THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF OHIO POWER COMPANY TO UPDATE ITS ENHANCED SERVICE RELIABILITY RIDER FOR 2017.	**CASE NO. 18-1371-EL-RDR**
IN THE MATTER OF THE APPLICATION OF OHIO POWER COMPANY TO UPDATE ITS ENHANCED SERVICE RELIABILITY RIDER FOR 2018.	**CASE NO. 19-1747-EL-RDR**

FINDING AND ORDER

Entered in the Journal on October 7, 2020

I. SUMMARY

{¶ 1} The Commission approves the application of Ohio Power Company to adjust its enhanced service reliability rider, subject to the recommendations of Staff, and consistent with this Finding and Order.

II. DISCUSSION

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or Company) is an electric distribution utility (EDU), as defined in R.C. 4928.01(A)(6), and a public utility, as defined in R.C. 4905.02. As such, AEP Ohio is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.141 provides that an EDU 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} In Case No. 08-917-EL-SSO, et al., the Commission modified and approved AEP Ohio's application for an ESP, which included approval of the enhanced service reliability rider (ESRR) through which the Company recovers incremental costs associated with its enhanced vegetation management program. The ESRR is subject to Commission review and reconciliation on an annual basis. *In re Columbus Southern Power Co. and Ohio*

Power Co., Case No. 08-917-EL-SSO, et al. (*ESP 1 Case*), Opinion and Order (Mar. 18, 2009) at 30-34, Entry on Rehearing (July 23, 2009) at 17-18. As a part of each of the Company's subsequent ESPs, the Commission has approved the continuation of the ESRR. *In re Ohio Power Co.*, Case No. 11-346-EL-SSO, et al., Opinion and Order (Aug. 8, 2012); *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, et al. (*ESP 3 Case*), Opinion and Order (Feb. 25, 2015); *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al. (*ESP 4 Case*), Opinion and Order (Apr. 25, 2018).

{¶ 5} In the Company's third ESP, effective June 1, 2015, through May 31, 2018, the Commission approved the continuation of the ESRR, including AEP Ohio's requests to increase ESRR forecasted operations and maintenance (O&M) expense and capital costs. Specifically, AEP Ohio forecasted ESRR capital costs of $1 million per year for 2015 through 2017, and $1.1 million for 2018, as well as O&M expenses of $25 million per year for 2015 through 2017, and $26.3 million for 2018. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 47, 49.

{¶ 6} On April 25, 2018, the Commission modified and approved AEP Ohio's fourth ESP, pursuant to a joint stipulation and recommendation (Stipulation), to be effective June 1, 2018, through May 31, 2024, including the continuation of the ESRR, with a cap of $27.6 million annually for actual expenditures and subject to annual review for compliance, program costs, and prudency. The Stipulation also provided that the ESRR would terminate on December 31, 2020, and be set to zero, if AEP Ohio did not file a base rate case by June 1, 2020.[1] *ESP 4 Case*, Opinion and Order (Apr. 25, 2018) at ¶¶ 192, 196.

---

[1] In Case No. 20-585-EL-AIR, et al., AEP Ohio filed a distribution base rate case application for the Commission's consideration. Due to the closure of the Commission's offices from June 1, 2020, through June 5, 2020, the application for a rate increase, which was submitted by AEP Ohio on June 1, 2020, was accepted for filing on June 8, 2020, and deemed timely filed in accordance with R.C. 1.14 and Ohio Adm.Code 4901-1-07 and 4901-1-13. *In re the Extension of Filing Dates for Pleadings and Other Papers Due to a Building Emergency*, Case No. 20-1132-AU-UNC, Entry (June 8, 2020).

{¶ 7} AEP Ohio's current ESRR rate was approved by the Commission on December 4, 2019. *In re Ohio Power Co.*, Case No. 17-1914-EL-RDR (*2016 ESRR Case*), Opinion and Order (Dec. 4, 2019).

A. Procedural History

1. CASE NO. 18-1371-EL-RDR

{¶ 8} On August 31, 2018, in Case No. 18-1371-EL-RDR (*2017 ESRR Case*), AEP Ohio filed an application to reconcile its ESRR rate for 2017.

{¶ 9} On October 1, 2018, Ohio Consumers' Counsel (OCC) filed a motion to intervene in the *2017 ESRR Case*. By Entry issued April 21, 2020, OCC's motion to intervene was granted.

{¶ 10} On February 27, 2019, as amended on March 29, 2019, and December 13, 2019, Staff filed its review and recommendations to which AEP Ohio filed reply comments on May 10, 2019, and May 15, 2020.

{¶ 11} OCC filed comments on September 13, 2019, to which AEP Ohio filed reply comments on October 2, 2019.

2. CASE NO. 19-1747-EL-RDR

{¶ 12} On September 5, 2019, in Case No. 19-1747-EL-RDR (*2018 ESRR Case*), AEP Ohio filed an application to reconcile its ESRR rate for 2018.

{¶ 13} Staff filed its review and recommendations on December 31, 2019, to which AEP Ohio filed reply comments on February 25, 2020.

{¶ 14} On February 27, 2020, OCC filed a motion to intervene. By Entry issued April 21, 2020, OCC's motion to intervene in the *2018 ESRR Case* was granted.

