

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO
917-EL-SSO

**In the Matter of the Application of Columbus
Southern Power Company for Approval of
its Electric Security Plan; an Amendment to
its Corporate Separation Plan; and the Sale or
Transfer of Certain Generating 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
MEMORANDUM CONTRA
MOTION FOR REFUND
AND MOTION FOR AEP OHIO TO
CEASE AND DESIST FUTURE
COLLECTIONS FROM CUSTOMERS**

On June 5, 2009, Ohio Consumers' Counsel (OCC), Ohio Hospital Association (OHA), Ohio Manufacturers' Association (OMA), The Kroger Company (Kroger) and Ohio Energy Group (OEG), collectively "the Movants," made a filing in these dockets which contained two motions. The Movants request that Columbus Southern Power Company (CSP) and Ohio Power Company (OP), collectively "the Companies," be ordered to refund monies allegedly collected related to delta revenues created by the Commission's approval of a temporary special arrangement between the Companies and Ormet Primary Aluminum Corporation (Ormet).¹ In addition, the Movants request that

¹ Case Nos. 08-1338-EL-AAM and 08-1339-EL-UNC, Finding and Order dated January 7, 2009, rehearing pending.

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the Companies be blocked from collecting Ormet delta revenues in the future.²

The Movants' motions are premised on the incorrect belief that the Companies' Commission-approved ESP rates are collecting the delta revenues arising from the Ormet temporary special arrangement. The Commission has not yet authorized the current recovery of the delta revenues. Therefore, those delta revenues are not being collected in the ESP rates, or in any other rates for that matter. The delta revenues are being deferred on the Companies' books for future recovery as authorized by the Commission.³ There is nothing to refund. There is no action by the Companies from which they should cease and desist. Therefore, the Movants' motions should be denied.

The actual facts regarding the delta revenues and their interplay with the ESP are described in the Companies' Form 10Q for the quarterly period ended March 31, 2009 filed with the United States Securities and Exchange Commission. At page H-13 of that filing the Companies stated:

In December 2008, CSPCo, OPCo and Ormet, a large aluminum company with a load of 520 MW, filed an application with the PUCO for approval of an interim arrangement governing the provision of generation service to Ormet. The arrangement would be effective January 1, 2009 and remain in effect and expire upon the effective date of CSPCo's and OPCo's new ESP rates and the effective date of a new arrangement between Ormet and CSPCo/OPCo as approved by the PUCO. Under the interim arrangement, Ormet would pay the then-current applicable generation tariff rates and riders. CSPCo and OPCo sought to defer as a regulatory asset beginning in 2009 the difference between the PUCO approved 2008 market price of \$53.03 per MWH and the applicable generation tariff rates and riders. CSPCo and OPCo proposed to recover the deferral through the fuel adjustment clause mechanism they proposed in the ESP

² While not clear from the Movants' motion, presumably this particular request is limited in scope to the Companies' Electric Security Plan rates and is not intended as a general prohibition against collecting the delta revenues associated with the temporary special arrangement.

³ January 7, 2009 Finding and Order in Case Nos. 08-1338-EL-AAM and 08-1339-EL-UNC.

proceeding. In January 2009, the PUCO approved the application as an interim arrangement. In February 2009, an intervenor filed an application for rehearing of the PUCO's interim arrangement approval. In March 2009, the PUCO granted that application for further consideration of the matters specified in the rehearing application.

...

In March 2009, the PUCO issued an order in the ESP filings which included approval of a FAC for the ESP period. The approval of an ESP FAC, together with the January 2009 PUCO approval of the Ormet interim arrangement, provided the basis to record regulatory assets of \$10 million and \$9 million for CSPCo and OPCI, respectively, for the differential in the approved market price of \$53.03 versus the rate paid by Ormet during the first quarter of 2009.⁴

...

The pricing and deferral authority under the PUCO's January 2009 approval of the interim arrangement will continue until the 2009-2018 power contract becomes effective. Management cannot predict when or if the PUCO will approve the new power contract.

The Movants' assertion that during April and May 2009 the Companies have collected \$12 million of delta revenues associated with the Ormet temporary special arrangement is simply incorrect. The Companies are continuing to defer the delta revenues.

