

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company.	) ) )	Case No. 09-872-EL-FAC Case No. 09-873-EL-FAC
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Recover Commission-Authorized Deferrals Through Each Company's Fuel Adjustment Clause.	) ) ) ) )	Case No. 09-1094-EL-FAC
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Rates.	) ) ) )	Case No. 09-1095-EL-UNC
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Modify Their Standard Service Offer Rates.	) ) ) )	Case No. 09-1906-EL-ATA

COLUMBUS SOUTHERN POWER COMPANY'S  
AND OHIO POWER COMPANY'S  
MEMORANDUM CONTRA  
INDUSTRIAL ENERGY USERS-OHIO'S  
MOTION TO CONSOLIDATE

On December 11, 2009, Industrial Energy Users-Ohio (IEU) filed a motion to consolidate all of the above-referenced dockets. IEU contends that granting the motion "will avoid duplication, achieve process and administrative efficiencies, and recognize the inescapable interrelated nature of the cases at issue." (IEU Motion, p.1). IEU's Memorandum in Support of its motion states little more than what it alleged in the motion itself. IEU argues, again, that:

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Consolidating these proceedings and considering the proposals together will avoid duplication, achieve process and administrative efficiencies, and improve coordination between the administration of any rates established for the Companies' customers for 2010. (IEU Memorandum in Support, p. 7).

Columbus Southern Power Company and Ohio Power Company (AEP Ohio) oppose the motion to consolidate. Further, to the extent IEU renews its prior motions for a hearing in Case Nos. 09-1094-EL-FAC and 09-1095-EL-UNC AEP Ohio notes its continued opposition to such a hearing and now to the hearing envisioned by IEU which also would hold hostage Case Nos. 09-872-EL-FAC, 09-873-EL-FAC and 09-1906-EL-ATA. AEP Ohio's filings in these later three dockets have been analyzed by the Commission's Staff and that analysis resulted in the Staff filing its recommendation that the filings be approved. These three cases are on the Commissions Agenda for its December 16, 2009 meeting and IEU has offered no reason for postponing consideration by the Commission. IEU has not suggested any reason to delay these three cases and the Commission should proceed with orders that will effectuate the directives of the Commission's orders in AEP Ohio's Electric Security Plan proceeding.<sup>1</sup>

IEU's real concerns seem to be focused on AEP Ohio's filings in Case No. 09-1094-EL-FAC (regarding delta revenues associated with the Ormet/AEP Ohio Interim Agreement from January 1 - September 17, 2009)<sup>2</sup> and Case No. 09-1095-EL-UNC (regarding delta revenues associated with the Ormet/AEP Ohio long-term contract and the Eramet/Columbus Southern Power Company (CSP) long-term contract),<sup>3</sup> both of which the Commission ordered AEP Ohio/CSP to execute over their objections.

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<sup>1</sup> Case Nos. 08-917-EL-SSO and 08-918-EL-SSO

<sup>2</sup> Case Nos. 08-1338-EL-AAM and 08-1339-EL-UNC

<sup>3</sup> Case Nos. 09-119-EL-AEC and 09-516-EL-AEC, respectively.

Regarding Case No. 09-1094-EL-FAC, IEU correctly states that the effect of collecting those delta revenues through AEP Ohio FAC provisions is an allocation based on a “volumetric or KWH basis” rather than the allocation methodology inherent in AEP Ohio’s Economic Development Cost Recovery Rider (EDR), which allocates responsibility for delta revenue recovery on a percentage of base distribution rates. (IEU Memorandum in Support, pp. 4, 5). AEP Ohio’s filing conforms to the Commission’s January 7, 2009, Finding and Order in the *Interim Agreement* proceeding approving AEP Ohio’s proposal to recover the deferral in the FAC mechanism. (See Application, ¶ 10, p. 5). Moreover, recovering these delta revenues through the FAC rather than the EDR reduces the current impact on customers of the recovery. Nonetheless, if the Commission believes a distribution-based recovery is more appropriate and chooses to include that recovery in the next semiannual EDR filing, AEP Ohio certainly will comply with such a directive. In any event, that determination by the Commission does not require a hearing and certainly does not warrant delaying the effective dates of the rates filed in Case Nos. 09-872-EL-FAC, 09-873-EL-FAC and 09-1906-EL-ATA.

