

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION  
REVIEW OF THE CAPACITY CHARGES OF  
OHIO POWER COMPANY AND  
COLUMBUS SOUTHERN POWER  
COMPANY.

CASE No. 10-2929-EL-UNC

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

CASE No. 11-348-EL-SSO

IN THE MATTER OF THE APPLICATION  
OF COLUMBUS SOUTHERN POWER  
COMPANY AND OHIO POWER  
COMPANY FOR APPROVAL OF CERTAIN  
ACCOUNTING AUTHORITY.

CASE No. 11-349-EL-AAM

CASE No. 11-350-EL-AAM

IN THE MATTER OF THE APPLICATION  
OF OHIO POWER COMPANY TO ADOPT A  
FINAL IMPLEMENTATION PLAN FOR THE  
RETAIL STABILITY RIDER.

CASE No. 14-1186-EL-RDR

ENTRY

Entered in the Journal on May 18, 2016

I. SUMMARY

{¶ 1} In this Entry, the Commission directs Ohio Power Company d/b/a AEP Ohio to file revised tariffs that provide that the RSR is being collected subject to refund, effective with bills rendered for the first billing cycle of June 2016, and until otherwise ordered by the Commission.

## II. DISCUSSION

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company)<sup>1</sup> is an electric light company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} 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 Co. and Columbus Southern Power Co.*, 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 the reliability pricing model (RPM) for PJM Interconnection, LLC, 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 second ESP proceedings. *Capacity Case* at 33.

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

{¶ 5} 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 Co. and Ohio Power Co.*, Case No. 11-346-EL-SSO, et al. (*ESP 2 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*. Specifically, AEP Ohio was permitted to collect a monthly charge of \$3.50 per megawatt hour (MWh) through May 31, 2014, and \$4.00 per MWh between June 1, 2014, and May 31, 2015, with \$1.00 per MWh allocated toward the capacity deferral. 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 2 Case* at 36.

{¶ 6} The Commission's orders in the *Capacity Case* and *ESP 2 Case* were appealed to the Supreme Court of Ohio. Although the Court affirmed the Commission's orders in both cases in many respects, the Court remanded the *Capacity Case* to the Commission to address alleged flaws in certain inputs to the calculation of the energy credit used to offset AEP Ohio's capacity costs with projected revenues from off-system sales. *In re Comm. Rev. of Capacity Charges of Ohio Power Co.*, Slip Opinion No. 2016-Ohio-1607, at ¶ 57. Upon review of the *ESP 2 Case*, the Court found, regarding the RSR, that AEP Ohio "is entitled to recover only its actual capacity costs" and, therefore, the *ESP 2 Case* was remanded to the Commission "to adjust the balance of [the Company's] deferred capacity costs to eliminate the overcompensation of capacity revenue recovered through the nondeferral part of the RSR during the ESP." *In re Application of Columbus S. Power Co.*, Slip Opinion

No. 2016-Ohio-1608, at ¶ 40. The Court also determined that the Commission failed to explain its decision to establish a significantly excessive earnings test threshold of 12 percent to be applied during the term of the ESP for purposes of the annual earnings review required by R.C. 4928.143(F). *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2016-Ohio-1608, at ¶ 66.

{¶ 7} On May 6, 2016, a joint motion was filed by The Kroger Company, Ohio Consumers' Counsel, Ohio Energy Group, and Ohio Manufacturers' Association Energy Group (Joint Movants), requesting that the Commission direct AEP Ohio to cease and desist in charging and collecting the RSR from customers. In support of the motion, the Joint Movants argue that continued collection of the RSR by AEP Ohio would be inconsistent with the Court's decision and would irreparably harm customers during the remand process. Specifically, the Joint Movants contend that, unless the Commission immediately stops AEP Ohio's collection of the RSR, the remaining RSR balance may be less than the credits due to customers under the Court's decision.

{¶ 8} On May 17, 2016, AEP Ohio filed a memorandum contra the Joint Movants' motion to cease and desist. In the memorandum contra, AEP Ohio argues that the Commission should deny the motion and should instead act expeditiously to resolve the Court's remand directives from both the *Capacity Case* and the *ESP 2 Case* in an efficient and integrated fashion. AEP Ohio further argues that the effect of the Court's remand directive in the *Capacity Case* may offset or exceed the effect of the remand directive in the *ESP 2 Case*. AEP Ohio, therefore, concludes that a cease and desist order would be unnecessary and inappropriate, particularly in light of the fact that the Commission has other means to protect the interests of both customers and the Company, such as by making the RSR subject to refund pending the completion of the remand process.

{¶ 9} Consistent with the Court's decision regarding the RSR approved in the *ESP 2 Case*, the Commission directs AEP Ohio to file revised tariffs that provide that the

RSR is being collected subject to refund, effective with bills rendered for the first billing cycle of June 2016, and until otherwise ordered by the Commission.

### III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That AEP Ohio file tariff pages that reflect that the RSR is being collected subject to refund, effective with bills rendered for the first billing cycle of June 2016, and until otherwise ordered by the Commission. It is, further,

{¶ 12} ORDERED, That AEP Ohio file the revised tariffs, in final form, consistent with this Entry. AEP Ohio shall file one copy in Case No. 11-346-EL-SSO, et al., and one copy in its TRF docket. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon all parties of record.

**Commissioners Voting: Andre T. Porter, Chairman; Asim Z. Haque, Vice Chairman; Lynn Slaby; M. Beth Trombold; Thomas W. Johnson.**

SJP/sc