

FILE

9

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-BOOKETING DIV  
2009 APR 17 PM 5:06

In the Matter of the Application of )  
Columbus Southern Power Company For )  
Approval of its Electric Security Plan )  
Including Related Accounting Authority; an )  
Amendment to its Corporate Separation )  
Plan; and the Sale or Transfer Certain )  
Generating Assets )

PUCO

Case No. 08-917-EL-SSO

and )

In the Matter of the Application of Ohio )  
Power Company for Approval of its Electric )  
Security Plan Including Related Accounting )  
Authority; and an Amendment to its )  
Corporate Separation Plan )

Case No. 08-918-EL-SSO

**APPLICATION FOR REHEARING OF  
THE OHIO ASSOCIATION OF SCHOOL BUSINESS OFFICIALS,  
THE OHIO SCHOOL BOARDS ASSOCIATION  
AND THE BUCKEYE ASSOCIATION OF SCHOOL ADMINISTRATORS**

The Ohio Association of School Business Officials, the Ohio School Boards Association and the Buckeye Association of School Administrators (collectively, "the School Administrators"), respectfully submit this Application for Rehearing from the Commission's March 18, 2009 Opinion and Order in the above styled proceedings. The School Administrators respectfully allege that the Commission's March 18, 2009 Opinion and Order is unreasonable and unlawful on the following ground:

By approving a deferral of fuel adjustment charges ("FAC") and allowing any deferred FAC expense balance remaining at the end of 2011 to be recovered via an unavoidable surcharge at pages 20-24 of its Opinion and Order, while not establishing a credit mechanism or procedure for the School Pool participants who are customers known not to be buying generation, the Commission has unreasonably and

**This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.**  
Technician TM Date Processed 4/17/2009

unlawfully created a subsidy to standard service offer customers by the School Pool participants in violation of Section 4928.02(H), Revised Code.

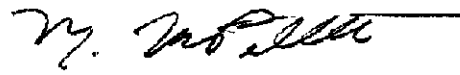
To prevent charging schools participating in SchoolPool from having to pay for fuel they did not take, the Commission should grant rehearing and modify its Opinion and Order to direct Columbus Southern Power and Ohio Power to provide tax supported schools who do not purchase generation receive a credit identical to the value of the FAC deferral on their monthly invoice.

The reasons supporting this Application for Rehearing are set forth in the accompanying Memorandum in Support.

WHEREFORE, the School Administrators respectfully request that the Commission grant rehearing and modify its March 18, 2009 Opinion and Order by directing Columbus Southern Power and Ohio Power to provide shopping school customers a credit identical to the value of the FAC deferral on the schools monthly invoice.

Respectfully Submitted,

By:



M. Howard Petricoff (0008287)  
Stephen M. Howard (0022421)  
Michael J. Settineri (0073369)  
VORYS, SATER, SEYMOUR AND PEASE LLP  
52 East Gay Street  
P. O. Box 1008  
Columbus, Ohio 43216-1008  
Tel. (614) 464-5414  
Fax (614) 464-6350  
E-mail: [mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)

Attorneys for The Ohio Association of School Business  
Officials, The Ohio School Boards Association and the  
Buckeye Association of School Administrators

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	)	
Including Related Accounting Authority; an	)	
Amendment to its Corporate Separation	)	
Plan; and the Sale or Transfer Certain	)	Case No. 08-917-EL-SSO
Generating Assets	)	
	)	
and	)	
	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of its Electric	)	
Security Plan Including Related Accounting	)	Case No. 08-918-EL-SSO
Authority; and an Amendment to its	)	
Corporate Separation Plan	)	

**MEMORANDUM IN SUPPORT**

The School Administrators are non-profit organizations made up of public school administrators. The purpose of the School Administrators is to share best practices and information concerning the operation of public educational institutions. Subsequent to the passage of Senate Bill 3 which provided for open access to generation, the School Administrators have run a program called "SchoolPool." SchoolPool is an aggregation of school buildings which collectively purchase generation on the open market. Because many school buildings are closed during the summer and use less energy than most commercial buildings, the potential for school buildings to purchase generation for less than tariff exists.

As the record in the this proceeding reveals, of the 408 meters listed as shopping customers 386 are school accounts<sup>1</sup> participating in the SchoolPool program<sup>2</sup>. The annual savings by these 386 school accounts last year was roughly \$420,000<sup>3</sup> or the equivalent of some nine \$50,000 per year teaching posts.

In its briefs and in the testimony of its witness, Mark R. Frye, the School Administrators pointed out to the Commission the inequity of a school choosing to buy lower cost energy from a Competitive Retail Electric Supplier during the Electric Security Plan (ESP) period and then be required to subsequently pay for the fuel used to generate power during ESP it did not take plus carrying costs beginning in 2012<sup>4</sup>.

