

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Update Its) Case No. 19-1747-EL-RDR
Enhanced Service Reliability Rider.)

**COMMENTS ON AEP OHIO’S PROPOSAL TO CHARGE CUSTOMERS
FOR TREE TRIMMING EXPENSES
BY
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

I. INTRODUCTION

AEP Ohio has filed an application to collect well over \$13.6 million in charges from Ohioans for 2019 tree trimming expenses in addition to the rates that consumers already pay for tree trimming as part of their base rate charges.¹ But AEP Ohio’s application is flawed because, among other things, it fails to credit customers for past overpayments (approximately \$21.6 million) that customers have made from 2009 through 2016. When customers are properly credited for these overpayments, and other necessary adjustments (approximately \$1 million) are made as proposed by the PUCO Staff (supported by OCC),² the \$13.6 million rate increase turns into a nearly \$9 million credit to consumers – a long overdue credit that AEP Ohio does not want to give its customers.

AEP Ohio’s application for a \$13.6 million increase in tree trimming charges to its customers should be rejected in light of the recommendations made by the PUCO

¹ See AEP Ohio Application (September 5, 2019), Schedule 1. AEP Ohio’s 2019 revenue requirement includes the true-up from its 2018 tree trimming spend. See *id.*

² These adjustments include the 2018 excess spending to be disallowed, the 2018 total capital spending carrying charges, and the 2018 incremental capital carrying costs.

Staff in its March 4, 2020 Review and Recommendations and OCC's comments here. Instead, AEP customers should be getting nearly \$9 million in refunds.³ Given the present crisis customers face from responding to the coronavirus, a refund to customers now is very much needed and appropriate.

II. COMMENTS

A. To protect consumers, in this case the PUCO should order AEP Ohio to credit (refund) consumers approximately \$9 million.

AEP Ohio's Enhanced Service Stability Rider ("tree trimming charge") is used to charge consumers for tree trimming expenses incremental to expenses customers are already paying in base rates.⁴ The tree trimming charge allows AEP Ohio to collect from customers both carrying costs on capital spending and operation and maintenance expenditures, and is subject to a \$27.6 million annual cap.⁵

A major issue for consumers is that AEP Ohio ignores overpayments that consumers have made for tree trimming in the past. AEP Ohio omitted from the tree trimming charge revenue requirement requested in this case the amount that it has overcharged consumers in from 2009 to 2016 – approximately \$21,629,582.⁶ As PUCO Staff pointed out, and AEP Ohio concedes,⁷ this is "inconsistent from previous [tree

³ See Staff Review and Recommendations (December 31, 2019) ("Staff Comment"). The nearly \$22.6 million overcharge is the sum of AEP Ohio's requested \$13.6 million and the nearly \$9 million that PUCO Staff and OCC recommend be refunded to consumers.

⁴ See Staff Recommendation at 2.

⁵ See *id.*

⁶ See Discovery Response to OCC-INT-01-005 (Attachment A). The amounts of over/(under) collections are: \$521,029 (2009), -\$3,113,133 (2010), -\$351,060 (2011), \$2,657,136 (2012), -\$7,586,563 (2013), \$1,682,426 (2014), \$14,439,986 (2015), \$13,379,772 (2016).

⁷ See AEP Ohio's Reply Comment at 3 ("excluding the historical spend through 2017 is inconsistent from previous ESSR revenue requirement calculations.")

trimming rider] revenue requirement calculations.”⁸ AEP Ohio’s requested departure from previous tree trimming rider revenue requirement calculations means that consumers would not get credit in this case for all the overpayments they have made to AEP Ohio in the past. The PUCO should not allow AEP Ohio to keep money from overcharging consumers in prior years and ask for yet *more* consumer money. It should follow the recommendation of its Staff – and its own prior precedents⁹ – and *deduct* from AEP Ohio’s tree trimming rider revenue requirement sought in this case the full amount of its previous overcharges.¹⁰

Not only should AEP Ohio return to customers the overcharges from 2009-2016, but it should also be required to recalculate the tree trimming charge so that customers pay for actual tree trimming expenses not accrued tree trimming expenses. In its application, AEP Ohio used one method (the accrual method)¹¹ to calculate its 2018 tree trimming expenditure that is subject to a \$27.6 million cap.¹² It used a different method (based on *actual* costs) for calculating the 2018 revenue requirement.¹³

⁸ See Staff Recommendation at 3.

