

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR APPROVAL
TO UPDATE RIDER LGR.

CASE NO. 20-1118-EL-RDR

ENTRY ON REHEARING

Entered in the Journal on February 21, 2024

I. SUMMARY

{¶ 1} The Commission denies as moot the application for rehearing filed by the Ohio Manufacturers' Association Energy Group.

II. DISCUSSION

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

{¶ 3} R.C. 4928.148, which became effective on October 22, 2019, required the Commission to (1) establish a replacement nonbypassable rate mechanism for the retail recovery of prudently incurred costs related to a legacy generation resource (LGR) for the period commencing January 1, 2020 and extending up to December 31, 2030, and (2) determine the prudence and reasonableness of the actions of EDUs with ownership interests in the LGR. Additionally, R.C. 4928.148(A)(2) requires the Commission establish monthly rate caps of \$1,500 for non-residential customers and \$1.50 for residential customers.

{¶ 4} The Commission subsequently established the LGR Rider pursuant to R.C. 4928.148 for the period beginning January 1, 2020, and extending up to December 31, 2030. Notably, the Commission directed that the "combination of Part A and Part B rates would be capped at \$1.50 per month for residential customers and \$1,500 per month for non-

residential customers on a per account basis.”¹ Both Part A and Part B rates were to be updated on a semi-annual basis beginning January 1, 2020. *In re Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Entry (Nov. 21, 2019) at ¶33.

{¶ 5} The Commission later approved the application of AEP Ohio to implement the LGR Rider. *In re the Application of Ohio Power Co.*, Case No. 19-2135-EL-ATA, et al., Finding and Order (Dec. 18, 2019).

{¶ 6} On November 30, 2023, AEP Ohio filed its semi-annual update to the LGR Rider in this case docket. Those rates were automatically approved and effective on a service rendered basis on January 1, 2024.

{¶ 7} R.C. 4903.10 provides that, in any uncontested proceeding, any affected person, firm, or corporation may make an application for rehearing within 30 days after the entry of any final order upon the Commission’s journal.

{¶ 8} On January 30, 2024, the Ohio Manufacturers’ Association Energy Group (OMAEG) filed an application for rehearing asserting AEP Ohio’s semi-annual update incorrectly applied the statutory monthly caps to only Part A of the LGR Rider when calculating the new rates, in violation of both R.C. 4928.148(A)(2) and the Commission’s Entry in Case No. 19-1808-EL-UNC. According to OMAEG, the statutory language provides that the total monthly charge, including any deferrals or credits, cannot exceed \$1.50 per customer for residential customers or \$1,500 per customer for non-residential customers. Further, OMAEG asserts there is nothing in the text indicating that these caps only apply to part of the LGR Rider (e.g., Part A) or that the legislature intended for the cap to only apply

¹ The Part A rate is a statewide rate designed to collect the forecasted net costs in total for the Ohio Valley Electric Corporation (OVEC) EDUs and the over/under recovered amount from the prior period. The Part B rate is designed to reconcile the over/under amounts associated with the forecasted billing determinants versus the actual billing determinants.

in part when it passed R.C. 4928.148(A)(2). Additionally, if there was ambiguity in the statute's application, OMAEG notes that the Commission's Entry clarified any existing ambiguity when it stated that "[t]he combination of Part A and Part B rates will be capped at \$1.50 per month for residential customers and \$1,500 per month for non-residential customers on a per account basis." As such, OMAEG requests that the Commission grant rehearing and issue an order directing AEP Ohio to revise its rate calculations consistent with the statutory language and the Commission's prior orders.

{¶ 9} In its response filed on February 9, 2024, AEP Ohio argues that OMAEG's application for rehearing is "misguided." AEP Ohio states that the application for rehearing ignores the individual nature of tariff filings and instead makes a nearly identical argument to its application for rehearing filed in the AES Ohio docket.² In response to OMAEG's contention that the Company applied the statutory monthly rate cap only to Part A of the LGR Rider, AEP Ohio states that there is no conceivable way to interpret its November 30, 2023 tariff update as violating the rate cap per R.C. 4928.148 or the Commission's Entry in Case No. 19-1808-EL-UNC. AEP Ohio avers that its redline tariffs demonstrate that it proposed a rate of \$0.0018007 for the Part A rate and a credit of \$0.000018 for the Part B rate. Further, AEP Ohio states that it proposes a total net rate of \$0.001783 per kWh, which is \$1,485.24 for the maximum billable usage of 833,000 kWh for the LGR Rider. In total, contrary to OMAEG's claims, AEP Ohio states that Part A, Part B, and the combination of both parts of the LGR Rider as proposed by the Company for January 1, 2024 through June 30, 2024, fall below the \$1,500 cap set forth in R.C. 4928.148. For these reasons, AEP Ohio urges the Commission to reject OMAEG's application for rehearing.

{¶ 10} Having reviewed the application for rehearing and all relevant filings, the Commission agrees with AEP Ohio that its updated tariff filings do not violate R.C. 4928.148

² See, *In Re the Application of The Dayton Power and Light Company d/b/a AES Ohio for Approval to Update its Legacy Generation Rider*, Case No. 23-1034-EL-RDR, Application for Rehearing of The Ohio Manufacturers' Association Energy Group (Jan. 30, 2024).

or the Commission's Entry in Case No. 19-1808-EL-UNC. As outlined by AEP Ohio in its memorandum contra the application for rehearing, the LGR Rider rates proposed by the Company for the period of January 1, 2024 through June 30, 2024, are below \$1,500 for non-residential customers, as required by R.C. 4928.148. The Commission, therefore, finds that OMAEG's application for rehearing should be denied as moot.

III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That OMAEG's application for rehearing be denied. It is, further,

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

COMMISSIONERS:

Approving:

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

DMH/dr

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Case No(s). 20-1118-EL-RDR

Summary: Entry on Rehearing denying as moot the application for rehearing filed by the Ohio Manufacturers' Association Energy Group electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.