

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Ohio Power Company to Adopt a Final) Case No. 14-1186-EL-RDR
Implementation Plan for the Retail)
Stability Rider.)

ENTRY

The attorney examiner finds:

- (1) Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) 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) On July 2, 2012, in Case No. 10-2929-EL-UNC, the Commission approved a capacity pricing mechanism for AEP Ohio. *In re Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2929-EL-UNC (*Capacity Case*), Opinion and Order (July 2, 2012). The Commission established \$188.88/megawatt-day (MW-day) as the appropriate charge to enable AEP Ohio to recover, pursuant to its fixed resource requirement obligations, its capacity costs from competitive retail electric service (CRES) providers. However, the Commission also directed that AEP Ohio's capacity charge to CRES providers should be based on the rate established by PJM Interconnection's reliability pricing model (RPM), including final zonal adjustments, in light of the fact that the RPM-based rate would promote retail electric competition. The Commission authorized AEP Ohio to modify its accounting procedures to defer capacity costs not recovered from CRES providers to the extent the total incurred capacity costs do not exceed \$188.88/MW-day, with the recovery mechanism to be established in the Company's then pending electric security plan (ESP) proceedings. *Capacity Case* at 33.
- (3) 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 ESP, in accordance with R.C. 4928.143. *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). Among other provisions of the ESP, the Commission modified and approved AEP Ohio's proposed retail stability rider (RSR), which, in part, was intended to enable the Company to begin to recover the deferred amount of its capacity costs, consistent with the Commission's directives in the *Capacity Case*. Additionally, the Commission found that any remaining capacity deferral balance at the conclusion of the ESP term should be amortized over a three-year period unless otherwise ordered by the Commission. The Commission also directed AEP Ohio to file its actual shopping statistics at the end of the ESP term and noted that all determinations for future recovery of the capacity deferral balance would occur following the Company's filing of its actual shopping statistics. *ESP Case* at 36.

- (4) On July 8, 2014, in the above-captioned case, AEP Ohio filed an application requesting approval to continue its implementation of the RSR. In the application, AEP Ohio proposes a final implementation plan to continue the RSR beginning on June 1, 2015, at which point the current ESP term will end, and continuing over a collection period of 32 months, until the remaining capacity deferral and carrying charge balance is fully recovered.
- (5) On various dates, motions to intervene in this proceeding were filed by the Ohio Energy Group (OEG), Ohio Hospital Association (OHA), Ohio Manufacturers' Association Energy Group (OMAEG), Industrial Energy Users-Ohio (IEU-Ohio), Office of the Ohio Consumers' Counsel (OCC), and The Kroger Company (Kroger). No memoranda contra were filed. The attorney examiner finds that the motions to intervene filed by OEG, OHA, OMAEG, IEU-Ohio, OCC, and Kroger are reasonable and should be granted.
- (6) On September 2, 2014, OCC filed a motion to propose a procedural schedule that provides adequate time for discovery and hearing preparation. OCC also proposes

deadlines for the filing of testimony and a date for an evidentiary hearing. In support of the motion, OCC contends that a hearing is necessary, in light of the magnitude of the capacity deferral balance that AEP Ohio seeks to recover from customers. OCC further contends that, given the close timing of the Commission's decisions in the *Capacity Case* and the *ESP Case*, the appropriate mechanism for collection of the capacity deferrals authorized in the *Capacity Case* was not addressed or analyzed in the record of the *ESP Case* and, therefore, a hearing is now required.

- (7) On September 17, 2014, AEP Ohio filed a memorandum contra OCC's motion. AEP Ohio argues that the motion should be denied, because the narrow purpose of this docket is to verify the accurate capacity deferral balance and to finalize the RSR rate for the post-ESP collection period. According to AEP Ohio, OCC inappropriately seeks to relitigate and challenge determinations made by the Commission in the *Capacity Case* and the *ESP Case*, which are final and pending on appeal before the Supreme Court of Ohio. Although AEP Ohio believes that OCC's proposed hearing schedule is unjustified and will cause undue delay, the Company requests that, if a full litigation schedule is established, the scope of the proceeding, including the scope of discovery, be limited and provide for a more expedited schedule than proposed by OCC.
- (8) On September 24, 2014, OCC filed a reply to AEP Ohio's memorandum contra the motion for a procedural schedule. OCC maintains that the issues presented in its motion were not already litigated in the *ESP Case*. OCC points out that the Commission has not considered, in a hearing in any case, the proper mechanism to collect the deferred capacity charges from customers. OCC also asserts that there is no merit in AEP Ohio's claim that OCC's proposed hearing schedule is unjustified and will cause undue delay.
- (9) In order to assist the Commission in its review of AEP Ohio's application, the attorney examiner finds that the following procedural schedule should be established:

- (a) November 24, 2014 – Deadline for the filing of motions to intervene.
 - (b) December 1, 2014 – Deadline for the filing of initial comments by Staff and intervenors.
 - (c) December 16, 2014 – Deadline for the filing of reply comments by all parties.
- (10) Additionally, the attorney examiner finds that OCC's motion for a procedural schedule including an evidentiary hearing should be denied, as good cause has not been demonstrated. The procedural schedule set forth above provides intervenors with a fair and full opportunity to address the issues raised in AEP Ohio's application. Further, the attorney examiner notes that the Commission is vested with broad discretion to manage its dockets, including the discretion to decide, how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay, and eliminate unnecessary duplication of effort. *Duff v. Pub. Util. Comm.*, 56 Ohio St.2d 367, 379, 384 N.E.2d 264 (1978); *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982). Following a review of the comments and reply comments filed by the parties, a determination will be made as to whether a hearing is warranted in this matter.

It is, therefore,

ORDERED, That the motions to intervene filed by OEG, OHA, OMAEG, IEU-Ohio, OCC, and Kroger be granted. It is, further,

ORDERED, That the procedural schedule set forth in finding (9) be adopted. It is, further,

ORDERED, That OCC's motion for a procedural schedule including an evidentiary hearing be denied. It is, further,

ORDERED, That a copy of this Entry be served upon all parties and other interested persons of record in this case and all parties of record in Case No. 11-346-EL-SSO, et al.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

JRJ/sc

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in

Case No(s). 14-1186-EL-RDR

Summary: Attorney Examiner Entry orders the motions to intervene filed by OEG, OHA, OMAEG, IEU-Ohio, OCC, and Kroger by granted, orders the procedural schedule set forth in finding (9) be adopted, and orders OCC's motion for a procedural schedule including an evidentiary hearing be denied. - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio