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November 2, 2010

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

In re: Case No. 10-1454-EL-RDR

Dear Sir/Madam:

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

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



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

MLKkew
Encl.
Cc: Certificate of Service

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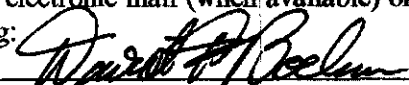
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CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 8th day of April, 2011 to the following:


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**BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO**

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In The Matter Of The Application Of Ohio Power :
Company For Approval Of The Shutdown Of : **Case No. 10-1454-EL-RDR**
Unit 5 Of The Philip Sporn Generating Station :
And To Establish A Plant Shutdown Rider

**COMMENTS OF
THE OHIO ENERGY GROUP**

On October 1, 2010 Ohio Power Company ("Ohio Power") filed the within application with respect to the proposed closure of Sporn Unit #5 ("Sporn"), a supercritical pulverized coal unit. Ohio Power alleges that Sporn was projected to retire in 2010, but was expected to remain in the AEP Pool and be available to produce power for the PJM energy market through the end of 2010. However, because of the downturn in the power markets, it is no longer economical to run. Accordingly, AEP seeks to close the plant "*earlier than anticipated*" and to recover from ratepayers through a non-bypassable surcharge what it now termed: a) incurred; and b) future costs.

The "*incurred*" costs sought by Ohio Power amount to approximately \$56.1 million dollars and consist of: a) the undepreciated plant balance remaining on AEP's books; and b) unique materials and supplies on hand not usable in older plants, and legally required retirement obligations, netted against salvage value.

These costs Ohio Power hopes to recover from a surcharge or rider to be imposed on shoppers and non-shoppers alike, i.e., nonbypassable rider.

On March 9, 2011 the Public Utility Commission of Ohio ("Commission") filed an Entry inviting all interested parties to file written comments on the Ohio Power filing in this case in order to assist it in its review. The Ohio Energy Group ("OEG") is an intervener in this proceeding and files these Comments in response to the March 9th Entry. However, OEG must, at the outset, urge the Commission to set up hearings in this case. The amounts sought by Ohio Power are large and will substantially increase rates for Ohio Power customers. Moreover, since the surcharge to be recovered is from shopping and non-shopping customers alike, the results could be the virtual elimination of shopping in the Ohio Power service territory. Finally, an Order allowing Ohio Power to recover these costs will form the precedent for many other shutdowns that can be anticipated in Ohio.

Below are the positions that OEG would argue in those hearings.

1. **Ohio Power's Request To Recover Depreciation On The Undepreciated Remainder Of Sporn Should Be Denied As It Relates To A "Rate Base" That Does Not Exist.**

While Ohio Power argues that the basis for its request is that its current ESP plan included the presumption that revenues would continue from Sporn, the fact is that it regards Sporn as part of its "rate base". Ohio Power's Application presumes a regulatory structure that no longer exists in Ohio. Under Ohio law, there is no longer a "rate base" consisting of structures, plants and equipment related to power generation, upon which the utility earns a rate-of-return based upon the depreciated cost of this property. The ESP plan of Ohio Power was litigated and approved without regard to costs, and indeed interveners were often reminded by Ohio Power that these were not cost-of-service cases. No rates adopted in SB 221 were ever decreased by virtue of plant depreciation in a rate case. Indeed, no generation rate cases of the traditional cost-of-service are called for. Ohio Power's claim then, that the undepreciated remainder of Sporn must be recovered by Ohio Power, is completely outside of the regulatory regime in place in Ohio and should be rejected. In fact, Ohio Power cites no statutory provisions to support what it proposes in this case.

2. **The Sporn Unit Does Not Represent A Stranded Cost For Which Ohio Power Should Be Made Whole.**

In the AEP ETP cases, the AEP plants were valued and AEP stipulated that it would not impose lost generation charges on any switching customer during the market development period. This strongly implies that the fleet of generation assets as a whole did not represent stranded costs. Yet Ohio Power now claims that the undepreciated value of Sporn must be recovered from ratepayers. This is logically and factually at odds with the ETP stipulation.

3. **The Costs Ohio Power Seeks To Recover Are Generation Costs Which Should Not Be Assessed To Shoppers.**

The costs sought to be recovered by Ohio Power are pure generation costs, as they relate specifically to a generation plant. Yet Ohio Power seeks to have these costs assessed even against shoppers who are paying the generation cost to marketers. If shoppers must pay generation costs twice, there will be no shoppers. Perhaps this is Ohio Power's goal.

4. **If Ohio Power Is Given Authority To Recover The Undepreciated Cost Of This Closed Plant, It Will Open Ohio To A Flood Of Closed Plant Costs.**

Ohio Power's closure of this plant "*earlier than anticipated*" will be copied by utilities all over the state if it succeeds in obtaining a ruling allowing it to recover its undepreciated costs. In the current, temporary circumstances, low market prices may well render some plants temporarily uneconomic. The solution here sought by Ohio Power offers an easy and attractive haven for the utilities. The precedent set in this case will be followed all over the state to its great loss. Shopping will disappear, and consumer rates will soar. Utilities, regardless of their profitability, will be able to recover any returns on a "*rate base*" that went out of existence years ago.

CONCLUSION

Ohio Power is asking the Commission to administer the SB 221 as though it were still a fully regulated company. It wants to recover the undepreciated value of a closed plant as though it still had a "rate base". No authority is cited for this extraordinary request and we have discovered none that would permit it. The time for claiming "*stranded costs*" is past and in any event, Ohio Power has waived further recovery of GTC. The plan to recover these costs from even shopping customers will surely end or suspend shopping in AEP's service territory. For all these reasons and more, Ohio Power's Application should be denied. But in any event, short of a summary denial, the ratepayers should have the chance to develop and present testimony to support their opposition to the Ohio Power filing. Therefore, OEG asks the Commission to deny Ohio Power's Application outright or to order a hearing for the presentation of evidence by all sides.

Respectfully submitted,



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April 8, 2011

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