At page 22 of its Opinion and Order, the Commission exercised its authority pursuant to Section 4928.144, Revised Code, and found that Columbus Southern Power and Ohio Power should phase in any authorized increases so as not to exceed, on a total bill basis, an increase of seven percent (7%) for Columbus Southern Power and eight percent (8%) for Ohio Power for 2009, six percent (6%) for Columbus Southern Power and seven percent (7%) for Ohio Power for 2010, and (6%) for Columbus Southern Power and eight percent (8%) for Ohio Power for 2011. Any amount over the allowable total bill increase percentage levels would be deferred pursuant to Section 4928.144, Revised Code, with carrying costs. The Commission stated at pages 22-23 of its Opinion and Order that “any deferred FAC expense balance remaining at the end of 2011 shall be recovered via an unavoidable surcharge.”

---

<sup>1</sup> An account may be one or more buildings aggregated for billing purposes.

<sup>2</sup> School Exhibit 1 - Direct Prepared Testimony of Mark Frye p. 3

<sup>3</sup> Id.

<sup>4</sup> Id. at 5

In the grand scheme of things if AEP's costs overrun the established caps, some or all of the FAC expense will be deferred and recovered via an unavoidable surcharge beginning in 2012. If that is the case, then the Commission should provide relief for the SchoolPool participants who are the known customers who will not be taking generation which caused the FAC expense. As a matter of equity, the Commission should provide that the SchoolPool participants receive a credit for the fuel that is being deferred. The equitable claim is further enhanced by the fact that these are tax supported customers engaged in kindergarten through high school education. Finally, the cost impact of granting SchoolPool a credit for the fuel deferral is negligible. Mr. Frye estimated that a credit for the fuel deferral to the existing SchoolPool members would only amount to \$735,000 in 2009<sup>5</sup>, an amount that in a case of this size and scope could be lost in the rounding off of the hundreds of millions of dollars of revenue being generated for AEP.

In addition to the equitable argument, there are strong legal arguments for providing a credit to the SchoolPool customers. AEP witness Baker testified that all the cost components of the FAC are generation costs<sup>6</sup>. Further, the FAC (if it is not deferred) is by passable for all shopping customers<sup>7</sup>. However, the Commission has stated in its Opinion and Order that by deferring the fuel and purchased power costs of serving Standard Service Customers, it may charge FAC expenses as an unavoidable wire surcharge to all customers.

By directing that the generation charges (deferred fuel expenses with carrying costs) be assessed against all customers including those who do not take generation

---

<sup>5</sup> Id at.4

<sup>6</sup> Id at 36.

<sup>7</sup> Id at 23.

service, the Commission's Opinion and Order is in violation of the State Energy Policy (Section 4928.02 (H), Revised Code) which states that the Commission shall:

Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates. (emphasis added)

The Commission has recently ruled that the State Energy Policy must be followed in evaluating an Electric Security Plan.

The Commission believes that state policy codified by the General Assembly in Chapter 4928, Revised Code, sets forth important objectives which the Commission must keep in mind when considering all cases filed pursuant to that chapter of the code. Therefore, in determining whether the ESP meets the requirements of Section 4928.143, Revised Code the Commission takes into consideration the policy provisions of Section 4928.02, Revised Code, and we use these policies as a guide in our implementation of Section 4928.143, Revised Code.

In re FirstEnergy, Case No. 08-935-EL-SSO, Opinion and Order, (December 19, 2008) p. 10.

WHEREFORE, the School Administrators respectfully request that the Commission grant rehearing and modify its March 18, 2009 Opinion and Order by directly Columbus Southern Power and Ohio Power to provide shopping customers a credit identical to the value of the FAC deferral on the monthly invoice from anyone who elects to purchase third-party power supplies.

Respectfully Submitted,

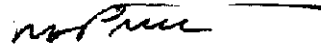
By: 

M. Howard Petricoff (0008287)  
Stephen M. Howard (0022421)  
Michael J. Settineri (0073369)  
VORYS, SATER, SEYMOUR AND PEASE LLP  
52 East Gay Street  
P. O. Box 1008  
Columbus, Ohio 43216-1008  
Tel. (614) 464-5414  
Fax (614) 464-6350  
E-mail: [mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)

Attorneys for THE OHIO ASSOCIATION OF  
SCHOOL BUSINESS OFFICIALS, THE OHIO  
SCHOOL BOARDS ASSOCIATION AND THE  
BUCKEYE ASSOCIATION OF SCHOOL  
ADMINISTRATORS

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 17<sup>th</sup> day of April, 2009 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.



