

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Ohio Power Company for Approval of)
the Shutdown of Unit 5 of the Philip)
Sporn Generating Station and to)
Establish a Plant Shutdown Rider)

Case No. 10-1454-EL-RDR

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OHIO POWER COMPANY RESPONSE TO COMMENTS FILED BY OHIO
CONSUMERS' COUNSEL

Ohio Power Company (OPCo) filed an application on October 1, 2010 for approval of the shutdown of the Unit 5 of the Philip Sporn Generating Station and the establishment of a rider to recover closure costs. In response to that filing, the Ohio Consumers' Counsel (OCC) filed a motion to intervene. In addition to requesting intervention in its motion to intervene, the Ohio Consumers' Counsel also filed comments critical of the proposed timeline in this case on October 20, 2010. While OPCo does not oppose OCC's intervention, OPCo does disagree with the OCC's comments made in its motion to intervene and will briefly respond.

OCC takes issue with OPCo's request to have a Commission decision before the end of 2010. Specifically, OCC argues that OPCo's reliance on the 90-day advanced request and notice provision for closure of a generating facility is improper. In response to the issue raised by OCC, notice to PJM was made contingent upon the Commission's approval of the planned shutdown. That contingency included resolution of the cost recovery issues. More to the point of an expedited decision, PJM has already responded to OPCo's notice through an October 26, 2010 letter from the Senior Vice President of Operations saying that Sporn 5 "may be deactivated at any time." Thus, the PJM 90-day

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notification is already resolved and OPCo now awaits the Commission's approval in order to resolve the outstanding issues.

Likewise, OPCo pointed out that the unit is forecasted to produce a negative operating income for the next two years. Early closure of the plant is appropriate. Also highlighted in the application is the fact that the costs associated with closure were not reflected in OPCo's rates under its current ESP rate plan. Under the circumstances and facts facing OPCo, the time to determine the appropriate treatment is now, because the plant is no longer economically viable to operate. OPCo submits that its request to resolve the issue by the end of this year and commence recovery of the closure costs during 2011 – the last year of the current ESP – is reasonable. Presuming from a scheduling standpoint that the primary relief requested in the application is granted, a delay of the decision would tend to increase the rate impact on customers of recovering the closure costs during 2011.

Moreover, OCC itself cites the Commission's understanding of the situation in the ESP proceeding and the Commission's provision of an avenue, like this docket, to determine the appropriate treatment associated with an earlier-than-anticipated shut down. Despite OCC's comments to the contrary, decisive action is needed by the Commission at this time. OPCo filed on the first day of October leaving three months for Commission oversight and parties to intervene. OCC did not seek to intervene until the 20th of the month. OCC already served discovery requests and OPCo is actively working to respond to the questions posed. Under the ESP Order that allows the type of request made in the application, OPCo should be granted the benefit of a timely decision on this matter.

Regarding the ESP Order, OCC wrongly claims (at 5) that OPCo has been aware of its opportunity to file this case since the Commission issued its Opinion and Order in the ESP proceeding.¹ OCC's claim in this regard misconstrues the nature of the application. OPCo has only recently concluded that the plant should be retired. For those reasons, OPCo is now proposing to close Sporn 5 "earlier than anticipated" and is requesting recovery of the closure costs pursuant to the ESP Order.

In sum, OPCo prefers Commission treatment of this matter as detailed in its application to process the orderly retirement of the Sporn 5 facility. To that end, the Commission should proceed to establish a schedule to address comments that interested parties may have. To the extent the full matter cannot be resolved by the end of December, OPCo's application alternatively requested relief granting accounting authority to establish a regulatory asset for the incurred costs described in the application.



Respectfully submitted,

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¹ OCC erroneously refers to a May 13, 2010 Opinion and Order when the actual Opinion and Order in Case No. 08-918-EL-SSO was issued on March 18, 2009.

PROOF OF SERVICE

I certify that Columbus Southern Power Company's and Ohio Power Company's Motion and Memorandum in Support were served by First-Class U.S. Mail upon counsel for all parties of record identified below this 3rd day of November, 2010.



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