The error in Movants' assertion that the delta revenues associated with the temporary special arrangement are, being collected by AEP Ohio in the Commission-approved ESP rates is obvious when Mr. Roush's Exhibit DMR-1 in

⁴ In Case No. 09-119-EL-AEC (the proceeding initiated by Ormet for a "unique arrangement with AEP Ohio) David Roush an employee of American Electric Power Service Corporation, was subpoenaed to testify by OCC. In that testimony he stated that the delta revenue under the interim agreement that is being deferred "as part of the FAC deferrals" ... is approximately \$25 million. (Tr. p. 46, Case No. 09-119-EL-AEC). The approximately \$6 million difference between that amount and the \$19 million (\$10 million plus \$9 million) represents the deferred fuel expense associated with service to Ormet.).

these dockets is compared to the corresponding compliance work papers provided by the Companies to the Commission's Staff.⁵

As seen from Exhibit DMR-1, the Companies' ESP proposed FAC, non-FAC and several other increases to the column headed "Current Rates," i.e. pre-ESP revenues. For 2009, the proposed ESP rate increases would have resulted in increases for CSP and OP of 13.41% and 13.00%, respectively. As stated in the note on both pages of Exhibit DMR-1, these percentage revenue increases included the effects of, among other things, the expiration of the 2007-2008 Ormet special contract. The Movants apparently have confused the revenue reduction associated with the expiration of the 2007-2008 Ormet special contract, which reduction was reflected in the average 2009 generation rates authorized by the Commission, with the delta revenues associated with the Ormet temporary special arrangement which became effective in 2009.⁶ Since the ESP application was filed on July 31, 2008, long before the temporary special arrangement was negotiated, let alone filed and approved, the proposed ESP rates could not have included recovery of the delta revenues related to that arrangement, even if the Companies had wanted such a recovery mechanism.

The corresponding compliance workpapers show the same starting points (Current Rates) for CSP and for OP. Based on the Commission's ESP order, the

⁵ For convenience, the two-page Exhibit DMR-1 and the corresponding compliance workpapers are attached to this memorandum contra. The Movants allege that the compliance tariffs "lacked any supporting records." OCC knows better. It received the full set of supporting workpapers from the Commission and from the Companies. The Companies met with OCC to go through the process of the tariffs' development. The Companies specifically addressed OCC's misconception regarding recovery of the delta revenues associated with the Ormet temporary special arrangement.

⁶ The authorized 2009 average generation rates for CSP and OP are found at page 22 of the Opinion and Order.

Companies reflected FAC increases, and two non-FAC increases related to environmental capital investment and generation assets. In addition, the workpapers show increases for POLR service and distribution activities. These increases, again, were offset by, among other things, the expiration of the 2007-2008 Ormet special contract. These increases resulted in percentage increases for CSP and OP of 6.82% and 7.82%, respectively.⁷

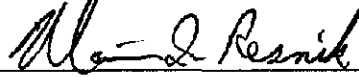
What happened to the delta revenues associated with the Ormet temporary special arrangement? The answer is simple. No such revenues have been collected. Instead there is a deferral on the Companies' books as regulatory assets for future recovery. Delta revenues are not in the Commission-approved ESP rates. There has been no violation of the zero-based Economic Development Rider (contrary to Movants' assertion). This has been explained to OCC in great detail by the Companies. OCC's refusal to accept the fully-explained facts provides a wholly inadequate basis for justifying a refund of a portion of rates which have not been collected in the first place and for ordering the Companies to cease and desist from collecting rates they are not collecting.

All of the Movants' legal arguments are pointless because the Movants' underlying factual assertion is wrong. It is that simple. The Companies are not receiving "stealth collection of millions of dollars from customers." (Memorandum in Support, p. 8). They are deferring the delta revenues in

⁷ Movants contend that rates "the PUCO announced are being exceeded on customer bills." (Memorandum in Support, p. 16) and that there is a "large disparity between the revenues approved in the ESP Order and the rate increases imposed upon customers." (*Id.*). The 6.82% and 7.82% actual increases for 2009 are slightly *below* the 7% and 8% increases authorized by the Commission for CSP and OP, respectively. (Opinion and Order, p. 22). Moreover, the Companies' average 2009 generation rates are 5.47¢/kWh for CSP, as directed by the Commission, and 4.25¢/kWh for OP, slightly *below* the 4.29¢/kWh level authorized by the Commission. (Opinion and Order, p. 22).

accordance with the Commission's order approving the Ormet temporary special arrangement. Therefore, the Commission should deny the Movants' motion.

