

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of the )  
Columbus Southern Power Company for )  
Approval of its Electric Security Plan; an ) Case No. 08-917-EL-SSO  
Amendment to its Corporate Separation Plan; )  
And the Sale or Transfer of Certain Generating )  
Assets. )

In the Matter of the Application of Ohio Power )  
Company for Approval of its Electric Security ) Case No. 08-918-EL-SSO  
Plan; and an Amendment to its Corporate )  
Separation Plan. )

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**INDUSTRIAL ENERGY USERS-OHIO'S MEMORANDUM CONTRA TO  
COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER  
COMPANY'S MOTION TO APPROVE SECTION V.E. OF THEIR  
APPLICATION**

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**October 1, 2008**

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On May 1, 2008, Governor Strickland signed into law Amended Substitute Senate Bill ("SB 221"). SB 221 modified, among other things, Chapter 4928 of the Revised Code. Section 4928.141, Revised Code, requires each electric distribution utility ("EDU") to establish a standard service offer ("SSO") in accordance with Sections 4928.142 or 4928.143, Revised Code.<sup>1</sup> On July 31, 2008, Columbus Southern Power Company and Ohio Power Company (collectively, "American Electric Power" or "AEP") filed an Application for approval of an SSO under Section 4928.143, Revised Code (hereinafter "Application").

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<sup>1</sup> Section 4928.142, Revised Code, governs market rate option ("MRO") plans while Section 4928.143, Revised Code, controls electric security plans ("ESP").

Under Section 4928.143(C)(1), Revised Code, the Commission is required to issue an order approving or rejecting the Application within 150 days of its filing. At that time, the Commission may approve, modify and approve, or reject the Application.<sup>2</sup>

On September 24, 2008, AEP filed a Motion to Approve Section V.E. of their Application (hereinafter, "Motion"), which states:

Section 4928.14[3](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 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.

AEP argues that the Commission's continuance of the procedural schedule, including the evidentiary hearing which is scheduled to begin on November 17, 2008, renders a Commission decision by the December 28, 2008 deadline unlikely.<sup>3</sup> IEU-Ohio hereby files this Memorandum Contra AEP's Motion pursuant to the Attorney Examiner's August 5, 2008 Entry in this proceeding.

AEP's Motion requests that the Commission inappropriately approve substantive portions of AEP's Application in contradiction of the law. Section 4928.143(C)(1), Revised Code, states in part that:

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<sup>2</sup> Section 4928.143(C)(1), Revised Code.

<sup>3</sup> Motion at 4.

Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section ***if it finds that the electric security plan so approved, including its pricing and all other terms and conditions***, including any deferrals and any future recovery of deferrals, ***is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.***

Thus, any part of an application filed under Section 4928.143(A), Revised Code, must be evaluated and found more favorable, as a total package, than the expected results under a proposed MRO under Section 4928.142, Revised Code, in order for it to be approved.

AEP's Motion, however, would have the Commission approve a specific term or condition of its Application prior to the Commission's full evaluation of the Application in its entirety. Thus, AEP requests that the Commission make a premature determination on the merits of the Application by issuing an order on a rider proposed in the Application, without that rider—or any other—being subject to the very necessary condition that the entire Application and its supporting witnesses be fully examined through the evidentiary hearing process. Any opportunity to recover the difference between the final ESP rate and the current SSO rate, if an order is not issued for the rate to be in effect by January 1, 2009, is a matter that is necessarily considered part of the overall package presented by AEP that parties should have ample time to litigate. The piecemeal approach that AEP suggests is not the approach contemplated by SB 221, as evidenced by the language identified above.

As such, AEP's Motion should be denied inasmuch as the Commission is without authority to make such a premature determination. IEU-Ohio expects that the rider

proposed in Section V.E. of the Application, along with all other terms and conditions, to be addressed by the Commission in its final order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Samuel C. Randazzo', is written over a horizontal line.

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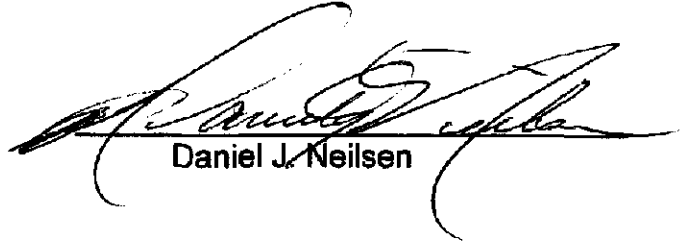
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of *Industrial Energy Users-Ohio's Memorandum Contra to Columbus Southern Power Company's and Ohio Power Company's Motion to Approve Section V.E. of their Application* was served upon the following parties of record this 1<sup>st</sup> day of October, 2008, via electronic transmission, hand-delivery or first class mail, postage prepaid.



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