{¶ 15} On April 9, 2020, OCC filed a motion for leave to file comments, along with its comments. By Entry issued April 21, 2020, OCC's motion for leave to file comments was granted.

{¶ 16} The Entry issued on April 21, 2020, in the *2017 ESRR Case* and the *2018 ESRR Case*, established a procedural schedule such that motions to intervene were due by May 1, 2020, comments were due by May 15, 2020, and reply comments were due by May 29, 2020.

{¶ 17} Staff filed an update to its review and recommendation on April 28, 2020.

{¶ 18} Consistent with the established procedural schedule, AEP Ohio filed comments on May 15, 2020. On May 29, 2020, OCC filed reply comments.

B. Summary of the ESRR Applications

1. 2017 ESRR Case Application

{¶ 19} In its application to update and reconcile the 2017 ESRR, AEP Ohio requests recovery of \$2,281,561, after accounting for carrying charges and an over-collection of \$8,907,531 in revenues for 2017. Accordingly, AEP Ohio proposes the ESRR rate of 0.36841 percent of base distribution charges on the customer's monthly bill be adopted.

2. 2018 ESRR Case Application

{¶ 20} In its application to update and reconcile the 2018 ESRR, AEP Ohio requests recovery of \$13,605,071, including carrying charges and an over-collection of \$10,153,665 in revenues for 2018. The application reflects actual vegetation management spending and revenue recovery for 2018 and projected costs for 2019. Accordingly, AEP Ohio proposes the ESRR rate of 2.09795 percent of base distribution revenues on the customer's monthly bill.

C. Summary of the Audit Reports, Recommendations, and Comments

{¶ 21} As part of the annual review of AEP Ohio's application to update its ESRR, Staff examines the as-filed schedules for consistency with previous ESRR cases to ensure proper accounting and regulatory treatment; evaluates and compares the Company's spending to authorized amounts; and conducts a review of issues from other cases that may affect the vegetation management program. Staff reviews the financial statements for completeness, occurrence, presentation, valuation, allocation, and accuracy by way of a combination of document review, interviews, and interrogatories. As part of the audit, Staff also physically verifies that vegetation around circuits was trimmed.

1. 2017 ESRR CASE

{¶ 22} As part of the 2017 ESRR audit, Staff observed that, based on a select sample of 53 circuits from the Company's six districts, vegetation line clearance was performed as scheduled in 2017. Two circuits, trimmed approximately 11 months to 23 months prior to the audit, showed moderate regrowth; however, no vegetation was in contact with the electric conductors. AEP Ohio was informed of the locations of the two circuits and Staff requested that the Company visit the sites to assess if additional trimming is needed prior to the next scheduled vegetation trimming cycle.

{¶ 23} In its review and recommendations filed on February 27, 2019, as amended on March 29, 2019, and December 13, 2019, Staff recommends a total disallowance of $1,339 in O&M expenses.

{¶ 24} In regard to the Company's management policy, Staff recommends, consistent with the auditor's recommendation regarding the distribution investment rider (DIR) in Case No. 18-230-EL-RDR, et al. (*2017 DIR Case*), that AEP Ohio's vegetation management policy be revised to align with the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA) definitions of capital and maintenance activities with regard to tree trimming and clearance of rights of way (ROW).

{¶ 25} In reply comments filed May 10, 2019, as amended on May 15, 2020, AEP Ohio states that, although the Company does not necessarily agree with Staff's recommended disallowance, the Company can agree to Staff's position on the deduction of $1,339 of O&M expense for purposes of resolving this case. Accordingly, AEP Ohio requests that the Commission approve its 2017 ESRR application, subject to the Staff's recommended deduction. The Commission finds this to be a reasonable resolution of the issue.

{¶ 26} In regard to the definition of FERC USOA, AEP Ohio states, as noted in the Company's reply comments filed October 26, 2018, in the *2017 DIR Case*, that the Electric Plant Instructions in the FERC USOA state that the initial clearing of land and ROW are to be charged to appropriate plant capital accounts. According to AEP Ohio, all subsequent costs are to be charged to maintenance and, therefore, AEP Ohio asserts that the Company's accounting policy complies with FERC USOA instructions.

{¶ 27} The Commission notes that the issue of how the charges associated with the initial clearing of lands and ROWs has been resolved; AEP Ohio and Staff reached an agreement as part of the joint stipulation and recommendation filed in the *2017 DIR Case*, which the Commission recently approved. *2017 DIR Case*, Opinion and Order (June 17, 2020) at ¶ 25.

a. ESRR Spending Limit

{¶ 28} In its comments, OCC made five arguments opposing AEP Ohio's application to update its 2017 ESRR. First, OCC argues that AEP Ohio should not be permitted to charge customers for the expenditures that exceed the $27.6 million annual spending limit approved in the *ESP 4 Case*. *ESP 4 Case*, Opinion and Order (Apr. 25, 2018). Therefore, by OCC's calculation, the Commission should disallow $9,131,240, which is the amount that exceeds the spending cap.

{¶ 29} In its reply, AEP Ohio notes that the term of the fourth ESP began June 1, 2018, and this ESRR application is an audit of 2017 expenditures. Accordingly, AEP Ohio states that OCC's reliance on the *ESP 4 Case* is not applicable to this audit. *ESP 4 Case*, Opinion and Order (Apr. 25, 2018) at ¶ 40. Further, AEP Ohio asserts that OCC inflates the amount that OCC requests be refunded to customers to $9,131,240, by confusing the ESRR expenditures with the revenue requirement, which includes a return component for capital expenditures.