⁹ See, e.g., PUCO Case No. 17-1914-EL-RDR, AEP Ohio’s Application (September 5, 2017) and Opinion and Order (December 4, 2019); PUCO Case No. 18-1371-EL-RDR, AEP Ohio’s Application (August 31, 2018).

¹⁰ See *id.*; see also PUCO Case No. 13-2385-EL-SSO, Opinion and Order (February 25, 2015) at 49 (reaffirming in its most recent approval of the tree trimming charge that it is “subject to the Commission’s review and reconciliation on an annual basis.”).

¹¹ In its application, AEP Ohio has included certain operation and maintenance expenses and capital spending that occurred in 2018 but was not booked until 2019. Consequently, there are two sets of operation and maintenance expenses and capital spending data presented in the application: the Actual (the actual amount spent or accruals removed) and the Accrual (the amount booked in accounting records or accruals included).

¹² See AEP Ohio Application, Schedule 1.

¹³ *Id.*

The use of such divergent accounting treatments benefits AEP Ohio, to the detriment of consumers. AEP Ohio's creative accounting in this application *understates* the 2018 tree trimming expense, minimizing AEP's disallowance, and *overstates* the 2018 revenue requirement, maximizing charges to customers. AEP Ohio unjustifiably reduces its disallowance for 2018 over collection by almost a million dollars (\$917,118).¹⁴ And this in turn increase the charges to customers by the same amount.

AEP Ohio has not provided (and cannot provide) a valid explanation for the inconsistent accounting treatment. There is none. As PUCO Staff explained, only *actual* costs should be used in calculating AEP Ohio's tree trimming charge. Consumers should be charged no more for tree trimming than what AEP Ohio actually spent.

The effect of making these adjustments recommended by PUCO Staff (and supported by OCC) would result in consumers getting a nearly \$9 million credit (instead of a \$13.6 million charge).

AEP Ohio is quite familiar with the true-up concept. It occurs in most (if not all) of the nearly 30 riders that it is charging its customers.¹⁵ If in a prior year AEP Ohio fails to collect from customers all the costs it was entitled to collect, it makes up the deficiency in the subsequent year. In contrast, here AEP Ohio's application, if granted, would overcharge its customers by approximately \$22.6 million (approximately \$13.6 million in the requested revenue requirement here and withholding from consumers the approximately \$9 million credit) over a twelve-month period through the tree trimming

¹⁴ See AEP Ohio Application, Schedule 1 and Staff Recommendation.

¹⁵ For example, in addition to the tree trimming rider, the BTCR, Storm Rider, and the PT-BAR are all subject to a true-up, and the massive PPA Rider was, too.

charge. Consumers should not be denied the true-up that they are entitled to, and all past over-collections should be returned to consumers with interest.

The PUCO should not approve AEP Ohio's application. It would result in unjust and unreasonable charges to consumers, in violation of R.C. 4905.22. Instead, it should follow the recommendations of PUCO Staff (supported by OCC) and order AEP Ohio to credit consumers approximately \$9 million.

B. To protect consumers, the PUCO should require its Staff to examine why AEP Ohio is failing to meet its annual cycle-based tree-trimming goals and to conduct additional physical audits of the vegetation line clearance work being performed by AEP Ohio.

Despite the massive amount of money that customers are being charged (and actually have been overcharged) through the tree trimming rider, AEP Ohio is continuing to fail in meeting its four-year cycle-based distribution vegetation management standards.¹⁶ In order to remain in compliance with the PUCO approved four-year cycle-based vegetation management program,¹⁷ AEP Ohio was required to clear 7,826 circuit miles of vegetation management to help customers avoid interruptions in service. But it only cleared 7,479 circuit miles.¹⁸ In 2018, ten years after the PUCO mandated AEP Ohio's four-year cycle-based vegetation management program, customers continued to experience 21,791 interruptions caused by trees inside the right-of-way resulting in 4,257,405 minutes of being without power.¹⁹ This contributed to AEP Ohio's failure to meet both the PUCO approved System Average Index ("SAIFI") and Customer Average

¹⁶ Case 19-996-EL-ESS, Rule 26 System Improvement Plan, Page 58 (March 29, 2019).

