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Via Overnight Mail

April 15, 2009

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Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 08-917-EL-SSO and 08-918-EL-SSO

Dear Sir/Madam:

Please find enclosed an original and twenty (20) copies of the **APPLICATION FOR REHEARING and MEMORANDUM IN SUPPORT OF THE OHIO ENERGY GROUP** filed via overnight mail in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,

Michael L. Kurtz

David F. Boehm, Esq.
Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.
Cc: Certificate of Service
Chairman Alan R. Schriber
Ronda Hartman Fergus
Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberto
Kim Bojko, Hearing Examiner
Greta See, Hearing Examiner

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) ordinary mail, unless otherwise noted, this 15th day of April, 2009 to the individuals listed on the attached certificate of service:

David F. Boehm, Esq.
Michael L. Kurtz, Esq.

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*Indicates that filer has agreed to be automatically served via electronic mail.

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter Of The Application Of Columbus Southern Power Company For 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 Columbus Southern Power Company For Approval Of Its Electric Security Plan, And An Amendment To Its Corporate Separation Plan	:	**Case No. 08-918-EL-SSO**

APPLICATION FOR REHEARING OF THE OHIO ENERGY GROUP

Pursuant to R.C. §4903.10 and OAC §4901-1-35, the Ohio Energy Group (OEG) seeks rehearing of the Commission's Opinion and Order of March 18, 2009 in this matter ("Order") and submits that the Order is unlawful or unreasonable in the following particulars:

1. The Order fails to include all of the earnings of the Ohio Power Company (OPC) and Columbus Southern Power (CSP) in the significantly excessive earnings test as required by R.C. §4928.143(F). This results in the comparison of only part of the earnings of OPC and CSP with the full earnings of the comparable companies.

2. The Order should be clarified regarding how deferrals will be incorporated in the significantly excessive earnings test pursuant to R.C. §4928.143(F).

3. The Order should allow customers who make a legally binding commitment not to shop for competitive generation during the term of the ESP to avoid paying any provider of last resort (POLR) charges.

Respectfully submitted,

David F. Boehm, Esq.
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COUNSEL FOR THE OHIO ENERGY GROUP

April 15, 2009

BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO

In The Matter Of The Application Of Columbus Southern Power Company For 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 Columbus Southern Power Company For Approval Of Its Electric Security Plan, And An Amendment To Its Corporate Separation Plan	:	**Case No. 08-918-EL-SSO**

MEMORANDUM IN SUPPORT

1. **The Order fails to include all of the earnings of the Ohio Power Company (OPC) and Columbus Southern Power (CSP) in the significantly excessive earnings test as required by R.C. §4928.143(F). This results in the comparison of only part of the earnings of OPC and CSP with the full earnings of the comparable companies.**

The application of the significantly excessive earnings test (SEET) was addressed at pages 65-69 of the Order. The Commission's decision that off-system sales margins (profits) earned by OPC or CSP cannot be considered in the SEET is unlawful. This ruling creates a fundamental asymmetry by comparing only part of the earnings of OPC and CSP with the full earnings of the comparable companies.

The SEET is described in R.C. 4928.143(F).

> *"(F) With regard to the provisions that are included in an electric security plan under this section, the commission shall consider, following the end of each annual period of the plan, if any such adjustments resulted in excessive earnings as measured by whether the earned return on common equity of the electric distribution utility is significantly in excess of the return on common equity that was earned during the same period by publicly traded companies, including utilities, that face comparable business and*

financial risk, with such adjustments for capital structure as may be appropriate. Consideration also shall be given to the capital requirements of future committed investments in this state. The burden of proof for demonstrating that significantly excessive earnings did not occur shall be on the electric distribution utility. If the commission finds that such adjustments, in the aggregate, did result in significantly excessive earnings, it shall require the electric distribution utility to return to consumers the amount of the excess by prospective adjustments; provided that, upon making such prospective adjustments, the electric distribution utility shall have the right to terminate the plan and immediately file an application pursuant to section 4 92 8.142 of the Revised Code. Upon termination of a plan under this division, rates shall be set on the same basis as specified in division (C)(2)(b) of this section, and the commission shall permit the continued deferral and phase-in of any amounts that occurred prior to that termination and the recovery of those amounts as contemplated under that electric security plan. In making its determination of significantly excessive earnings under this division, the commission shall not consider, directly or indirectly, the revenue, expenses, or earnings of any affiliate or parent company."