{¶ 30} As previously noted, ESP 4 commenced June 1, 2018, and includes a $27.6 million annual cap of the ESRR for actual expenditures. The Commission notes that this audit proceeding is for 2017 expenditures. The ESRR for this audit period was approved as part of the *ESP 3 Case*. Consistent with our discussion and conclusion in the *2016 ESRR Case*, the Commission finds that the projected cost approved in the *ESP 3 Case* is not a hard cap or limitation on the Company's ESRR spending. *2016 ESRR Case*, Opinion and Order (Dec. 4, 2019) at ¶¶ 28-29. Rather, in the *ESP 3 Case*, the Commission emphasized that the ESRR is based on AEP Ohio's prudently incurred costs and is subject to annual review and reconciliation. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 49. In this audit of AEP Ohio's 2017 ESRR expenditures, Staff ultimately found imprudent expenditures of $1,339, which AEP Ohio has agreed to deduct to resolve this proceeding. Accordingly, the Commission finds that this issue, consistent with our decision in the prior ESRR audit, has been thoroughly and adequately addressed.

b. Four-year trim cycle

{¶ 31} Next, OCC notes that AEP Ohio's ESRR was initially approved to facilitate AEP Ohio's transition from a reactive tree-trimming program to a proactive four-year, cycle-based vegetation management program expected to have a significant impact on customer reliability. OCC argues that AEP Ohio has failed to meet the four-year trimming cycle in five of the last seven years, 2012 through 2018. Accordingly, OCC submits the Commission should find AEP Ohio's management of the vegetation program imprudent.

{¶ 32} AEP Ohio offers that OCC's representation regarding AEP Ohio's compliance with the four-year cycle is misleading. The Company notes that OCC's table in its comments merely indicates whether AEP Ohio completed the circuit miles for the year or not. First, AEP Ohio reasons the four-year cycle is not a compliance requirement but a target for performance. Further, the Company reasons that OCC's comments fail to quantify or acknowledge that the percentage of circuit miles completed each year 2012 to 2018 was in the high 90 percent range and trimming of the remaining circuit miles was completed shortly thereafter in the following year. AEP Ohio submits that, in 2017, 8,112 of the planned 8,218 circuit miles, or 99 percent, to be trimmed in accordance with the work plan were completed. The Company offers that, in 2017, the remaining circuit miles were not completed during the calendar year as a result of labor resource constraints due to lack of qualified tree trimmers, district-level work order activities that required tree-trimming resources be reallocated, and tree-trimming resources that were redirected to hurricane storm restoration efforts.

{¶ 33} The Commission finds, given that the Company completed substantially all of the circuit miles planned to be cleared, that the Company was essentially on schedule with the four-year vegetation management cycle for 2017. Further, OCC does not dispute that the remaining approximately 106 circuit miles, or approximately 1 percent, were cleared early the following year. We recognize that there may be legitimate reasons that impede the completion of the vegetation management trim schedule that are beyond the Company's control, like storms and severe weather, which necessitate that tree-trimming resources be redirected. Accordingly, the Commission cannot find, in this instance, that the Company's management of the vegetation program was imprudent.

c. Service Reliability

{¶ 34} In the next comment, OCC argues that, as part of the vegetation management program, AEP Ohio is responsible for trimming trees inside and outside of the ROW on a four-year cycle. However, OCC notes that the number of tree-caused outages, the number of customers interrupted due to tree-caused outages, and the number of minutes of interruption have increased between 2013 and 2018. Accordingly, OCC reasons that customers are paying for a vegetation management program that is failing to provide better electric service reliability.

{¶ 35} In its response, AEP Ohio submits that OCC continues to combine outages caused by trees inside and outside of the ROW to misrepresent the ESRR. In fact, AEP Ohio submits that the number of customers interrupted, and customer minutes of interruption caused by trees inside the ROW have each decreased by 91 percent, when comparing 2008 data, before the ESRR was initiated, to 2017 data. Nonetheless, AEP Ohio states that the Company spent additional dollars on trees outside the ROW in 2017 in recognition of increased outages caused by trees outside the ROW; however, the focus is primarily on maintaining the ROW. The Company avers that the dollars spent on clearing outside of the ROW are not nearly large enough and the Company has done its best to balance spend with the necessary work, while accounting for customer bill impacts. AEP Ohio reasons that to drive the outages caused by trees outside the ROW to the level of trees inside the ROW would require many more dollars to be spent. Further, according to the Company, the ESRR mechanism and program were never intended to address the significant number of outages caused by trees outside of the ROW, as OCC asserts.

