

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Columbus Southern Power Company)
for Approval of its Peak Demand)
Reduction Program Portfolio Plan and)
Request for Waiver and Request for)
Amendment of the 2009 Peak Demand)
Reduction Benchmark Pursuant to)
Section 4928.66(A)(2)(b), Ohio)
Revised Code.)

Case No. 09-578-EL-EEC

In the Matter of the Application of)
Ohio Power Company for)
Approval of its Peak Demand)
Reduction Program Portfolio Plan and)
Request for Waiver and Request for)
Amendment of the 2009 Peak Demand)
Reduction Benchmark Pursuant to)
Section 4928.66(A)(2)(b), Ohio)
Revised Code.)

Case No. 09-579-EL-EEC

APPLICATION AND REQUEST FOR EXPEDITED CONSIDERATION

Columbus Southern Power Company (CSP) and Ohio Power Company (OPCo), collectively the "Companies" or "AEP Ohio," submit this application regarding the Companies' peak demand reduction portion of their Program Portfolio Plan. Am. Sub S.B. No. 221 (SB 221) adopted benchmark requirements for peak demand reductions found in Section 4928.66, Ohio Rev. Code (PDR benchmarks).¹ Of particular relevance to this application, Section 4928.66(A)(1)(b), Ohio Rev. Code, specifically requires the Companies to implement programs designed to achieve peak demand reductions in 2009. It was only a few weeks ago that the Commission adopted rules (not yet effective)

¹ This application only addresses the peak demand reduction requirements for 2009 and the Companies reserve the right to file a subsequent application that may address either or both energy efficiency and peak demand reduction requirements or an application seeking waiver or amendment of either type of requirement, or any combination thereof.

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regarding compliance with peak demand reduction obligations. Because the Companies' respective 2009 Summer peak demands could be reached at any time, the issues raised in this application are urgent and expedited consideration is requested. Specifically, the Companies request that the Commission determine, for compliance purposes, that the PDR Benchmark obligation be interpreted (as described below) to preclude the need for additional programs impacting our customers during the present economic downturn of 2009. In the alternative, the Companies request that the Commission amend the 2009 PDR benchmarks to zero based on regulatory and economic reasons beyond AEP Ohio's control, pursuant to the Commission's authority under Section 4928.66(A)(2)(b), Ohio Rev. Code.

In further support of their application, CSP and OPCo state the following:

1. The Companies are both an "electric distribution utility" as that term is defined §4928.01 (A) (6), Ohio Rev. Code, and as that term is used in Chapter 4928, Ohio Rev. Code.
2. The Commission has conducted a rulemaking proceeding in Case No. 08-888-EL-ORD that has recently resulted in the adoption of rules concerning the PDR benchmarks. The rules adopted in Case No. 08-888-EL-ORD are not yet effective and remain subject to legislative oversight review by the General Assembly's Joint Committee on Agency Rule Review. While the adopted rules address some material aspects of compliance with PDR benchmarks, the adopted rules also leave other material aspects of compliance unresolved.
3. AEP Ohio has been planning and developing its compliance activities but also needed to wait until after the 08-888 rulemaking was completed to finalize or

implement those plans. Several material aspects of compliance relative to the PDR benchmarks remain unresolved. For example, AEP Ohio maintains that load associated with the Companies' interruptible tariff service should play a prominent role in satisfying the PDR benchmarks and has consistently argued that the potential load curtailment associated with interruptible customers qualifies as a program designed to achieve peak load reductions under Section 4928.66, Ohio Rev. Code.² Another set of issues impacting compliance with the PDR benchmarks is retail participation in the wholesale PJM demand response programs – these compliance-impacting issues were raised by the Companies in Case Nos. 08-917-EL-SSO, 08-918-EL-SSO, and 08-888-EL-ORD and remain unaddressed by the Commission.

4. This application is being filed to confirm that AEP Ohio will be in compliance with the PDR benchmarks for 2009 without implementing further programs, consistent with the interpretation of the applicable statute and rules described in paragraphs 5 through 8 below.
5. It is AEP Ohio's understanding that, for compliance purposes, the statutory PDR benchmark is expressed in the form of a reduced peak demand. For example, assuming for this purpose that CSP's three-year average adjusted baseline is 4,202 MW for 2006-2008, a 1% reduction in peak demand for 2009 would be 42 MW. Therefore, CSP's required peak-demand benchmark is 4,160 for 2009.