Respectfully submitted,



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Columbus Southern Power Company
Summary of Requested Rate Increase

Description	Current Rates	2009				2010				2011			
		Non-FAC Increase	FAC Increase	Total Increase	Total Bill % Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase	Total Bill % Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase	Total Bill % Increase
FAC Components	\$604,036,568		\$147,939,877	\$147,939,877	8.32%		\$247,612,870	\$247,612,870	12.28%		\$273,242,516	\$273,242,516	11.78%
Non-FAC Components		\$26,000,000		\$26,000,000	1.46%	\$0		\$0	0.00%	\$0		\$0	0.00%
2001 - 2008 Incremental Environmental Capital Investment		\$14,209,436		\$14,209,436	0.80%	\$14,835,719		\$14,835,719	0.73%	\$15,074,791		\$15,074,791	0.85%
Annual 3% Non-FAC Generation Increase		\$40,209,436		\$40,209,436	2.28%	\$14,635,719		\$14,635,719	0.73%	\$15,074,791		\$15,074,791	0.85%
Subtotal Non-FAC	\$447,647,871	\$93,623,716		\$93,623,716	5.26%	\$0		\$0	0.00%	\$0		\$0	0.00%
POLR	\$14,580,921												
Distribution (7% Annual Increase)	\$340,137,828	\$23,809,648		\$23,809,648	1.34%	\$25,476,323		\$25,476,323	1.26%	\$27,259,666		\$27,259,666	1.18%
Energy Efficiency and Peak Demand Reduction		\$13,554,975		\$13,554,975	0.76%	\$14,843,325		\$14,843,325	0.74%	\$9,576,500		\$9,576,500	0.41%
Transmission Cost Recovery	\$181,192,902		\$0	\$0	0.00%			\$0	0.00%			\$0	0.00%
Other*	\$181,037,658	(\$80,648,308)		(\$80,648,308)	-4.53%			\$0	0.00%	\$22,800,000		\$22,800,000	0.98%
Total	\$1,778,632,736	\$90,549,187	\$147,939,877	\$238,488,844	13.41%	\$54,955,388	\$247,612,870	\$302,568,237	15.00%	\$74,710,957	\$273,242,516	\$347,953,473	15.00%

* Includes effects of expiring and new Regulatory Asset Charges, Expiring Line Extension Surcharges, Universal Service Fund, Advanced Energy Fund, kWh Tax, expiring special contracts and other miscellaneous items.

Ohio Power Company
Summary of Requested Rate Increase

Description	Current Rates	2009				2010				2011			
		Non-FAC Increase	FAC Increase	Total Increase	Total Bill % Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase	Total Bill % Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase	Total Bill % Increase
FAC	\$620,987,721		\$66,614,488	\$66,614,488	3.86%		\$207,444,763	\$207,444,763	10.64%		\$237,578,113	\$237,578,113	10.59%
Non-FAC Components													
2001 - 2008 Incremental Environmental Capital Investment		\$94,000,000		\$94,000,000	4.87%	\$0		\$0	0.00%	\$0		\$0	0.00%
Annual 7% non-FAC Generation Increase		\$41,771,480		\$41,771,480	2.42%	\$44,695,483		\$44,695,483	2.28%	\$47,824,167		\$47,824,167	2.13%
Subtotal Non-FAC	\$512,735,422	\$125,771,480		\$125,771,480	2.42%	\$44,695,483		\$44,695,483	2.28%	\$47,824,167		\$47,824,167	2.13%
POLR	\$39,700,305	\$21,190,821		\$21,190,821	1.23%	\$0		\$0	0.00%	\$0		\$0	0.00%
Distribution (8.5% Annual Increase)	\$326,265,130	\$21,207,233		\$21,207,233	1.23%	\$22,585,704		\$22,585,704	1.16%	\$24,053,774		\$24,053,774	1.07%
Energy Efficiency and Peak Demand Reduction		\$16,775,000		\$16,775,000	0.97%	\$17,847,250		\$17,847,250	0.82%	\$11,803,125		\$11,803,125	0.53%
Transmission Cost Recovery	\$190,538,964			\$0	0.00%			\$0	0.00%			\$0	0.00%
Other*	\$135,828,463	(\$27,105,030)		(\$27,105,030)	-1.57%			\$0	0.00%	\$15,200,000		\$15,200,000	0.68%
Total	\$1,728,034,005	\$157,839,504	\$66,614,488	\$224,453,990	13.00%	\$85,128,437	\$207,444,763	\$292,573,199	15.00%	\$98,881,068	\$237,578,113	\$336,459,179	15.00%

* Includes effects of expiring and new Regulatory Asset Charges, Expiring Line Extension Surcharges, Universal Service Fund, Advanced Energy Fund, kWh Tax, expiring special contracts and other miscellaneous items.