{¶ 36} The Commission notes that the number of customers interrupted, and customer minutes of interruption are factors used to calculate the customer average interruption duration index (CAIDI) and the system average interruption frequency index (SAIFI) pursuant to Ohio Adm.Code 4901:1-10-10. The Commission has previously explained, in other ESRR audit proceedings, that AEP Ohio's compliance with the minimum reliability performance standards in Ohio Adm.Code 4901:1-10-10 is a matter to be addressed in a proceeding under Ohio Adm.Code Chapter 4901:1-23. *2017 DIR Case*, Opinion and Order (June 17, 2020) at ¶ 51; *2016 ESRR Case*, Second Entry on Rehearing (May 20, 2020) at ¶ 23. OCC's argument is, therefore, beyond the scope of this 2017 ESRR audit case. Further, the Commission notes that OCC and other intervenors will have the opportunity to address the continuation and scope of the ESRR, including the inclusion of trees outside the ROW, in Case No. 20-585-EL-AIR, et al., the Company's base distribution rate case filed June 8, 2020, and currently pending before the Commission.

d. Under- and Over-collection of the ESRR

{¶ 37} Next, OCC states that AEP Ohio has over-collected approximately $8.9 million more than its expenditures for 2017 and, since the ESRR was first initiated, over-collected more than $30 million. While OCC acknowledges that the over-collection is used to lower the future years' ESRR rates, OCC nonetheless recommends that the Commission should order the over-collections be credited back to customers with interest at least at the rate of the long-term cost of debt.

{¶ 38} AEP Ohio contends that OCC's claims as to the approximately $8.9 million over-collection constitutes retroactive ratemaking and is outside the scope of this ESRR audit proceeding. AEP Ohio states, as previously noted, that the amount OCC argues be refunded is based on OCC's misguided claim that there is a cap on vegetation spending. Further, AEP Ohio posits that OCC is confusing the ESRR expenditures for 2017 with the revenue requirement. As approved by the Commission, the ESRR mechanism, according to AEP Ohio, does not include the application of carrying charges on any over- or under-collection balance and, therefore, OCC's suggestion is a change in the method used to calculate the ESRR, which is outside the scope of this audit.

{¶ 39} The Commission notes, as OCC acknowledges, that any over-collection is used to offset the future year's ESRR rate. We note that the same is true if there is an under-collection; the over- or under-collection is incorporated into the calculation of the subsequent rider rate as is the usual process for annually adjusted rider mechanisms, which is consistent with the Commission's approval of the ESRR mechanism in the *ESP 3 Case*. However, the ESRR rate is not processed pursuant to an automatic approval process, with a subsequent audit of the rates implemented. When there are issues with the ESRR audit that result in litigation or when the implementation of a new rider rate is delayed, it can cause the accrual of significant over- or under-collections. We recognize that this has been the case over the years with the ESRR and have instructed the Company and Staff to address this issue as further discussed below. Further, we find OCC's proposal to revise the method used to determine the ESRR to be beyond the scope of this ESRR audit.

e. Continuance of the ESRR

{¶ 40} Finally, OCC notes that, in addition to the approximately $26 million AEP Ohio receives through the ESRR, AEP Ohio's base rates also include $24.2 million for vegetation management and the DIR includes, as of 2016, projected expenditures of approximately $4.6 million for forestry. OCC reiterates its concern regarding the potential for double recovery of vegetation management costs as reflected in its comments filed in the *2017 DIR Case*. In light of OCC's claim that reliability is not improving, OCC advocates that the Commission should consider whether the ESRR should be discontinued.

{¶ 41} AEP Ohio notes that the Commission has recently reiterated the importance of the vegetation management program in the *ESP 4 Case* and argues that OCC's comment amounts to an improper collateral attack on the *ESP 4 Case* decision. *ESP 4 Case*, Opinion and Order (Apr. 25, 2018) at ¶ 196. AEP Ohio declares that the vegetation management program has benefitted customers by substantially reducing outages caused by trees inside of the ROW and that there was no imprudence on the part of the Company for its 2017 program expenditures. The Company states that the work associated with the program is competitively bid, which ensures customers are getting the best price for the work performed. Further, AEP Ohio states that the Staff's audit included a review of invoices as well as a field audit to verify that the dollars spent were focused on the trimming process.

{¶ 42} As previously noted, the Commission approved the continuation of the ESRR mechanism in the *ESP 3 Case*, for a term of three years, commencing June 1, 2015, through

May 31, 2018, which includes the audit period at issue. Further, as recognized in the *ESP 4 Case*, the Commission continues to find that the ESRR supports a preventative vegetation management program intended to facilitate AEP Ohio's efforts to reduce the impact of weather events, minimize tree-related outages, and service interruptions. *ESP 4 Case*, Opinion and Order (Apr. 25, 2018) at ¶ 196. The Commission's approval of the ESRR mechanism in the *ESP 3 Case* was not conditioned upon a specific demonstrated level of reliability improvements. Accordingly, the Commission cannot, at this point, modify the terms and conditions of our approval to justify the discontinuance of the ESRR. *In re Application of Ohio Power Co.*, 144 Ohio St.3d 1, 2015-Ohio-2056, 40 N.E.3d 1060, ¶ 26. Additionally, OCC has not demonstrated, and the Staff has not determined as part of the audit, that the Company recovered or attempted to recover the same vegetation management expenses more than once. Furthermore, OCC and other intervenors will have an opportunity to address the issue of the continuance of the ESRR in AEP Ohio's pending distribution rate case filed on June 8, 2020, in Case No. 20-585-EL-AIR, et al. Finally, as we have previously determined, AEP Ohio's compliance with the minimum reliability performance standards in Ohio Adm.Code 4901:1-10-10 is a matter to be addressed in a proceeding under Ohio Adm.Code Chapter 4901:1-23 and is beyond the scope of this ESRR audit. *2016 ESRR Case*, Opinion and Order (Dec. 4, 2019) at ¶¶ 26, 31, Second Entry on Rehearing (May 20, 2020) at ¶¶ 23, 27.