² The Companies have maintained this position in Case Nos. 08-917-EL-SSO, 08-918-EL-SSO, and 08-888-EL-ORD. While the position is not the subject of this application, AEP Ohio does reserve the right to maintain its position concerning the appropriate role of interruptible load in fulfilling the PDR benchmarks and any related position such as using interruptible programs to satisfy PDR benchmarks through a partial waiver of the rules.

6. This interpretation of the PDR benchmark (requiring the realized peak demand to be at or below 4,160 MW) is appropriate compared to other interpretations because it presents a known goal that would not necessarily fluctuate based on actual Summer peak demand. This approach would not require curtailment for the sake of achieving a firm level of peak-demand reductions through utility programs (42 MW of reduction) even where load has already been reduced – such as a reduction due to the current economic conditions that have caused projected Summer 2009 load to be less than the peak-demand benchmark. Thus, assuming for purposes of this example that CSP's projected demand for the Summer 2009 peak period is 4,010 MW and is either reasonably accurate or over-estimates the actual demand (*i.e.*, the actual peak demand does not exceed 4,160 MW), CSP would not have to undertake additional peak demand reduction programs for in order to comply with the 2009 PDR benchmarks.
7. Per paragraph 12 of the 08-888 Entry on Rehearing, CSP would calculate the day-ahead forecast demand each day to see if the upcoming day's demand is projected to be greater than 4,160 MW. If the day-ahead forecast demand is projected to be 4,170 MW, for instance CSP would take additional action designed to achieve curtailment of 10 MW of peak demand load. Paragraph 12 of the 08-888 Entry on Rehearing states that “the day-ahead forecast demand will dictate whether, and the degree to which, interruptions must be called or not called in order to achieve the benchmarks.” This language strongly suggests that the day-ahead forecast demand is the best piece of information a utility has to make curtailment decisions for purposes of peak-demand benchmark compliance. Accordingly, if the day-

ahead demand forecast is not correct and the actual peak demand turns out to be 4,175 MW in the above example, CSP believes that it would still be considered to have complied with the peak-demand benchmark requirements.

8. It should also be noted in the context of this example, however, that the 1% peak-demand reduction for CSP of 42 MW should serve as the maximum curtailment required if the actual (non-normalized) day-ahead demand forecast for a particular day ends up being more than the three-year adjusted/normalized baseline (4202 MW in the CSP example).³ Again, such events are beyond the utility's control and are unreasonably expensive to plan for and their regulatory consequences should be clarified up front.
9. Based on the interpretation outlined in paragraphs 5 through 8 above using CSP as an example, the Companies request that the Commission confirm that this interpretation is correct for purposes of compliance with both CSP's and OPCo's 2009 PDR benchmarks. This clarification is also consistent with the idea that the benchmark be calculated using the historical normalized three-year baseline and not subject the utility's compliance determination to unknown and unanticipated events. The above-described interpretation will also keep compliance costs lower and avoid unnecessary curtailments for customers. Given the current economic conditions, it would also allow for an appropriate transition to implementation of PDR programs in future years when the economy recovers and normal load growth resumes. In order to receive due process, the Companies need a clear understanding of the rule requirements and, accordingly, are seeking a timely

³ Under normal economic growth conditions, the projected demand would be higher than the three-year adjusted baseline and would require the utility to plan for achieving the full peak-demand reduction that is calculated from the baseline (42 MW in the CSP example).

determination of compliance with the 2009 PDR benchmarks based on this interpretation.

