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PUBLIC UTILITIES - OHIO

In re Comm. Rev. of Capacity Charges of Ohio Power Co.

Supreme Court of Ohio - April 21, 2016 - N.E.3d - 2016 WL 1592897 - 2016 -Ohio- 1607

Public Utilities Commission opened a case when it found that an investigation was necessary to determine the impact of electric utility's proposed change in capacity charges. The Commission approved the change. Ohio Consumers' Counsel appealed, and utility cross-appealed.

The Supreme Court of Ohio held that:

- Commission was not required to find that utility's existing capacity charge was unjust, unreasonable, or unlawful prior to setting a new capacity charge;
- Commission set forth reasonable grounds for complaint to open investigation into capacity charges and hold an evidentiary hearing;
- Calculation of energy credit, used to reduce utility's cost-based capacity charge, through usage of static shopping level was warranted; and
- Commission failed to adequately address objections made by utility regarding inputs used in calculating energy credit.

Public Utilities Commission was not required to find that electric utility's existing capacity charge was unjust, unreasonable, or unlawful prior to setting a new capacity charge. Statute required only that commission's initiative or complaint allege that the rate or charge was unjust or unreasonable, and did not require any specific finding before commission could change an existing rate.

Public Utilities Commission set forth reasonable grounds for complaint to open investigation into electric utility's capacity charges and hold an evidentiary hearing. Commission found that investigation was necessary in order to determine the impact of utility's request with Federal Energy Regulatory Commission (FERC) to change its capacity charge from a market rate to a cost-based mechanism, and that utility's then-existing capacity charge might have been below the utility's costs to provide capacity.

Calculation of energy credit by Public Utilities Commission, used to reduce electric utility's cost-based capacity charge, through usage of static shopping level was warranted, despite evidence that level of shopping had increased. Commission adopted static shopping level to provide certainty to both the energy credit and the capacity charge, and expected the shopping level to fluctuate in both directions over time periods at issue.

Public Utilities Commission failed to adequately address objections made by electric utility regarding inputs used in calculating energy credit, which reduced utility's cost-based capacity charge. In dismissing utility's concerns, commission framed the dispute as one involving credit calculation methodologies, but dispute was with the inputs and not the choice of methodologies.