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Via Overnight Mail

January 6, 2011

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 10-2929-EL-UNC

Dear Sir/Madam:

Please find enclosed the original and twenty (20) copies of the COMMENTS OF THE OHIO ENERGY GROUP filed in the above-referenced matter.

Please place this document of file. Copies have been served on all parties listed on the attached Certificate of Service.

Respectfully yours,

David F. Boehm, Esq.
Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.
Cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 6TH day of January, 2011 to the following:

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BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO

In The Matter Of The Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company	: : :	**Case No. 10-2929-EL-UNC**

COMMENTS OF THE OHIO ENERGY GROUP

In its December 8, 2010 Order in this case the Commission made a very important clarification which likely averted a disaster in the competitive generation market in the service territories of AEP-Ohio. The important clarification is that the Commission has adopted as the state capacity compensation mechanism for retail load that shops for competitive generation the capacity charge established by the three-year auction conducted by PJM (the RPM clearing price); in conjunction with the recovery by AEP-Ohio of capacity costs through provider-of-last-resort (POLR) charges. This clarification should render moot the Companies' November 24, 2010 FERC application to dramatically increase the cost to CRES suppliers and ultimately to consumers by changing the basis for compensation to what is purported to be a cost-based mechanism. The alleged lack of a state compensation mechanism was central to AEP-Ohio's FERC filing. We are now hopeful that FERC will do what this Commission requested: dismiss AEP-Ohio's FERC application, or in the alternative suspend its final decision until the Ohio Commission has concluded this state proceeding.

The Commission's December 8, 2010 Order also requested that the following three issues be addressed: (1) what changes to the current state mechanism are appropriate to determine the Companies' FRR capacity charges to Ohio competitive retail electric service (CRES) providers; (2) the degree to which AEP-Ohio's capacity charges are currently being recovered through retail rates approved by the Commission or other capacity charges; and (3) the impact of AEP-Ohio's capacity charges upon CRES providers and retail competition in Ohio.

1. <u>No Changes Are Necessary To The Current State Capacity Compensation Mechanism</u>

No changes should be made at this time to the current state mechanism to determine the Companies' FRR capacity charges to CRES suppliers. AEP-Ohio has presented no evidence that the RPM capacity clearing price, in conjunction with POLR revenue, is unjust or unreasonable. If anything, the receipt of POLR charges on top of the RPM payments is generous to AEP-Ohio. RPM payments alone would be sufficient.

The market is just beginning to develop in the service territories of the Companies. As of September 30, 2010 the switch rates in terms of mWh sales for Columbus Southern were: residential – 0.00%, commercial – 25.107%, and industrial – 0.468%. For Ohio Power the switch rates were: residential – 0.00%, commercial – 0.85%, and industrial – 0.00%. (Attachment 1). The slow developing competitive retail generation market in AEP-Ohio would unnecessarily be retarded if the supply rules were abruptly changed. Uncertainty would chill shopping from both a CRES and customer perspective.

In its March 18, 2009 ESP Order, the Commission approved an annual POLR revenue requirement in the amount of $97.4 million for Columbus Southern and $54.8 million for Ohio Power. *See* ESP Order at 40, Docket Nos. 08-917-EL-SSO and 08-918-EL-SSO. In the recently concluded Columbus Southern SEET proceeding Company witness Mr. Mitchell calculated that from April 2009 to December 2009 Columbus Southern collected $92,137,708 in POLR revenue. (Attachment 2).

These significant POLR revenues were in addition to the RPM clearing prices of $102/MW-day for the 2009/2010 delivery year.

The combined RPM and POLR revenue streams are compensatory, just and reasonable. No change should be made at this time. However, in AEP-Ohio's next ESP proceeding consideration should be given to reducing or eliminating the POLR charge.

2. <u>AEP-Ohio Is Currently Being Appropriately Compensated For Capacity Costs Associated With Retail Shopping.</u>

There are at least three ways that AEP-Ohio is being compensated for the capacity costs of retail shopping: 1) RPM; 2) POLR; and 3) the capacity equalization mechanism in the AEP Interconnection Agreement.

a. <u>RPM</u>

Beginning in June 2007 when the PJM RPM market commenced, AEP-Ohio has been receiving capacity compensation from Ohio CRES Providers based on the RPM clearing price mechanism. RPM uses a "*base residual auction*" run three years in advance to set capacity prices. After seller offers are stacked from least to most expensive, the auction clears at the offer price of the final resource needed to procure the required amount of capacity. This competitively determined capacity price is the appropriate amount of compensation because shoppers are also required to pay the competitively determined LMP energy price. The symmetry of shoppers paying RPM capacity prices and LMP energy prices is uniform throughout the PJM footprint. AEP's proposal to treat Ohio consumers differently and worse is not reasonable.

b. <u>POLR</u>

The POLR charge in the Companies' rates covers the capacity and energy costs associated with the contingency that departed retail customers will return to AEP-Ohio. The POLR is charged to load in AEP's service territory whether the customer has switched to a CRES Provider or not. A customer can avoid paying the charge only if it agrees that if it returns to AEP-Ohio it will pay market rates.

