

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
OHIO POWER COMPANY TO UPDATE ITS  
BASIC TRANSMISSION COST RIDER.

CASE NO. 23-57-EL-RDR

## FINDING AND ORDER

Entered in the Journal on March 22, 2023

### I. SUMMARY

{¶ 1} The Commission approves Ohio Power Company d/b/a AEP Ohio's application, as amended, to update its basic transmission cost rider.

### II. DISCUSSION

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric distribution utility as defined in R.C. 4928.01(A)(6) 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} In Case No. 13-2385-EL-SSO, et al., the Commission modified and approved an ESP for AEP Ohio, including approval of the Company's proposed basic transmission cost rider (BTCR), for the period of June 1, 2015, through May 31, 2018. *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, et al., Opinion and Order (Feb. 25, 2015) at 67-68, Entry (May 28, 2015) at 4-5. The BTCR recovers the non-market-based transmission costs assessed to AEP Ohio by PJM Interconnection, LLC (PJM). Consistent with R.C. 4928.05, the BTCR is a reconcilable rider by which AEP Ohio passes through to customers the transmission and

transmission-related costs charged to the Company by PJM, as authorized by the Federal Energy Regulatory Commission (FERC).

{¶ 5} In Case No. 16-1852-EL-SSO, et al., the Commission modified and approved a stipulation and recommendation (Stipulation) filed by AEP Ohio, Staff, and numerous other signatory parties, which authorized the Company to implement an ESP for the period of June 1, 2018 through May 31, 2024. Among other provisions, the Stipulation provided for the continuation of the BTCR, as well as the BTCR pilot program.<sup>1</sup> *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018) at ¶¶ 94-95.

{¶ 6} On January 17, 2023, in the above-captioned case, AEP Ohio filed an application to update the BTCR, pursuant to Ohio Adm.Code Chapter 4901:1-36, and to revise its tariffs, effective with the first day of the April 2023 billing cycle. In the application, AEP Ohio proposes an increase of \$127,560,262 in the BTCR revenue requirement, which, according to the Company, represents an average increase in the BTCR of 13.24 percent. AEP Ohio's supporting schedules indicate that the proposed increase reflects an under-recovery, including carrying charges, of \$4,903,293.

{¶ 7} Ohio Adm.Code 4901:1-36-05 provides that, unless otherwise ordered, the Commission shall approve the application or set the matter for hearing within 75 days after the filing of a complete application under Ohio Adm.Code Chapter 4901:1-36. Additionally, pursuant to Ohio Adm.Code 4901:1-36-03(F), affected parties may file a motion to intervene and detailed comments on any issues concerning the application within 40 days of the date of the filing of the application.

{¶ 8} Timely motions to intervene were filed by the Office of the Ohio Consumers' Counsel (OCC) and The Ohio Manufacturers' Association Energy Group (OMAEG). No

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<sup>1</sup> A participant in the BTCR pilot program is billed for demand-related transmission costs based on its individual network service peak load.

memoranda contra the motions for intervention were filed. The Commission finds that the motions for intervention filed by OCC and OMAEG are reasonable and should be granted.

{¶ 9} On February 27, 2023, both OCC and OMAEG filed comments on AEP Ohio's application. In its comments, OCC argues that AEP Ohio does not justify why, in order to provide consumers with electric service, AEP Ohio must increase residential rates by \$29.41 million through the BTCR. OCC asserts that AEP Ohio's application does not prove that its rates are just and reasonable. OCC avers that there is limited state or federal regulatory oversight of programs such as the BTCR and OCC is concerned that continued transmission investment projects are "supplemental" and that the increased costs borne by Ohio consumers are not prudent. Further, OCC submits that it is unclear whether any Commission-approved supplemental spending by AEP Ohio results in more reliable electric service for consumers. OCC believes that utility supplemental transmission projects, charged to consumers, have been lost in a regulatory abyss which results in projects not being thoroughly reviewed. OCC recommends, therefore, that the Commission step into this alleged gap and review projects that are not closely examined by FERC or PJM, and fully review AEP Ohio's proposed BTCR charges to ensure that they are necessary and prudent to provide consumer utility service.