2. 2018 ESRR CASE

{¶ 43} As part of the audit, Staff observed that, based on a select sample of 46 circuits from the Company's six districts, vegetation line clearance was performed as scheduled in 2018. Forty-four of the circuits reflected no vegetation concerns. Moderate regrowth was detected on one circuit trimmed; however, no vegetation was in contact with the electric conductors. On the remaining circuit observed, aggressive regrowth was found where vegetation was in contact with the conductor on a small portion of the circuit. Staff notes that the locations where moderate regrowth occurred were trimmed approximately 11 months to 23 months prior to the audit. AEP Ohio was informed of the locations of the circuits where Staff observed moderate regrowth and Staff requested that the Company visit the sites to assess if additional trimming is needed prior to the next scheduled vegetation trimming cycle in 2022.

a. Revenue Requirement

{¶ 44} Staff notes that, for this audit period, the ESRR is subject to an annual cap of $27.6 million for capital and O&M expenditures. Staff also notes that, in the application, AEP Ohio acknowledges incremental spending exceeds the cap by $372,615. Staff determined that the Company's incremental spending calculation includes expenditures accrued in 2018 that were not booked until 2019 and, therefore, by Staff's calculation, the actual O&M for 2018 was $29,561,135. Staff also found a disparity in the incremental spending subject to the ESRR cap and the spending included in the revenue requirement, as a result of differences between accrued expenditures and the actual amounts spent. Further, Staff finds that, as a result, the Company understates the spending in excess of the cap. Accordingly, Staff recommends that ESRR spending subject to the cap be based on actual expenditures and the calculation of the revenue requirement be based on the same actual expenditures. Ultimately, in comments filed April 28, 2020, Staff recommends an adjusted 2018 ESRR revenue requirement of $34,216,608, excluding over- or under-collections, which is $917,119 less than the Company's proposed revenue requirement.

{¶ 45} In comments filed February 25, 2020, AEP Ohio notes that Staff's calculations reflect an increase to the revenue requirement based on work performed in 2018 but invoices paid in 2019, in comparison to the Company's application that recognized this as a timing issue and, as such, excluded the amount for purposes of calculating the cap. It is AEP Ohio's understanding that 2019 spending would be reduced by $1,236,682, based on Staff's methodology, which shifts spending between years. AEP Ohio states that, although the Company does not necessarily agree with the Staff's position, AEP Ohio can agree with Staff's position for purposes of resolving this issue in the *2018 ESRR Case*.

{¶ 46} AEP Ohio further states that the Company is willing to accept Staff's argument that incremental capital should be based on actual incremental spending for calculating the cap; however, the Company disagrees that capital carrying charges should be recalculated to reflect the same accrual adjustment. AEP Ohio explains that capital plant, for purposes of applying a carrying charge, has not been adjusted since the ESRR became effective in April 2009 and the impact of Staff's reduction to the beginning year plant balance prevents the Company from a return component. AEP Ohio submits that, instead of reducing the beginning year plant in-service, the prior year's end of year plant in-service is reduced, and the beginning of the year plant in-service balance is increased to reflect a timing issue. AEP Ohio contends there is no such adjustment needed and such an adjustment to the capital plant to calculate carrying charges has not been completed since the inception of the rider and to do so now would deny the Company the opportunity to recover the prior year's accrued capital. For these reasons, AEP Ohio disagrees with Staff that the revenue requirement should be reduced by $30,840 in relation to the adjustment of the capital carrying charges. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009). The Company submits that the standard accrual based carrying charge calculation should be accepted at $5,914,367. According to AEP Ohio, these adjustments, coupled with the cap elimination of $1,258,894, yield a 2018 revenue requirement of $34,216,608.

{¶ 47} By comments filed April 28, 2020, Staff amended its recommended adjustment to capital carrying charges to include the $30,840, resulting in a 2018 revenue requirement of $34,216,608, excluding any over- or under-collection.

{¶ 48} OCC argues that, in the 2018 ESRR application, AEP Ohio changes the method to calculate the rider revenue requirement and fails to reflect the over-collection. OCC endorses Staff's recommendations, as well as the process AEP Ohio followed in prior ESRR proceedings. To that end, OCC requests that AEP Ohio be ordered to recalculate the rider charge for actual expenses only. OCC asserts that, in the prior ESRR applications, AEP Ohio included actual O&M and capital expenses for the year, whereas, in this application, AEP

Ohio has included expenses accrued. OCC argues the change in accounting methods benefits AEP Ohio to the detriment of its customers by understating expenses, minimizing the disallowance, and overstating the revenue requirement.

