciliation adjustment component over three months. AEP Ohio's proposed APIR, FCR, and AER rates do not appear to be unjust or unreasonable. Therefore, the Commission finds that it is unnecessary to hold a hearing in this matter. Accordingly, the Commission finds that AEP Ohio should be authorized to file final tariffs consistent with this Finding

and Order. The final tariffs shall be approved effective April 1, 2014, contingent upon final review by the Commission. The Commission notes that AEP Ohio's APIR, FCR, and AER costs are subject to an annual audit and reconciliation.

- (14) Although OCC believes that the magnitude of the fuel increase requires a thorough examination before the new rates take effect, the APIR and FCR, just as their predecessor FAC, are intended to enable AEP Ohio to recover its prudently incurred fuel and associated costs, in accordance with R.C. 4928.143(B)(2)(a), which provides for automatic recovery of such costs. The APIR and FCR will be reconciled to actual costs each quarter and annually audited for accounting accuracy and prudence, as has occurred with the FAC, and this audit and reconciliation process does not constitute unlawful retroactive ratemaking. Because the APIR and FCR will be collected subject to the outcome of the annual audits, the Commission finds that OCC's arguments should be rejected. OCC may raise any concerns regarding the prudence of AEP Ohio's fuel rates during the annual audit proceedings. Additionally, we disagree with OCC's contention that AEP Ohio has not adequately explained its request, as the Company has provided the necessary supporting schedules.
- (15) In response to OEG's recommendation that the FCR be eliminated or frozen at the August 8, 2012 level, as well as OCC's assertion that the APIR and FCR should not be implemented until the double-recovery allegations are resolved, we find that such arguments constitute a collateral attack on prior orders of the Commission issued in the *CBP Case*. *CBP Case*, Opinion and Order (Nov. 13, 2013), Entry on Rehearing (Jan. 22, 2014). The Commission adopted, in the *CBP Case*, AEP Ohio's proposal to unbundle the FAC, including the Company's request for authority to establish the APIR to recover variable energy costs and the FCR to recover fixed non-energy costs. We noted that AEP Ohio's non-energy costs to be collected through the FCR pertain to previous purchased power contractual commitments that the Company has made in order to fulfill its obligation to provide its SSO to all non-shopping customers. We further

noted that no party to the case, including OEG and OCC, advanced any persuasive argument against AEP Ohio's proposal to bifurcate the FAC and establish the FCR and APIR in its place. *CBP Case*, Opinion and Order (Nov. 13, 2013) at 16. Nothing precluded OEG and OCC from raising their arguments regarding the design of the FCR in the *CBP Case*. Regardless, the Commission emphasizes that the FCR and APIR are subject to reconciliation, and will be adjusted in the event that AEP Ohio is found to have over-recovered its costs.

- (16) Additionally, OEG and OCC acknowledge that the alleged double-recovery issues related to the FCR have already been identified as the subject of an upcoming audit in these proceedings. To date, the Commission has directed Staff to issue a supplemental request for proposal to select an independent auditor to examine the double-recovery allegations raised by OEG, OCC, and other intervenors in the *CBP Case*. The selected auditor will determine whether there is any merit in the double-recovery allegations and offer any recommendations for the Commission's consideration. The investigation and review process will be completed as expeditiously as possible, while ensuring that all parties have an opportunity to respond to the auditor's findings.
- (17) With respect to AEP Ohio's future quarterly APIR, FCR, and AER filings, Staff shall review each such filing for completeness, computational accuracy, and consistency with any prior Commission determinations regarding the adjustments. If Staff raises no issues prior to the billing cycle during which the quarterly adjustments are to become effective, the adjusted APIR, FCR, and AER rates shall become effective for that billing cycle. As noted above, however, APIR, FCR, and AER costs are subject to adjustment during the annual audit and reconciliation.

It is, therefore,

ORDERED, That the motions to intervene filed by Ormet, OCC, IEU-Ohio, and OEG be granted in accordance with finding (4). It is, further,



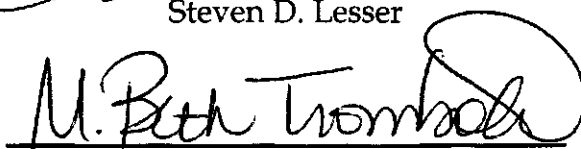
ORDERED, That AEP Ohio be authorized to file final tariffs consistent with this Finding and Order, and that the effective date of the new tariffs shall be April 1, 2014, contingent upon final review by the Commission. It is, further,

ORDERED, That AEP Ohio file, in final form, complete copies of its tariffs, consistent with this Finding and Order. AEP Ohio shall file one copy in its TRF docket and one copy in this case docket. It is, further,

ORDERED, That AEP Ohio shall notify its customers of the changes to the tariffs via bill message or bill insert within 30 days of the effective date of the revised tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

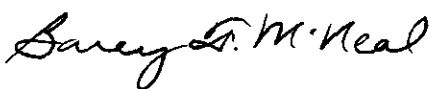
ORDERED, That a copy of this Finding and Order be served upon all parties of record and other interested persons of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman  
Steven D. Lesser  
Lynn Slaby  
M. Beth Trombold  
Asim Z. Haque

SJP/sc

Entered in the Journal **MAR 19 2014**

  
Barcy F. McNeal  
Secretary