{¶ 10} In its comments, OMAEG states that AEP Ohio miscalculated the BTCR rates proposed in the application, resulting in overcharging manufacturing customers. OMAEG asserts that the rates requested in the application would appear to over-collect the revenue requirement by almost \$1.5 million. OMAEG believes that this overcharge is the result of a miscalculation that resulted in the double-charging of some costs. OMAEG avers that under the rates proposed in the application, the BTCR pilot program secondary class would overpay by about 8.2 percent, which could result in OMAEG members who participate in the program paying unreasonably high rates. OMAEG recommends, therefore, that the Commission modify AEP Ohio's proposed rates to avoid the incorrect overcharging. OMAEG further comments on the BTCR as a whole, remarking that the BTCR rate mechanism unduly burdens manufacturers because customers have no ability to control

their own transmission-related costs by controlling their network service peak load (NSPL). OMAEG believes that the Commission should modify AEP Ohio's BTCR rate mechanism and bill non-residential customers for all transmission costs on the basis of their NSPL. In the alternative, OMAEG submits that the Commission could allow all non-residential customers the option to opt out of the BTCR and participate in the BTCR pilot program. OMAEG makes a number of further programmatic suggestions as to how the BTCR rate mechanism should function, particularly for commercial and industrial customers. OMAEG ultimately recommends that the Commission should modify the BTCR rate mechanism to bill all non-residential customers for all transmission costs on the basis of each customer's NSPL. OMAEG also states that the Commission should carefully scrutinize the transmission costs being passed on to customers and ensure that customers are only charged for costs incurred; or, in the alternative, the Commission should expand access to the BTCR pilot program so that customers may manage and control their own transmission costs.

{¶ 11} On March 7, 2023, AEP Ohio filed correspondence in which AEP Ohio acknowledges that an error was made in calculating the rates proposed in its application. AEP Ohio explains that the original filing inadvertently grossed up billing determinants for the BTCR pilot program customers that were already grossed up for losses. AEP Ohio attached updated versions of schedules that were submitted as part of the application in order to correct the identified rate calculation error. AEP Ohio states that this update has no impact on the total revenue requirement. Further, AEP Ohio proposes to review all BTCR rate filings since the inception of the pilot program and commits to making any necessary billing adjustments for affected customers in the near future. AEP Ohio plans to work with Staff and the pilot customer sponsoring parties in developing any proposed billing adjustments, which AEP Ohio states would flow through the rider's over/under collections component.

{¶ 12} On March 10, 2023, Staff filed its review and recommendation in response to AEP Ohio's application. For the audit period of January through December 2022, Staff requested documentation as needed to determine that the costs were substantiated and

jurisdictional or to conclude that an adjustment was warranted. Staff states that its review of the updated schedules and rates filed on March 7, 2023 indicates that they have been appropriately amended to correct the rate calculation error. Staff, therefore, recommends that the application, as amended by the March 7, 2023 filing, be approved. Staff further recommends that the rates become effective on the first billing cycle of April 2023.

{¶ 13} On March 14, 2023, AEP Ohio filed a reply to the comments submitted by OCC and OMAEG. AEP Ohio asserts that large parts of the comments from both OCC and OMAEG suggesting modifications to the BTCR and the BTCR pilot program are either improper collateral attacks or beyond the scope of this proceeding. AEP Ohio states that this is a rider update case, not an opportunity to challenge the reasonableness or structure of the rider itself. Responding to OCC's comments about the "supplemental" nature of some of the utility's transmission projects, AEP Ohio states that OCC is wrong in suggesting these projects are not beneficial to customers. According to AEP Ohio, such projects are needed to maintain the existing grid, to connect new customers, and to satisfy contractual and regulatory requirements, among other things. While such projects may be labeled as "supplemental" by PJM because they are in addition to baseline projects that PJM is responsible for approving, AEP Ohio asserts that they are needed to meet its obligation to reliably serve customers. Finally, responding to OMAEG's identification of the calculation error, AEP Ohio points out that this error was corrected in its March 7, 2023 filing and this updated filing was reviewed and approved by Staff.