{¶ 49} The Commission notes that AEP Ohio and Staff have reached an agreement as to the calculation and methodology to determine the revenue requirement, including the capital carrying charges and the adjustment to reflect spending over the cap, for the purpose of resolving the *2018 ESRR Case*. After reviewing the application, comments, reply comments, and Staff's review and recommendation, the Commission finds the agreement of Staff and AEP Ohio to be a reasonable resolution of this aspect of the audit.

b. Under- and Over-collection of the ESRR

{¶ 50} Staff notes that AEP Ohio excluded from the revenue requirement calculation the historic cumulative over-collection through 2017, in the amount of $30,537,123, which is inconsistent with previous ESRR revenue requirement calculations. Staff recommends that the cumulative over-collection, plus the 2018 over-collection of $11,070,783, be accounted for as part of the revenue requirement. Accordingly, Staff recommends that the ESRR be approved, subject to Staff's recommended adjustments, which would reduce the total revenue requirement from $13,605,071, as requested by AEP Ohio, to ($8,981,709),[2] as determined by Staff, and would reduce the rate applied to the ratepayer's bill from 2.09795 percent to (1.38501) percent. Staff further recommends that the Commission order the Company to work with Staff to update the ESRR rates as a result of this case, subject to any Commission orders in the *2016 ESRR Case* and the *2017 ESRR Case*.

{¶ 51} In regard to the over- or under-recovery for prior years, AEP Ohio agrees with Staff that any resulting 2018 over-recovery is accounted for in the revenue requirement and also acknowledges that excluding historical spend through 2017 is inconsistent from prior ESRR revenue requirement calculations. AEP Ohio notes that, unlike other riders, the ESRR

2 Parentheses indicate a negative amount.

is not subject to automatic approval and litigated ESRR cases have caused delays in rider implementation, facilitating the accrual of over-collections. Further, AEP Ohio notes that any over-collection is passed back in the subsequent year's ESRR rate. For that reason, in the *2018 ESRR Case*, AEP Ohio proposes to include an exclusion of $8,907,531 for the year 2017, instead of the over-recovery for 2017 of $30,537,123, to better control fluctuations in over- and under- recoveries over time. Therefore, AEP Ohio agrees to discuss with Staff, the current over- or under-collection balance at the time rates are implemented in relation to the rate in effect; to recommend to the Commission an ESRR rate that would reduce the over-collection and stabilize the over-collection or under-collection balance as close to zero as possible; and to update the ESRR rates, subject to any Commission orders in the *2016 ESRR Case* and the *2017 ESRR Case*.

{¶ 52} OCC argues that AEP Ohio fails to reflect the over-collection, as in prior ESRR proceedings. To that end, OCC requests that AEP Ohio deduct the full amount of its previous over-collections for the period 2009 to 2016 from the revenue requirement, which OCC estimates to be approximately $21,629,592. OCC argues the change in accounting methods benefits AEP Ohio to the detriment of its customers by understating expenses, minimizing the disallowance, and overstating the revenue requirement.

{¶ 53} In reply, AEP Ohio states that OCC's assertions as to under- and over-collections for prior periods ignore the mechanics of the ESRR. AEP Ohio notes that, pursuant to the Commission's order in the *2016 ESRR Case*, the ESRR rate that became effective in January 2020 will return to customers, over the year, $21,629,592 ($8,249,820 + $13,379,772) in over-collected charges. Further, AEP Ohio notes that the ESRR rate established in the *2017 ESRR Case*, once approved by the Commission, will return to customers additional over-collections totaling $30,537,134 ($21,629,592 + $8,907,531) and that, if the application in the *2018 ESRR Case* is approved as filed, customers will receive an additional $19,061,196 ($8,907,531 + $10,153,665) for the years 2017 and 2018, for a total of $71,277,911 to be passed back to customers in the *2016 ESRR Case*, the *2017 ESRR Case*, and the *2018 ESRR Case*. AEP Ohio states that it is important that the Company work with Staff to take into consideration past ESRR filings and pending proceedings, the over-collection reflected in the current rate, and the effective date of the ESRR rider rate to determine the proper ESRR rate to implement and get the rate back on track and avoid future adverse bill impacts.

{¶ 54} OCC argues that there is no factual basis for the Company's representation that $71,277,911 could be passed back to customers in 2020 and, furthermore, the amount that may be passed back in future cases is irrelevant to a determination of the ESRR in this case. OCC argues that the amount of the over- and under-collection up to and including 2019 does not change. OCC declares that AEP Ohio's customers are entitled to the $21,629,592 over-collected from 2009 through 2016 in this case, in the same manner that customers were entitled to the over-collection in all prior ESRR cases.

{¶ 55} OCC also declares that AEP Ohio concedes that the Company's proposal does not include the cumulative over-collection of approximately $21,629,582 accrued from 2009 through 2016, as argued by OCC in its comments. OCC posits that its proposal to include the cumulative accrued over-/under-collections is consistent with the methodology used by AEP Ohio and approved by the Commission in previous ESRR cases, including the *2016 ESRR Case* and the *2017 ESRR Case*.

{¶ 56} As to OCC's arguments regarding actual and accrued expenses, AEP Ohio cites the order in Case No. 10-163-EL-RDR, where the Commission directed AEP Ohio to adjust the rider expense for accrued charges to include work performed in December where invoices were paid in January of the next year rather than using the Company's accrued liabilities amount. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 10-163-EL-RDR, Finding and Order (Aug. 25, 2010) at 6. Further, AEP Ohio reasons that the Company and Staff have addressed this issue and acknowledged that, although AEP Ohio does not agree with the Staff's position, the Company accepts Staff's position on this point for purposes of resolving this proceeding.