The SEET is one of the key consumer protections in SB 221. The SEET ensures that utilities shall not be allowed to earn excess profits as result of ESP adjustments. The failure to include all of the utility's earnings (profits) in the SEET greatly undermines the protection intended by the Governor and Legislature and violates the statute's plain meaning.

The SEET compares the "*earned return on common equity of the electric distribution utility*" with the "*return on common equity that was earned during the same period by* [comparable] *publicly traded companies, including utilities ...*" The "*return on common equity that was earned*" by OPC and CSP included profits from off-system sales. Therefore, by ignoring profits from off-system sales the Commission is comparing only part of the Companies' earnings with the full earnings of the comparable publicly traded companies, including utilities. There is no statutory basis for this asymmetry. Comparing only part of OPC's and CSP's earnings with the full earnings of the comparable businesses grossly distorts the comparison and fails to protect consumers from excess profits.

The profits from off-system sales are large. In 2007, the profits from off-system sales earned by

OPC were $146.7 million and $124 million for CSP.[1] In 2007, these profits constituted 27.9% of OPC's $526.4 million operating income and 27.7% of CSP's $447.4 million operating income. (2007 SEC Form 10-K, attached). During the three year term of the ESP the Companies project that profits from off-system sales will be $791 million.[2] On a per company basis those projected margins are $431 million for OPC and $360 million for CSP.[3] Ignoring these profits when comparing the earnings of OPC and CSP to comparable businesses fails to provide the meaningful consumer protection intended by SB 221 and misconstrues the statute.

The SEET requires the Commission to compare the full earnings of OPC and CSP with the full earnings of comparable businesses during the same time period. There is no statutory basis to exclude approximately 28% of the Companies' earnings from the SEET.

2. The Order should be clarified regarding how deferrals will be incorporated in the significantly excessive earnings test pursuant to R.C. §4928.143(F).

OEG seeks clarification from the Commission regarding its determination that the SEET should exclude "*deferrals, as well as the related expenses associated with the deferrals*." (Order at p. 69). The Commission believes that deferrals should not have an impact on the SEET until the revenues associated with deferrals are received. We agree. But the Order is unclear. Specifically, OEG seeks clarification that the Companies' annual earnings for purposes of the SEET will exclude: 1) all deferrals of expenses; and 2) once recovery of the deferral actually begins, all amortization expenses associated with amounts previously deferred.

We believe that this is the intent of the Order because it ensures the symmetrical treatment of

[1] OEG Ex. 3 at 14.
[2] OCC Ex. 7.
[3] OCC Ex. 6 at 7, 8.

both of the deferred expenses in the early years and the amortization of those deferred expenses in future years by excluding both effects from the SEET. Otherwise, the actual expenses, even though deferred for financial statement purposes, but not for SEET, only would reduce earnings in the early years of the deferral, but then those same expenses in the form of amortization also would reduce annual earnings for the SEET in future years. In that event, the expenses would reduce earnings twice instead of only once.

The Commission granted recovery of certain expenses (mainly in the FAC), but pushed out recovery to later years in order to stay within the annual percentage rate caps. These deferrals will be booked as a regulatory asset (ratepayer IOU) and will also increase earnings in the early years for accounting purposes. AEP argued that this would distort earnings for SEET purposes in the early years. We understand their position and only seek to make sure that earnings will be properly calculated in the later years when the deferred costs are actually recovered. In the later years two things will occur: 1) there will be added revenue to recover the expenses previously deferred; and 2) there will be an amortization of the regulatory asset. The amortization is an expense that will reduce earnings for accounting purposes. For SEET purposes, this amortization expense needs to be eliminated in the later years just as the deferral of expenses needs to be eliminated in the early years.