{¶ 14} The Commission finds that AEP Ohio's application to update the BTCR, as amended, is consistent with Ohio Adm.Code 4901:1-36, does not appear to be unjust or unreasonable, and should be approved. We also find that it is unnecessary to hold a hearing in this matter. The Commission first notes that comments filed in this case docket appear to have alerted the parties to an error in calculating the new proposed rates. AEP Ohio promptly acknowledged its calculation error and filed updated schedules to the application. Based upon this updated filing, Staff completed a full review of the amended application and recommended approval. Therefore, in accordance with Staff's recommendation, AEP

Ohio's proposed BTCR rates, as amended in its March 7, 2023 filing, should be approved, subject to audit, and become effective with the first day of the April 2023 billing cycle. With respect to comments about the overall structure of the BTCR and the pilot program, the Commission finds that the application and proposed rates are in accordance with Ohio Adm.Code 4901:1-36 and the joint stipulation and recommendation approved in Case No. 20-585-EL-AIR, et al.<sup>2</sup>, which expanded the BTCR pilot program. The Commission, therefore, agrees with AEP Ohio that this case is not the appropriate forum to address these comments. However, in regard to OCC's concerns relating to supplemental transmission projects, the Commission agrees that this is an area that warrants further attention and is actively participating in the applicable FERC case dockets to raise this very issue, among other transmission-related concerns, for its consideration. Notably, Commissioner Dan Conway already acknowledged many of OCC's concerns in his comments for FERC's recent technical conference relating to transmission planning and cost management. Written Comments of Commissioner Dan Conway, Public Utilities Commission of Ohio, FERC Technical Conference regarding Transmission Planning and Cost Management, Docket No. AD22-8-000 (Oct. 5, 2022).<sup>3</sup> We will continue to thoroughly engage with FERC to address this noted regulatory gap, as well as keep parties and the public apprised of any developments in those proceedings that may ultimately affect transmission costs in Ohio. Additionally, the Commission notes that all BTCR costs and recoveries may be subject to further adjustments following the audit in AEP Ohio's next BTCR update proceeding. The Commission also finds it appropriate for AEP Ohio to follow through on the commitment made in its March 7, 2023 filing to review, in the near future, all BTCR rate filings and make any necessary billing adjustments for affected customers. AEP Ohio should work with Staff and the pilot customer sponsoring parties to address any issues discovered as part of this review.

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<sup>2</sup> See *In re the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case Nos. 20-585-EL-AIR, et al., Opinion and Order (Nov. 17, 2021).

<sup>3</sup> Commissioner Conway's written comments are also publicly available on the Commission's docketing website in Case No. 22-7000-EL-FAD.

### III. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the motions for intervention filed by OCC and OMAEG be granted. It is, further,

{¶ 17} ORDERED, That AEP Ohio's application, as amended by the filing made on March 7, 2023, be approved, consistent with the terms of Paragraph 14. It is, further,

{¶ 18} ORDERED, That AEP Ohio be authorized to file tariffs, in final form, consistent with this Finding and Order. AEP Ohio shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 19} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the first day of the April 2023 billing cycle, and the date upon which the final tariff pages are filed with this Commission. It is, further,

{¶ 20} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

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

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

DMH/dr

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**Case No(s). 23-0057-EL-RDR**

Summary: Finding & Order that the Commission approves Ohio Power Company d/b/a AEP Ohio's application, as amended, to update its basic transmission cost rider electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.