---

M. Howard Petricoff  
Stephen M. Howard  
Michael J. Settineri

Marvin Resnik  
American Electric Power  
1 Riverside Plaza, 29th Floor  
Columbus, OH 43215  
[miresnik@aep.com](mailto:miresnik@aep.com)

Joseph Clark  
McNees, Wallace & Nurick  
21 East State Street, 17th Floor  
Columbus, OH 43215  
[jclark@mwncmh.com](mailto:jclark@mwncmh.com)

Michael Smalz  
Ohio State Legal Service Assoc.  
555 Buttles Avenue  
Columbus, OH 43215-1137  
[msmalz@oslsa.org](mailto:msmalz@oslsa.org)

David Rinebolt  
Ohio Partners for Affordable  
Energy  
231 W. Lima Street  
Findlay, OH 45839-1793  
[drinebolt@aol.com](mailto:drinebolt@aol.com)

David I. Fein  
Constellation Energy Group, Inc.  
550 W. Washington, Blvd., Ste 300  
Chicago, IL 60661  
[david.fein@constellation.com](mailto:david.fein@constellation.com)

David Boehm  
Michael Kurtz  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202-4454  
[dboehm@bklawfirm.com](mailto:dboehm@bklawfirm.com)  
[mkurtz@bklawfirm.com](mailto:mkurtz@bklawfirm.com)

Jacqueline Roberts  
Michael Idzkowski  
Ohio Consumers Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
[roberts@occ.state.oh.us](mailto:roberts@occ.state.oh.us)  
[idzkowski@occ.state.oh.us](mailto:idzkowski@occ.state.oh.us)

Matthew S. White  
Chester, Wilcox & Saxbe  
65 E. State Street, Suite 1000  
Columbus, OH 43215  
[mwhite@cwsllaw.com](mailto:mwhite@cwsllaw.com)

Barth E. Royer  
Bell & Royer Co. LPA  
33 S. Grant Avenue  
Columbus, OH 43215-3927  
[barthroyer@aol.com](mailto:barthroyer@aol.com)

Cynthia A. Fonner  
Constellation Energy Resources, LLC  
550 West Washington, Blvd., Ste. 300  
Chicago, IL 60661  
[cynthia.a.fonner@constellation.com](mailto:cynthia.a.fonner@constellation.com)



Richard L. Sites  
Ohio Hospital Association  
155 E. Broad Street  
Columbus, OH 43215  
[ricks@ohanet.org](mailto:ricks@ohanet.org)

Langdon D. Bell  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, OH 43215-3927  
[lbell33@aol.com](mailto:lbell33@aol.com)

Larry Gearhardt  
Ohio Farm Bureau Federation  
280 N. High St., P. O. Box 182383  
Columbus, OH 43218-2383  
[LGearhardt@ofbf.org](mailto:LGearhardt@ofbf.org)

[thomas.lindgren@puc.state.oh.us](mailto:thomas.lindgren@puc.state.oh.us)  
[werner.margard@puc.state.oh.us](mailto:werner.margard@puc.state.oh.us)  
[john.jones@puc.state.oh.us](mailto:john.jones@puc.state.oh.us)  
[sam@mwncmh.com](mailto:sam@mwncmh.com)  
[lmcalister@mwncmh.com](mailto:lmcalister@mwncmh.com)  
[dneilsen@mwncmh.com](mailto:dneilsen@mwncmh.com)  
[jclark@mwncmh.com](mailto:jclark@mwncmh.com)  
[cmooney2@columbus.rr.com](mailto:cmooney2@columbus.rr.com)  
[msmalz@oslsa.org](mailto:msmalz@oslsa.org)  
[jmaskovyak@oslsa.org](mailto:jmaskovyak@oslsa.org)  
[tobrien@bricker.com](mailto:tobrien@bricker.com)

Henry Eckhart  
50 W. Broad Street, Suite 2117  
Columbus, OH 43215-3301  
[henryeckhart@aol.com](mailto:henryeckhart@aol.com)

Craig G. Goodman  
National Energy Marketers  
Association  
3333 Kay Street, N.W., Suite 110  
Washington, D.C. 20007  
[cgoodman@energymarketers.com](mailto:cgoodman@energymarketers.com)

[sbaron@ikenn.com](mailto:sbaron@ikenn.com)  
[lkollen@ikenn.com](mailto:lkollen@ikenn.com)  
[charlieking@snavely-king.com](mailto:charlieking@snavely-king.com)  
[grady@occ.state.oh.us](mailto:grady@occ.state.oh.us)  
[etter@occ-state.oh.us](mailto:etter@occ-state.oh.us)  
[stnourse@aep.com](mailto:stnourse@aep.com)  
[dconway@porterwright.com](mailto:dconway@porterwright.com)  
[jbentine@cwslaw.com](mailto:jbentine@cwslaw.com)  
[myurick@cwslaw.com](mailto:myurick@cwslaw.com)  
[khiggins@energystrat.com](mailto:khiggins@energystrat.com)  
[gary.a.jeffries@dom.com](mailto:gary.a.jeffries@dom.com)  
[nmoser@theOEC.org](mailto:nmoser@theOEC.org)  
[trent@theOEC.org](mailto:trent@theOEC.org)  
[nedford@fuse.net](mailto:nedford@fuse.net)  
[rstanfield@nrdc.org](mailto:rstanfield@nrdc.org)  
[dsullivan@nrdc.org](mailto:dsullivan@nrdc.org)  
[ed.hess@puc.state.oh.us](mailto:ed.hess@puc.state.oh.us)