At the risk of being redundant, here is a short example. A utility defers $1 million in 2009. This creates a $1 million regulatory asset (ratepayer IOU). For accounting purposes, the utility's 2009 earnings are increased by $1 million because it has less expense. But for SEET purposes the $1 million deferral is ignored because the utility did not get the revenue yet. In 2010 the deferred amount is collected. At this time the SEET should include the $1 million in revenue. In addition, the SEET also needs to exclude the $1 million of regulatory asset amortization expense. If the amortization expense is not excluded, then 2010 earnings will have off-setting revenue and expense items. This would mean that even though the utility collected its ratepayer IOU in 2010, there would not be any recognition of this increase in earnings in the SEET. OEG's requested clarification would avoid this result.

3. **The Order should allow customers who make a legally binding commitment not to shop for competitive generation during the term of the ESP to avoid paying any provider of last resort (POLR) charges.**

POLR charges were addressed at pages 38-40 of the Order. The Commission properly found that the POLR rider shall be avoidable for those customers who shop and agree to return at a market price. But the Commission failed to address whether the POLR rider should be avoidable by those customers who agree not to shop during the ESP. We believe that it should.

The POLR rider is intended to compensate the Companies for the costs and risks of shopping. *"[W]e conclude that the Companies' proposed ESP should be modified such that the POLR rider will be based on the cost to the Companies to be the POLR and carry the risks associated therewith, including the mitigation risk."* (Order at p. 40). Applying this standard, there is no cost or risk to the Companies of being the POLR if a customer makes a legally binding commitment not to shop during the ESP.

The POLR charge is designed to compensate the Companies for the costs associated with "*standing by*" to serve returning shopping customers at the ESP rates and the cost to the Companies from ESP customers opportunistically leaving SSO service for lower priced market rates. Using the Black-Scholes model, the Companies calculated a POLR charge that is designed to reflect the value of a financial option that would permit the owner to purchase SSO service at the proposed AEP ESP rates. But a POLR charge should not be imposed on customers who do not want to "*purchase*" the option. If a customer elects to waive its rights to shop during the three-year ESP term, then there is no risk or cost to the Companies and no basis for the Companies to impose the POLR option charge. Therefore, customers who agree not to shop during the ESP should not pay the POLR charge.

Respectfully submitted,

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COUNSEL FOR THE Ohio ENERGY GROUP

April 15, 2009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Application for Rehearing and Memorandum in Support was served by First Class United States Mail, postage prepared and electronic mail, upon the following counsel of record this 15th day of April, 2009.

David F. Boehm, Esq.
Michael L. Kurtz, Esq.

ATTACHMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2007

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _________ to________

Commission File Number	Registrants; States of Incorporation; Address and Telephone Number	I.R.S. Employer Identification Nos.
1-3525	AMERICAN ELECTRIC POWER COMPANY, INC. (A New York Corporation)	13-4922640
1-3457	APPALACHIAN POWER COMPANY (A Virginia Corporation)	54-0124790
1-2680	COLUMBUS SOUTHERN POWER COMPANY (An Ohio Corporation)	31-4154203
1-3570	INDIANA MICHIGAN POWER COMPANY (An Indiana Corporation)	35-0410455
1-6543	OHIO POWER COMPANY (An Ohio Corporation)	31-4271000
0-343	PUBLIC SERVICE COMPANY OF OKLAHOMA (An Oklahoma Corporation)	73-0410895
1-3146	SOUTHWESTERN ELECTRIC POWER COMPANY (A Delaware Corporation)	72-0323455
	1 Riverside Plaza, Columbus, Ohio 43215	
	Telephone (614) 716-1000	

Indicate by check mark if the registrants with respect to American Electric Power Company, Inc. and Appalachian Power Company, is each a well-known seasoned issuer, as defined in Rule 405 on the Securities Act. Yes ☒ No. ☐

Indicate by check mark if the registrants with respect to Columbus Southern Power Company, Indiana Michigan Power Company, Ohio Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company, are well-known seasoned issuers, as defined in Rule 405 on the Securities Act. Yes ☐ No. ☒

Indicate by check mark if the registrants are not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes ☐ No. ☒

Indicate by check mark whether the registrants (1) have filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrants were required to file such reports), and (2) have been subject to such filing requirements for the past 90 days. Yes ☒ No. ☐

Indicate by check mark if disclosure of delinquent filers with respect to Appalachian Power Company or Ohio Power Company pursuant to Item 405 of Regulation S-K (229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements of Appalachian Power Company or Ohio Power Company incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