In supporting its POLR charge, AEP-Ohio argued that "[a]*ll customers, even those who have switched generation suppliers, have the right to rely on the Companies for generation service.*" Baker Testimony at 34, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO. As Mr. Baker explained:

> This flexibility leaves the Companies in the precarious position of being exposed to losing generation service load when the market price is low but needing to stand ready to begin serving that load again when the market price is high, and in the case of a CRES or other supplier default, doing so at a moment's notice. There is a definite and significant cost associated with providing this flexibility. In addition to the challenges of providing *capacity and energy* on short notice, the Companies would provide service to returning customers at the SSO rate (even though they are likely to be returning because market prices exceed the SSO).

Id. at 26 (emphasis added). Therefore, the POLR rider is designed to recover at least some of the capacity costs associated with retail choice. As discussed previously, the POLR is designed to annually produce $97.4 million for Columbus Southern and $54.8 million for Ohio Power.

c. *AEP Interconnection Agreement*

The AEP-East Interconnection Agreement, originally entered into on July 1, 1951, is an agreement among Ohio Power, Columbus Southern, Appalachian Power Company, Indiana Michigan Power Company and Kentucky Power Company ("Members") under which the individual generation resources of the Members are dispatched on a single-system basis, and the costs and benefits of the generation resources are shared on a system-wide basis. The cost of the AEP Power Pool's generating capacity is allocated among its Members based on relative peak demands and generating reserves through the payment of capacity charges and the receipt of capacity revenues. The AEP Power Pool calculates each Member's prior twelve-month peak demand relative to the sum of the peak demands of all Members as a basis for sharing revenues and costs. The result of this calculation is the Member Load Ratio (MLR), which determines each Member's percentage share of revenues and costs. The capacity equalization mechanism in the AEP-East Interconnection Agreement levelizes capacity investment imbalances among the Members. Each Member bears its proportionate share of the system's total capacity and reserves based on MLR. The "*deficit*" Members make capacity equalization payments to the "*surplus*" Members based on the surplus Member's embedded costs of capacity investment in its non-hydroelectric generating plant expressed on a per kilowatt per month basis plus associated fixed operating costs. Importantly, the MLR of Columbus Southern and Ohio Power does not change if end use customers shop competitively for generation from CRES suppliers.

Because the MLRs of Columbus Southern and Ohio Power do not change no matter how much load is lost to customers switching to CRES providers, the capacity equalizations payments received by Ohio Power (a surplus Member) and paid by Columbus Southern (a deficit Member) do not change no matter how much load shops. This means that Ohio Power and Columbus Southern continue to be made whole for their capacity costs through the Interconnection Agreement no matter how much load shops.

3. AEP-Ohio's Proposed Change In The Capacity Compensation Mechanism Will Significantly Impede Retail Choice In Ohio

The effect of AEP-Ohio's proposed embedded cost-based rate on retail choice in Ohio would be devastating. CRES Providers paid RTO clearing prices of $102/MW-day for the 2009/2010 delivery year. AEP-Ohio's FERC rate proposal used 2009 numbers and produced a rate of $388/MW-day. *See* November 24, 2010 FERC Filing, Attachment A, Part 1, at 1. In addition, RTO clearing prices were $16.46/MW-day for the 2012/2013 delivery year, and $27.73/MW-day for the 2013/2014 delivery year. Thus, the proposed new charge is 4 times higher than what CRES Providers paid in the 2009/2010 delivery year, and nearly 25 times higher than what CRES providers are currently set to pay in the 2010/2011 delivery year.

A 25-fold increase in capacity costs for retail choice in AEP-Ohio's service territory would likely destroy the market.