¹⁷ AEP Ohio Inspection, Maintenance, Repair, and Replacement Program, Case 15-2071-EL-ESS, (December 15, 2015).

¹⁸ *Id.*

¹⁹ Case 19-992-EL-ESS, Rule 10 Distribution Reliability Report, Page 25 (March 29, 2019).

Interruption Duration Index (“CAIDI”) in 2018.²⁰ There was no mention of AEP Ohio’s failure to meet the PUCO cycle-based tree-trimming requirements or the PUCO approved reliability standards in the Staff Recommendation, but there should have been. The PUCO should require Staff to examine the reasons why AEP Ohio failed to meet its tree-trimming standards in any future review and audit of the tree trimming rider.

The Staff Recommendation described the physical verification audit that was conducted on a sample of 46 circuits where tree-trimming had occurred to examine the line clearance that was performed.²¹ Staff noticed potential issues on two circuits where moderate regrowth was noticed for circuits that had been trimmed within the previous eleven to twenty-three months.²² The regrowth over such a short period of time could be indicative that AEP Ohio is not adequately performing the required tree-trimming or that additional tree-trimming measures may be necessary. The PUCO should require Staff to perform a more comprehensive analysis of regrowth trends on a larger sample of circuits in the next ESRR audit.

C. AEP Ohio’s Reply Comments make unnecessary proposals counter to consumers’ interests and mischaracterize the Staff Recommendation.

The PUCO should reject AEP Ohio’s proposal to have discussions with Staff on “an ESRR rider rate to recommend to the Commission that would drive and stabilize the Over/ (Under Recovery) balance as close to zero as possible.”²³ This is a stalling tactic by AEP Ohio to avoid giving back money owed to customers.

²⁰ Ohio Power Annual Reliability Report for 2018, Case 19-992-EL-ESS (March 29, 2019).

²¹ Staff Recommendation at 2.

²² *Id.*

²³ See AEP Ohio’s Reply Comments.

Any such discussion is unnecessary. There is no better way to drive and stabilize the over/under collection balance as close to zero as possible than to return the over collections to customers as soon as possible. Given the present crisis customers face from responding to the coronavirus, a refund to customers now is very much needed and appropriate.

III. CONCLUSION

AEP Ohio's proposed tree trimming charges in its application are unjust and unreasonable because they are based on inconsistent accounting methods and fail to true-up past over-collections from customers and return millions of dollars to customers (plus interest) for tree trimming overcharges from 2009 through 2016. It is time to return this money to Ohioans who are facing extreme economic challenges.

Respectfully submitted,

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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, this 9th day of April 2020.

/s/ William Michael _____
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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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**OHIO POWER COMPANY'S RESPONSE TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE NO. 19-1747-EL-RDR
FIRST SET**

INTERROGATORY

OCC-INT-01-005 Please confirm that the amounts of Over/(Under) Recovery of ESR Rider of the Company for the years 2009 to 2018 are the followings:

	<u>Year</u>	<u>Over/(Under) Recovery of ESR Rider</u>
	2009	\$521,029
	2010	(\$3,113,133)
	2011	(\$351,060)
	2012	\$2,657,136
	2013	(\$7,586,563)
	2014	\$1,682,426
	2015	\$14,439,986
	2016	\$13,379,772
	2017	\$8,907,531
	2018	\$10,153,665

RESPONSE

Confirmed. As of the date of this response, the Commission has not yet adjudicated the Company's 2017 and 2018 ESRR applications.

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Case No(s). 19-1747-EL-RDR

Summary: Comments Comments on AEP Ohio's Proposal to Charge Customers for Tree Trimming Expenses by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.