The concern identified by IEU regarding AEP Ohio’s EDR filing in Case No. 09-1095-EL-UNC apparently relates to its belief that the revenues to be collected under the EDR are not “exempted from the rate increase limitations imposed by the Commission.” (IEU Memorandum in Support, p. 6). IEU’s belief overlooks three factors. First, the revenues that will be collected through the EDR in 2010 are the equivalent of the revenues AEP Ohio would have collected under their GS-4 tariffs but for the contracts with Ormet and Eramet. Those revenues will not exceed the “limitations on the magnitude of increases for each year of the ESP for each of the Companies.” (*Id.* at 1).

Second, as clearly stated in AEP Ohio's ESP application, because "cost increases recoverable through the Transmission Cost Recovery Rider and cost increases associated with any new government mandates are expected to also be passed along through Commission-approved rates, those costs are not included in the rate increase target of approximately fifteen percent." (AEP Ohio Application, p. 6). The Commission noted this aspect of AEP's application at page 13 of its Opinion and Order. While the Commission modified the fifteen percent annual target proposed by AEP Ohio, it did not modify the exceptions that were proposed, including government mandates. As noted in its first "Ordering" paragraph at page 74 of the Opinion and Order, the application was approved except as modified by the Commission.

There should be no doubt that AEP's Ohio delta revenue costs result from mandates by the Commission, despite AEP Ohio's objections. In fact, AEP Ohio is appealing the Commission's order in the *Ormet* case to the Supreme Court of Ohio and CSP's rehearing application concerning the Eramet contract was recently granted for the Commission's further consideration. As a result of the Commission's mandates that these contracts be executed, the delta revenues AEP Ohio proposes to recover are exempt from the ESP rate caps.

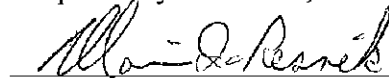
Finally, §4905.31 (E), Ohio Rev. Code, provides for recovery of costs "in conjunction with any economic development and job retention program of the utility... including recovery of revenue foregone as a result of any such program." That statute also provides for recovery of the cost of compliance with any government mandate. IEU's argument regarding the EDR's exclusion from the Commission-authorized rate

caps, if accepted would result in increased costs for customers. This is because if the EDR is to be included in the cap, the amount of EDR revenues that are recovered would result in an equal amount of additional FAC deferrals. The FAC deferrals have an associated carrying cost based on each AEP Ohio Company's Weighted Average Cost of Capital, while the carrying charge built into the EDR rates is based on each AEP Ohio Company's cost of long-term debt. Therefore, were IEU to prevail on its EDR argument, it would result in greater costs for which customers would be responsible.

### CONCLUSION

Based on these arguments and the filings AEP Ohio has made in these dockets, including its memoranda contra IEU's prior motions and including its reply to comments filed by other petitioners to intervene in these dockets, AEP Ohio requests that the Commission proceed with granting those applications on its agenda for the Commission's December 16, 2009 meeting (Case Nos. 09-872-EL-FAC, 09-873-EL-FAC, 09-1905-EL-UNC and 09-1906-EL-ATA) and at a subsequent meeting grant the application in Case No. 09-1094-EL-FAC.

Respectfully submitted,

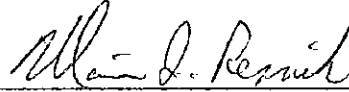


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## CERTIFICATION OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Memorandum Contra Industrial Energy Users-Ohio's Motion to Consolidate was served by U.S. Mail upon the individuals listed below this 14<sup>th</sup> day of December 2009.



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