10. To the extent that the Commission's confirmation of the interpretation outlined in paragraphs 5 through 8 above would require a waiver of any of the adopted rules, the Companies separately request that such a waiver be granted under adopted Rule 4901:1-39-02(B).⁴
11. In the alternative to the relief requested in paragraphs 9 and 10 above, the Companies request that the Commission amend both of the Companies' 2009 PDR benchmark to zero, pursuant to its authority under Section 4928.66(A)(2)(b), Ohio Rev. Code. Under that statute, the Commission may amend the 2009 PDR benchmarks if it determines that the amendment is necessary because the utility cannot reasonably achieve the benchmarks due to regulatory, economic, or technological reasons beyond its reasonable control. AEP Ohio submits that it is appropriate for the Commission to reset the Companies' 2009 PDR benchmarks to zero because those benchmarks cannot be reasonably achieved due to both regulatory and economic reasons beyond AEP Ohio's control, especially since the Companies might otherwise face noncompliance penalties. Either the regulatory or the economic reasons independently justify amendment of the 2009 PDR benchmarks and the Commission could reasonably rely upon either or both reasons to support the Companies' requested amendment.

⁴ Although the rules adopted in Case Number 08-888-EL-ORD are not yet effective, AEP Ohio continues to move forward with efforts to comply with its peak demand reduction compliance efforts and is attempting to resolve the immediate compliance issues concerning the 2009 PDR benchmarks. By filing this application and waiver request, however, AEP Ohio does not waive any claim that the adopted Rules are not binding or applicable to AEP Ohio's compliance activities relating to the period prior to the effective date of the rules and specifically reserves the right to do so if its application is not approved.

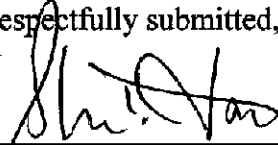
12. As the Commission is well aware, the present downturn in the United States economy has not spared the State of Ohio. Both CSP's and OPCo's forecasted 2009 Summer peak demand are more than 1% below their respective three-year adjusted baseline level, primarily due to the economic downturn and related reductions in industrial and commercial load. Thus, the goal of the General Assembly's 2009 PDR benchmark has already been satisfied through the unfortunate and unanticipated events associated with the economy. While the Companies and the Commission may disagree at this point as to whether the general statutory obligation to implement programs designed to achieve peak demand reductions requires actual load shedding during the realized peak demand during times of normal economic growth, AEP Ohio submits that it is appropriate in the current economic conditions to determine that multiple – and possibly frequent – curtailment events during the Summer of 2009 would not advance the public interest and could be harmful to those industrial and commercial firms operating during the depressed Summer peak demand period of 2009. Based on a simulation using actual data from 2006 through 2008, AEP Ohio has determined that it would have had to curtail 40 MW of Columbus Southern Power's customer load an average of five times per year and 50 MW of Ohio Power's customer load capacity an average of nine times per year. The Commission should act expeditiously to amend the 2009 PDR benchmarks based on the current economic conditions (*i.e.*, reset the 2009 PDR benchmarks to zero) and reserve issues regarding the larger debate concerning the role of interruptible load for subsequent resolution.

13. A Commission decision to amend the 2009 PDR benchmarks advances the public interest and preserves future peak demand reduction activities and programs for future use without taking away from State energy policy of pursuing demand response efforts. If a peak demand reduction resource or capability is not needed for operational reasons or because the economy is down and a critical peak will not be reached, that peak demand reduction capability is fully reserved for future use without depletion or diminishing its value as a resource. The policy and social underpinnings for peak demand reduction – avoiding the need to build additional power plants to meet increasing load – continue to be fulfilled even where the peak demand resources are not immediately needed and those resources are held without diminution for future use.
14. Separate from the economic reasons, a decision to amend the 2009 PDR benchmarks is also independently justified under Section 4928.66(A)(2)(b), Ohio Rev. Code, for regulatory reasons beyond AEP Ohio's control. For reasons beyond AEP Ohio's control, the Commission was not able to promulgate rules regarding PDR benchmarks until a few weeks ago. As noted above, the Commission's rules relating to PDR benchmarks are not yet effective and leave several material compliance issues unresolved. Thus, the delayed regulatory guidance and need for a reasonable transition period also independently justifies amendment of 2009 PDR benchmarks, especially given the Commission's apparent intention that the utilities' current interruptible programs need to be modified in order to achieve the statutory PDR goals. That approach would serve

as a reasonable transition period for compliance, given the timing and uncertainty associated with the Commission's adopted rules.

WHEREFORE, based on the reasons stated above, AEP Ohio requests that the Commission expeditiously approve this application.

Respectfully submitted,



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