{¶ 57} The Commission notes that, as approved in past ESRR proceedings, the over- or under-collection from the prior year is reflected in the revenue requirement and, thus, incorporated into the subsequent ESRR rate. That procedure shall also be followed in these proceedings. However, recognizing that since 2014, the ESRR has often reflected a significant over-collection, primarily as a result of delays in the implementation of the new rate, it is appropriate that the accrued over-collection be updated to reflect ESRR collections and recovery through August 31, 2020, the most recent month for which data is available. In this manner, the ESRR rate can reflect the Commission's order in the *2016 ESRR Case*, as well as our directives in these proceedings. To that end, AEP Ohio is directed to work with Staff to file, in these dockets, a detailed schedule of the ESRR collections for at least the 12 months ended August 31, 2020. AEP Ohio and Staff should file a new proposed ESRR rate to reflect current over-collections within 30 calendar days of the issuance of this Finding and Order. The proposed ESRR rate shall take into consideration the current rate, the effective date of the ESRR rate to be adopted as a result of these proceedings, and the Company's pending ESRR proceeding in Case No. 20-1454-EL-RDR, with the intent of avoiding an adverse bill impact for customers in the 2021 ESRR annual review.

c. Four-year trim cycle

{¶ 58} In its comments and replies, OCC notes that AEP Ohio has failed to meet its four-year, cycle-based tree-trimming requirements for the last five years. OCC argues that AEP Ohio continuously fails to comply with the four-year vegetation management trim cycle and requests that the Commission require Staff to examine why the Company fails to meet this standard in future audits of the rider. OCC notes that, in 2018, some ten years after the four-year trim cycle was implemented, AEP Ohio customers continue to experience 21,791 interruptions caused by trees inside the ROW resulting in 4,257,405 minutes of interruption.[3] OCC reasons that such outages contributed to AEP Ohio's failure to meet both the SAIFI and CAIDI in 2018 and 2019.[4] OCC also notes that the audit makes no reference to AEP Ohio's failure to comply with its reliability standards and requests that the Commission direct Staff to determine why as part of the audit of the rider. OCC also recommends that a larger sample of circuits be evaluated as part of the physical verification aspect of the audit.

{¶ 59} In response, AEP Ohio claims that the only way to reduce outages caused by trees inside the ROW is to increase the frequency of the end-to-end clearance of vegetation or to increase the amount or frequency of the application of regrowth inhibitor, which AEP Ohio states would require additional funds to complete. AEP Ohio states that it tries to strike an appropriate balance between the cost incurred for vegetation management for trees in the ROW and the number of outages associated with such vegetation. AEP Ohio notes that Staff verified that the work the Company paid for had been completed and found the Company's expenditures prudent for this audit period.

{¶ 60} The Company reiterates that the four-year trim cycle is not a compliance requirement but a target for performance for the approximately 8,000 circuit miles trimmed annually. AEP Ohio notes that, while several factors impact its ability to complete the circuit miles each year, if the Company misses the vegetation management goal, the missed circuit miles are made up early the next year. AEP Ohio notes that it cleared 7,479 circuit miles of the 7,826 circuit miles scheduled for 2018, or approximately 96 percent of the miles planned for the year. AEP Ohio avers its performance is not reflective of a company that is not performing its trimming responsibilities. AEP Ohio states that, if the auditor observes and has concerns about regrowth on certain circuits, the Company checks those circuits and may re-trim or remove vegetation. However, the Company notes that, depending on the species

---

3 Case No. 19-992-EL-ESS, Rule 10 Distribution Reliability Report (Mar. 29, 2019) at 25; Case No. 20-992-EL-ESS, Rule 10 Distribution Reliability Report (Mar. 30, 2020) at 37-38.

4 *Id.*

of tree, after trimming, a tree may grow very rapidly in a single season and grow less in subsequent seasons and some tree species can grow three to four feet even in poor soil conditions. AEP Ohio contends that OCC suggests, without any basis, that the regrowth could be an indicator of not trimming vegetation or that additional steps may be necessary. AEP Ohio argues that OCC fails to acknowledge that, if additional steps are needed, that would require additional work and associated expense. AEP Ohio emphasizes that Staff indicated that moderate regrowth occurred, not that the required clearing of the circuit was not performed.

{¶ 61} The Commission notes that AEP Ohio completed tree trimming for the vast majority of the circuit miles planned for 2018. As the Commission has previously recognized, the total number of circuit miles planned for trimming in any given year is a goal or target to effectuate a four-year trim cycle, recognizing that some flexibility is necessary, as opposed to a performance standard where strict compliance is expected absent mitigating circumstances. *In re Columbus Southern Power Co. and Ohio Power Co.,* Case No. 10-163-EL-RDR, Entry on Rehearing (Oct. 22, 2010) at 4. Accordingly, it is inappropriate for the Commission to direct the Staff to evaluate compliance in the manner advanced by OCC. In regard to the Company's compliance with the reliability performance standards in Ohio Adm.Code Chapter 4901:1-10, the Commission notes that the procedures for the enforcement of those standards are provided in Ohio Adm.Code 4901:1-10-30. Ohio Adm.Code 4901:1-10-30 provides that the enforcement of any rule in Ohio Adm.Code Chapter 4901:1-10 will be conducted in accordance with Ohio Adm.Code Chapter 4901:1-23. Ohio Adm.Code Chapter 4901:1-23 sets forth the process for Staff, after inspection, investigation, or complaint, to issue a notice of probable noncompliance with proposed corrective action or proposed forfeiture. Ohio Adm.Code Chapter 4901:1-23 does not provide for the enforcement of any rule as a part of an audit proceeding. This is consistent with the Commission conclusion in prior ESRR audit proceedings. *2016 ESRR Case*, Opinion and Order (Dec. 4, 2019) at ¶ 31, Second Entry on Rehearing (May 20, 2020) at ¶ 23.

