

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of the Application of Columbus )  
Southern Power Company for the Approval of )  
its Electric Security Plan; and Amendment to )  
Its Corporate Separation Plan; and the Sale or )  
Transfer of Certain Generation Assets )

Case No: 08-917-EL-SSO

In the Matter of the Application of Ohio Power )  
Company for Approval of its Electric Security )  
Plan, and an Amendment to its Corporate )  
Separation Plan )

Case No: 08-918-EL-SSO

COLUMBUS SOUTHERN POWER COMPANY'S  
AND OHIO POWER COMPANY'S  
MOTION TO APPROVE SECTION V.E.  
OF THEIR APPLICATION

INTRODUCTION

Columbus Southern Power Company and Ohio Power Company (the Companies) filed their application in these dockets on July 31, 2008, the date that Am. Sub. S.B. 221 (S.B. 221) became effective. As noted in Section V.E. of the application, §4928.14 (C) (1), Ohio Rev. Code, requires the Commission to issue an order for an initial Electric Security Plan (ESP) application not later than 150 days after the application is filed. The 150<sup>th</sup> day is December 28, 2008.

The Companies' application stated:

Section 4928.14(C) (1), Ohio Rev. Code, requires the Commission to issue an order for an initial ESP application not later than one hundred fifty days after the application is filed. The Companies believe that the Commission intends to take all necessary actions in order to comply with this requirement. However, in the event that the Commission is unable to meet the statutory

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requirement, the Companies include as part of its ESP a provision that establishes a one-time rider to reflect the difference between the ESP approved rates and the rates charged under the Companies' existing standard service offer and reflects the length of time between the end of the December 2008 billing month and the effective date of the new ESP rates. It is proposed that the amount to be recovered under this provision of the ESP would be recovered over the remaining billing months in 2009, with a true-up, if necessary, in the first quarter of 2010.

Because of the continuance pushing back the hearing in this proceeding to November 17, 2008, the Companies request that the Commission now adopt the procedure proposed by Section V.E. of the application as a complement to the continuance of this hearing.

## **ARGUMENT**

By Attorney Examiner Entry dated August 5, 2008 the hearing in these dockets was set to begin on November 3, 2008. On August 28, 2005, four intervenors filed a motion for continuance of the hearing.<sup>1</sup> In the joint movants' memorandum in support they restated the language quoted above from the application. The joint movants then went on to state that they believe that:

... AEP's proposal to continue the current rates and terms in effect until the final ESP rate is determined, subject to reconciliation, is reasonable. This is similar to the plans proposed by Duke and that was proposed for FirstEnergy in the Motion for Continuance. This approach is reasonable and should be acceptable to all parties. In making this proposal, OCC is not conceding any arguments regarding the lawfulness or reasonableness of the ESP or RSP, including any issues on appeal. (Joint Movants' Motion, p.6)

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<sup>1</sup> Ohio Consumers' Counsel, Ohio Environmental Council, Sierra Club, Ohio Chapter and Ohio Partners for Affordable Energy.

The Companies' responded to the motion for continuance on September 2, 2008. While the Companies' expressed their concern with a continuance of the hearing, they did note the following:

If the start of the hearing is delayed, the Commission should make clear that if its order ruling on AEP Ohio's proposed ESP is delayed beyond December 28, 2008, it will permit AEP Ohio to implement a surcharge to collect the ultimately authorized increase in revenues that would have been collected had the order been issued within the 150-day time period set by the General assembly.

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Because any extension will virtually assure that the Commission's order will issue after December 28, 2008, the Commission should condition such an extension on adoption of AEP Ohio's procedures for being made whole. The Joint Movants characterize AEP Ohio's proposal as "reasonable and should be acceptable to all parties." (*Memorandum Contra*, pp 3,6).

The joint movants responded to the Companies' memorandum contra on September 5, 2008. While the joint movants debated the Companies' analysis of the statutory requirement in §4928.14 (C) (1), Ohio Rev. Code, they indicated that they did not object to the Companies' true-up proposal. (Joint Reply, p. 4).<sup>2</sup>

Also on September 5, 2008, another Attorney Examiner Entry was issued continuing the hearing until November 17, 2008. That Entry did not address the Companies' request that, to avoid prejudice to the Companies that is likely to be associated with the continuance of the hearing, the Commission should permit the Companies to implement a surcharge to collect the ultimately authorized increase in

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<sup>2</sup> The sentence states that OCC does not object to the true-up. Since, however, the filing was a joint reply, the Companies believe that the intent was to speak for all the joint movants.

revenues that would have been collected had the order been issued within the 150-day time period.

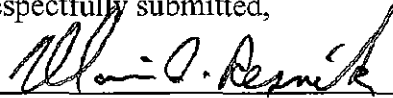
With the hearing now set to begin November 17, 2008, it is less likely that the Commission will issue its order in this case by December 28, 2008. Even were it not for Thanksgiving and Christmas holidays, it is doubtful whether in 42 days the hearings could be commenced and completed, briefing, or some other form of post-hearing summation, could be completed and Commission consideration of the record and drafting and adoption of an order could be completed. Simply focusing on the hearing process makes this point. The Companies have filed the testimony of eleven witnesses. There are nearly thirty intervenors and, while some of those have jointly intervened, it is safe to expect that each of the Companies' witnesses could be cross-examined by up to ten or more separate counsel. Further, it is expected that many of those intervenors will sponsor witnesses, as will the Commission's Staff. In other words, this will not be a short hearing and with Thanksgiving falling out during the second week of the hearing, the hearing may not conclude until early December.

The September 5, 2008 Entry granted only a 14-day continuance "in light of the statutory deadline for resolution of these issues ...." (Entry, pp 1,2). While the Companies share the Attorney Examiners' concern for the statutory deadline, they do not share the same apparent belief that the deadlines still can be met.

It is in this context that the Companies file this motion. The Companies and their customers need to know the procedure that will be in place if the statutory deadline is not met. The Companies' proposed procedure is acceptable to the joint movants and no intervenors opposed that procedure when proposed by the Companies as a condition for

granting the joint movants' motion for a continuance. Therefore, the Companies request that the Commission grant this motion as an appropriate complement to the 14-day continuance which already has been granted.

Respectfully submitted,



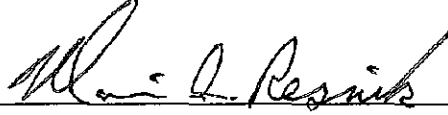
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Motion to Approve Section V.E. of Their Application was served by US Mail and electronic mail upon counsel identified below this 24<sup>th</sup> day of September, 2008.



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