COLUMBUS SOUTHERN POWER COMPANY AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
For the Years Ended December 31, 2007, 2006 and 2005
(in thousands)

	2007	2006	2005
REVENUES			
Electric Generation, Transmission and Distribution	$ 1,893,045	$ 1,715,542	$ 1,413,056
Sales to AEP Affiliates	143,112	85,726	124,410
Other	7,155	5,467	4,866
TOTAL	2,043,312	1,806,735	1,542,332
EXPENSES			
Fuel and Other Consumables Used for Electric Generation	342,149	294,841	255,913
Purchased Electricity for Resale	158,526	115,420	37,012
Purchased Electricity from AEP Affiliates	362,648	365,510	362,959
Other Operation	280,705	256,479	225,896
Maintenance	93,157	88,654	87,303
Asset Impairments and Other Related Charges	-	-	39,109
Depreciation and Amortization	197,303	193,251	142,346
Taxes Other Than Income Taxes	161,463	154,930	148,914
TOTAL	1,595,951	1,469,085	1,299,452
OPERATING INCOME	447,361	337,650	242,880
Other Income (Expense):			
Interest Income	1,943	8,885	3,972
Carrying Costs Income	4,758	4,122	10,367
Allowance for Equity Funds Used During Construction	3,036	1,865	1,579
Interest Expense	(69,625)	(66,100)	(59,539)
INCOME BEFORE INCOME TAXES	387,473	286,422	199,259
Income Tax Expense	129,385	100,843	61,460
INCOME BEFORE CUMULATIVE EFFECT OF ACCOUNTING CHANGE	258,088	185,579	137,799
CUMULATIVE EFFECT OF ACCOUNTING CHANGE, NET OF TAX	-	-	(839)
NET INCOME	258,088	185,579	136,960
Capital Stock Expense	157	157	2,620
EARNINGS APPLICABLE TO COMMON STOCK	$ 257,931	$ 185,422	$ 134,340

The common stock of CSPCo is wholly-owned by AEP.

See Notes to Financial Statements of Registrant Subsidiaries beginning on page H-1.

OHIO POWER COMPANY CONSOLIDATED
CONSOLIDATED STATEMENTS OF INCOME
For the Years Ended December 31, 2007, 2006 and 2005
(in thousands)

	2007	2006	2005
REVENUES			
Electric Generation, Transmission and Distribution	$ 2,019,632	$ 2,006,279	$ 1,922,280
Sales to AEP Affiliates	757,052	685,343	681,852
Other - Affiliated	22,705	16,775	15,437
Other - Nonaffiliated	14,823	16,478	14,980
TOTAL	2,814,212	2,724,875	2,634,549
EXPENSES			
Fuel and Other Consumables Used for Electric Generation	908,317	960,119	975,180
Purchased Electricity for Resale	123,849	100,958	77,173
Purchased Electricity from AEP Affiliates	125,108	113,651	116,890
Other Operation	388,745	382,573	340,085
Maintenance	208,675	228,151	207,226
Depreciation and Amortization	339,817	321,954	302,495
Taxes Other Than Income Taxes	193,349	192,178	190,013
TOTAL	2,287,860	2,299,584	2,209,062
OPERATING INCOME	526,352	425,291	425,487
Other Income (Expense):			
Interest Income	1,366	2,363	3,311
Carrying Costs Income	14,472	13,841	48,510
Allowance for Equity Funds Used During Construction	2,311	2,556	1,441
Interest Expense	(127,352)	(97,084)	(103,352)
INCOME BEFORE INCOME TAXES	417,149	346,967	375,397
Income Tax Expense	148,585	118,324	124,978
INCOME BEFORE CUMULATIVE EFFECT OF ACCOUNTING CHANGE	268,564	228,643	250,419
CUMULATIVE EFFECT OF ACCOUNTING CHANGE, NET OF TAX	-	-	(4,575)
NET INCOME	268,564	228,643	245,844
Preferred Stock Dividend Requirements Including Capital Stock Expense	732	732	906
EARNINGS APPLICABLE TO COMMON STOCK	$ 267,832	$ 227,911	$ 244,938

The common stock of OPCo is wholly-owned by AEP.

See Notes to Financial Statements of Registrant Subsidiaries beginning on page H-1.