d. Refund of over-collections

{¶ 62} OCC opposes, as an unnecessary stalling tactic, the Company's proposal to discuss with Staff an ESRR rider rate to stabilize over- and under-collections. OCC submits that the better method is to return over-collections to customers as soon as possible. OCC advocates that, given the pandemic and the financial crisis customers are facing, a refund to customers is needed and appropriate.

{¶ 63} AEP Ohio retorts that, as explained in its comments filed February 25, 2020, and again in the Company's response to OCC's comments regarding under- and over-collections, customers are receiving a refund of the over-collections for prior periods reflected in the rider rate. AEP Ohio reiterates that, unlike many of the other riders, the ESRR is not subject to automatic approval of the rate and delays in the implementation of the rate, including delays as a result of litigation, can cause significant over- or under-recovery balances. The Company posits that such over-collections are not over-charges, as OCC states, implying that the Company is purposely over-charging customers. Further, AEP Ohio declares that, if the Commission approves the Company's suggestion to discuss this issue with Staff, the Company will recommend passing back to customers the full over-recovery, along with implementing a stabilization mechanism for future ESRR rates.

{¶ 64} AEP Ohio also states that a refund to customers, as OCC proposes, could create a significant under-collection and necessitate a large increase in the ESRR rate in the future. AEP Ohio submits that reaching an agreement with Staff on the level of the over-collection to pass back to customers through the ESRR rate, considering the credit included in the current ESRR rate, the timing of the current credit, and pending ESRR rider cases, will eliminate future adverse bill impacts for customers.

{¶ 65} In its reply comments, OCC asserts that AEP Ohio seems to agree with most of OCC's and Staff's recommendations regarding passing back of over-collections and the total revenue requirement, excluding under- and over-collections. However, OCC reiterates its opposition to AEP Ohio's proposal to work with Staff to consider the over-collection, given the status of the recent applications to adjust the vegetation rider and the balance of under- and over-collections. Furthermore, OCC notes that, between 2014 and 2018, AEP Ohio accumulated over-collections totaling $38,563,380. Thus, according to OCC, AEP Ohio's concern about a future under-collection is unfounded and the interest in stabilizing the ESRR mechanism is puzzling.

{¶ 66} The Commission reiterates, as the parties are aware, that the ESRR, unlike most other riders, is not subject to an automatic-approval process and, therefore, may be subject to a delay in the effective date of the new rider rate. The Commission recognizes, as is the case with these ESRR proceedings and the *2016 ESRR Case*, that such delays have resulted in the accrual of over-collections. In light of the Commission's order above directing that the status of over-collections as of August 31, 2020, be evaluated and reflected in a newly proposed revenue requirement calculation, the Commission finds a refund to customers, as proposed by OCC, to be unnecessary. In this manner, rather than a refund to customers, the ESRR rate reflects the over-collection more contemporaneously with the establishment of the ESRR rate. Furthermore, when a rider rate is a negative amount, as Staff recommended in its initial review and recommendation without incorporating the over-collection, the rider serves to reduce the other charges that accrue on a customer's monthly bill. Accordingly, the Commission will not order a direct refund to customers as requested by OCC.

III. COMMISSION CONCLUSION

{¶ 67} The Commission finds that AEP Ohio's proposed ESRR rate in the *2017 ESRR Case* and the *2018 ESRR Case*, as adjusted pursuant to Staff's recommendations, and consistent with this Finding and Order, does not appear to be unjust or unreasonable and, therefore, we find that it is not necessary to hold a hearing in these matters.

{¶ 68} We direct AEP Ohio to work with Staff to determine a proposed ESRR rate, taking into account accrued under- and over-collections for prior years, and any under- or over-collections based on the current ESRR rider rate through August 31, 2020, as well as this Finding and Order in these ESRR proceedings, and file, in these dockets, a document detailing the proposed ESRR revenue requirement rate calculation and blended rider rate, with a detailed explanation, by no later than 30 days after the issuance of this Finding and Order. Further, the Commission authorizes AEP Ohio to file revised tariffs reflecting the updated, blended ESRR rate, consistent with this Finding and Order.

IV. ORDER

{¶ 69} It is, therefore,

{¶ 70} ORDERED, That AEP Ohio's applications to update and reconcile its ESRR in the *2017 ESRR Case* and the *2018 ESRR Case* be approved, subject to Staff's recommendations, and consistent with this Finding and Order. It is, further,

{¶ 71} ORDERED, That, within 30 days of the issuance of this Finding and Order, AEP Ohio and Staff file a new proposed ESRR rate that reflects collections through August 31, 2020, consistent with this Finding and Order. It is, further,

{¶ 72} ORDERED, That a copy of this Finding and Order be served upon all interested persons and parties of record.

COMMISSIONERS:
Approving:
Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

GNS/ hac