Description	Current Rates	2009			2010			2011			
		Non-FAC Increase	FAC Increase	Total Increase % Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase % Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase % Increase	
FAC Components	\$692,970,277		\$22,001,000	1.29%		\$105,182,759	5.76%		\$114,359,737	\$114,359,737	6.91%
Non-FAC Components											
2007 - 2008 Incremental Environmental Capital Investment		\$28,000,000		1.52%	\$0	\$0	0.00%	\$0	\$0	\$0	0.00%
Generation Assets		\$81,000,000		2.99%	\$0	\$0	0.00%	\$0	\$0	\$0	0.00%
Subtotal Non-FAC	\$413,483,063	\$77,000,000		4.51%	\$0	\$0	0.00%	\$0	\$0	\$0	0.00%
PCLR	\$14,007,101	\$83,377,072		4.86%	\$0	\$0	0.00%	\$0	\$0	\$0	0.00%
Distribution	\$326,861,669	\$17,532,626		1.03%	\$4,316,599	\$4,316,599	0.24%	\$1,709,583	\$1,709,583	\$1,709,583	0.09%
Energy Efficiency and Peak Demand Reduction		\$0		0.00%	\$0	\$0	0.00%	\$0	\$0	\$0	0.00%
Transmission Cost Recovery	\$173,515,049			0.00%	\$0	\$0	0.00%			\$0	0.00%
Other*	\$188,617,882	(\$83,396,360)		-4.86%		\$0	0.00%			\$0	0.00%
Total	\$1,708,474,961	\$94,513,348	\$22,001,000	6.82%	\$4,316,599	\$105,182,759	6.00%	\$1,709,583	\$114,359,737	\$118,069,318	6.00%

* Includes effects of expiring and new Regulatory Asset Charges, Expiring Line Extension Surcharges, Universal Service Fund, Advanced Energy Fund, kWh Tax, expiring special contracts and other miscellaneous items.

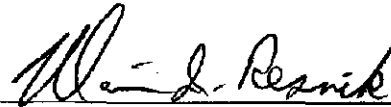
Ohio Power Company
Summary of Requested Rate Increase

Description	Current Rates	2009			2010			2011		
		Non-FAC Increase	FAC Increase	Total Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase	Non-FAC Increase	Maximum FAC Increase	Total Increase
FAC	\$491,997,042		\$42,326,336	\$42,326,336	2.55%	\$123,464,228	\$123,464,228	6.89%	\$151,385,522	\$151,385,522
Non-FAC Components										
2001 - 2008 Incremental Environmental Capital Investment		\$84,000,000		\$84,000,000	5.06%	\$0	\$0	0.00%	\$0	\$0
Generation Assets		\$0		\$0	0.00%	\$0	\$0	0.00%	\$0	\$0
Subtotal Non-FAC	\$498,313,473	\$84,000,000	\$42,326,336	\$126,326,336	0.00%	\$0	\$0	0.00%	\$0	\$0
POLR	\$36,091,727	\$16,710,266		\$16,710,266	1.01%	\$0	\$0	0.00%	\$0	\$0
Distribution	\$315,126,553	\$17,326,270		\$17,326,270	1.04%	\$1,912,435	\$1,912,435	0.11%	\$1,932,225	\$1,932,225
Energy Efficiency and Peak Demand Reduction		\$0		\$0	0.00%	\$0	\$0	0.00%	\$0	\$0
Transmission Cost Recovery	\$182,895,594			\$0	0.00%	\$0	\$0	0.00%	\$0	\$0
Other*	\$134,899,471	(\$30,391,573)		(\$30,391,573)	-1.83%	\$0	\$0	0.00%	\$0	\$0
Total	\$1,661,123,860	\$87,644,983	\$42,326,336	\$129,971,319	7.82%	\$1,912,435	\$123,464,228	7.00%	\$1,932,225	\$153,317,747
										8.00%

* Includes effects of expiring and new Regulatory Asset Charges, Expiring Line Extension Surcharges, Universal Service Fund, Advanced Energy Fund, kWh Tax, expiring special contracts and other miscellaneous items.

CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Memorandum Contra Motion for Refund and Motion for AEP Ohio to Cease and Desist Future Collections From Customers was served by electronic mail upon the individuals listed below this 12th day of June, 2009.



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