Respectfully submitted,

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January 6, 2011

COUNSEL FOR THE OHIO ENERGY GROUP

Attachment 1

Summary of Switch Rates from EDUs to CRES Providers In Terms of Sales
For the Month Ending September 30, 2010
(MWh)

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
Cleveland Electric Illuminating Company	CEI	30-Sep	2010	189056	86944	297922	585250
CRES Providers	CEI	30-Sep	2010	341893	514199	237320	1120731
Total Sales	CEI	30-Sep	2010	530949	601143	535242	1705981
EDU Share	CEI	30-Sep	2010	35.61%	14.46%	55.66%	34.31%
Electric Choice Sales Switch Rates	**CEI**	**30-Sep**	**2010**	**64.39%**	**85.54%**	**44.34%**	**65.69%**

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
Duke Energy Ohio	DUKE	30-Sep	2010	475091	179939	53654	722554
CRES Providers	DUKE	30-Sep	2010	139716	585438	336422	1129920
Total Sales	DUKE	30-Sep	2010	614807	765377	390076	1852474
EDU Share	DUKE	30-Sep	2010	77.27%	23.51%	13.75%	39.00%
Electric Choice Sales Switch Rates	**DUKE**	**30-Sep**	**2010**	**22.73%**	**76.49%**	**86.25%**	**61.00%**

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
Columbus Southern Power Company	CSP	30-Sep	2010	651709	733387	389826	1777962
CRES Providers	CSP	30-Sep	2010	0	245864	1834	247698
Total Sales	CSP	30-Sep	2010	651709	979251	391660	2025660
EDU Share	CSP	30-Sep	2010	100.000%	74.893%	99.532%	87.772%
Electric Choice Sales Switch Rates	**CSP**	**30-Sep**	**2010**	**0.000%**	**25.107%**	**0.468%**	**12.228%**

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
The Dayton Power and Light Company	DPL	30-Sep	2010	463249	212595	61795	782592
CRES Providers	DPL	30-Sep	2010	71	210730	256822	557991
Total Sales	DPL	30-Sep	2010	463320	423325	318617	1340583
EDU Share	DPL	30-Sep	2010	99.98%	50.22%	19.39%	58.38%
Electric Choice Sales Switch Rates	**DPL**	**30-Sep**	**2010**	**0.02%**	**49.78%**	**80.61%**	**41.62%**

Source: PUCO, Division of Market Monitoring & Assessment.

Note1: Total sales includes residential, commercial, industrial and other sales.

Note2: The switch rate calculation is intended to present the broadest possible picture of the state of retail electric competition in Ohio. Appropriate calculations made for other purposes may be based on different data, and may yield different results.

Summary of Switch Rates from EDUs to CRES Providers in Terms of Sales
For the Month Ending September 30, 2010
(MWh)

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
Ohio Edison Company	OEC	30-Sep	2010	509205	179769	188549	889568
CRES Providers	OEC	30-Sep	2010	357313	534623	392185	1297016
Total Sales	OEC	30-Sep	2010	866518	714392	580734	2186584
EDU Share	OEC	30-Sep	2010	58.76%	25.16%	32.47%	40.68%
Electric Choice Sales Switch Rates	**OEC**	**30-Sep**	**2010**	**41.24%**	**74.84%**	**67.53%**	**59.32%**

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
Ohio Power Company	OP	30-Sep	2010	598330	518054	1071618	2193791
CRES Providers	OP	30-Sep	2010	0	4417	0	4417
Total Sales	OP	30-Sep	2010	598330	522471	1071618	2198208
EDU Share	OP	30-Sep	2010	100.00%	99.15%	100.00%	99.80%
Electric Choice Sales Switch Rates	**OP**	**30-Sep**	**2010**	**0.00%**	**0.85%**	**0.00%**	**0.20%**

Provider Name	EDU Service Area	Quarter Ending	Year	Residential Sales	Commercial Sales	Industrial Sales	Total Sales
Toledo Edison Company	TE	30-Sep	2010	110147	51462	134424	300262
CRES Providers	TE	30-Sep	2010	132411	234379	236589	637629
Total Sales	TE	30-Sep	2010	242558	285841	371013	937911
EDU Share	TE	30-Sep	2010	45.41%	18.00%	36.23%	32.02%
Electric Choice Sales Switch Rates	**TE**	**30-Sep**	**2010**	**54.59%**	**82.00%**	**63.77%**	**67.98%**

Source: PUCO, Division of Market Monitoring & Assessment.

Note1: Total sales includes residential, commercial, industrial and other sales.

Note2: The switch rate calculation is intended to present the broadest possible picture of the state of retail electric competition in Ohio. Appropriate calculations made for other purposes may be based on different data, and may yield different results.

Attachment 2

Columbus Southern Power Company
Annual SEET Filing
Net Incremental POLR Revenues
For the 12 Months Ended December 31, 2009

Exhibit TEM - 5

		CSP
POLR at ESP Rates (4/09 to 12/09)	$	92,137,708
POLR at RSP Rates (4/09 to 12/09)		9,733,473
Incremental POLR		82,404,235
Less: POLR Offset to Economic Development Rider		2,195,548
Net Incremental POLR		80,208,687
Tax Rate		35.87%
Tax	$	28,770,856
After-Tax Net Incremental POLR	$	51,437,831