

Public Utilities
Commission

180 East Broad Street
Columbus Ohio 43215-3793
ADDRESS SERVICE REQUEST

08-917-EL-SSD
08-918-EL-SSD

CONSUMERPOWERLINE
17 STATE STREET
19TH FLOOR
NEW YORK NY 10004

9-11

91-11 0200102

THE UNIVERSITY OF CHICAGO

1. What is the purpose of the study?
 2. What are the research objectives?
 3. What is the research design?
 4. What are the variables?
 5. What is the sample size?
 6. What are the data sources?
 7. What are the data collection methods?
 8. What are the data analysis methods?
 9. What are the results?
 10. What are the conclusions?
 11. What are the limitations?
 12. What are the implications?
 13. What are the future research directions?
 14. What are the references?
 15. What are the appendices?
 16. What are the glossary?
 17. What are the abbreviations?
 18. What are the symbols?
 19. What are the units?
 20. What are the definitions?
 21. What are the notes?
 22. What are the footnotes?
 23. What are the endnotes?
 24. What are the acknowledgments?
 25. What are the disclosures?
 26. What are the conflicts of interest?
 27. What are the contributions?
 28. What are the funding sources?
 29. What are the ethical approvals?
 30. What are the data availability statements?
 31. What are the code of ethics?
 32. What are the informed consent forms?
 33. What are the questionnaires?
 34. What are the interviews?
 35. What are the focus groups?
 36. What are the case studies?
 37. What are the experiments?
 38. What are the simulations?
 39. What are the models?
 40. What are the theories?
 41. What are the frameworks?
 42. What are the methodologies?
 43. What are the approaches?
 44. What are the techniques?
 45. What are the tools?
 46. What are the instruments?
 47. What are the devices?
 48. What are the equipment?
 49. What are the materials?
 50. What are the resources?
 51. What are the facilities?
 52. What are the services?
 53. What are the products?
 54. What are the outputs?
 55. What are the outcomes?
 56. What are the impacts?
 57. What are the effects?
 58. What are the consequences?
 59. What are the results?
 60. What are the findings?
 61. What are the conclusions?
 62. What are the limitations?
 63. What are the implications?
 64. What are the future research directions?
 65. What are the references?
 66. What are the appendices?
 67. What are the glossary?
 68. What are the abbreviations?
 69. What are the symbols?
 70. What are the units?
 71. What are the definitions?
 72. What are the notes?
 73. What are the footnotes?
 74. What are the endnotes?
 75. What are the acknowledgments?
 76. What are the disclosures?
 77. What are the conflicts of interest?
 78. What are the contributions?
 79. What are the funding sources?
 80. What are the ethical approvals?
 81. What are the data availability statements?
 82. What are the code of ethics?
 83. What are the informed consent forms?
 84. What are the questionnaires?
 85. What are the interviews?
 86. What are the focus groups?
 87. What are the case studies?
 88. What are the experiments?
 89. What are the simulations?
 90. What are the models?
 91. What are the theories?
 92. What are the frameworks?
 93. What are the methodologies?
 94. What are the approaches?
 95. What are the techniques?
 96. What are the tools?
 97. What are the instruments?
 98. What are the devices?
 99. What are the equipment?
 100. What are the materials?
 101. What are the resources?
 102. What are the facilities?
 103. What are the services?
 104. What are the products?
 105. What are the outputs?
 106. What are the outcomes?
 107. What are the impacts?
 108. What are the effects?
 109. What are the consequences?
 110. What are the results?
 111. What are the findings?
 112. What are the conclusions?
 113. What are the limitations?
 114. What are the implications?
 115. What are the future research directions?
 116. What are the references?
 117. What are the appendices?
 118. What are the glossary?
 119. What are the abbreviations?
 120. What are the symbols?
 121. What are the units?
 122. What are the definitions?
 123. What are the notes?
 124. What are the footnotes?
 125. What are the endnotes?
 126. What are the acknowledgments?
 127. What are the disclosures?
 128. What are the conflicts of interest?
 129. What are the contributions?
 130. What are the funding sources?
 131. What are the ethical approvals?
 132. What are the data availability statements?
 133. What are the code of ethics?
 134. What are the informed consent forms?
 135. What are the questionnaires?
 136. What are the interviews?
 137. What are the focus groups?
 138. What are the case studies?
 139. What are the experiments?
 140. What are the simulations?
 141. What are the models?
 142. What are the theories?
 143. What are the frameworks?
 144. What are the methodologies?
 145. What are the approaches?
 146. What are the techniques?
 147. What are the tools?
 148. What are the instruments?
 149. What are the devices?
 150. What are the equipment?
 151. What are the materials?
 152. What are the resources?
 153. What are the facilities?
 154. What are the services?
 155. What are the products?
 156. What are the outputs?
 157. What are the outcomes?
 158. What are the impacts?
 159. What are the effects?
 160. What are the consequences?
 161. What are the results?
 162. What are the findings?
 163. What are the conclusions?
 164. What are the limitations?
 165. What are the implications?
 166. What are the future research directions?
 167. What are the references?
 168. What are the appendices?
 169. What are the glossary?
 170. What are the abbreviations?
 171. What are the symbols?
 172. What are the units?
 173. What are the definitions?
 174. What are the notes?
 175. What are the footnotes?
 176. What are the endnotes?
 177. What are the acknowledgments?
 178. What are the disclosures?
 179. What are the conflicts of interest?
 180. What are the contributions?
 181. What are the funding sources?
 182. What are the ethical approvals?
 183. What are the data availability statements?
 184. What are the code of ethics?
 185. What are the informed consent forms?
 186. What are the questionnaires?
 187. What are the interviews?
 188. What are the focus groups?
 189. What are the case studies?
 190. What are the experiments?
 191. What are the simulations?
 192. What are the models?
 193. What are the theories?
 194. What are the frameworks?
 195. What are the methodologies?
 196. What are the approaches?
 197. What are the techniques?
 198. What are the tools?
 199. What are the instruments?
 200. What are the devices?
 201. What are the equipment?
 202. What are the materials?
 203. What are the resources?
 204. What are the facilities?
 205. What are the services?
 206. What are the products?
 207. What are the outputs?
 208. What are the outcomes?
 209. What are the impacts?
 210. What are the effects?
 211. What are the consequences?
 212. What are the results?
 213. What are the findings?
 214. What are the conclusions?
 215. What are the limitations?
 216. What are the implications?

DO: 40014270339 41000-021100-44

[illegible]

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus)
Southern Power Company for Approval of)
an Electric Security Plan; an Amendment to) Case No. 08-917-EL-SSO
its Corporate Separation Plan; and the Sale or)
Transfer of Certain Generating Assets.)

In the Matter of the Application of Ohio)
Power Company for Approval of its Electric) Case No. 08-918-EL-SSO
Security Plan; and an Amendment to its)
Corporate Separation Plan.)

ENTRY

The attorney examiner finds:

- (1) On March 18, 2009, the Commission issued its opinion and order in Columbus Southern Power Company's and Ohio Power Company's (jointly, AEP-Ohio or the Companies) electric security plan (ESP) cases (ESP Order).¹ By entries on rehearing issued July 23, 2009 (First ESP EOR) and November 4, 2009 (Second ESP EOR), the Commission affirmed and clarified certain issues raised in AEP-Ohio's ESP Order. As ultimately modified and adopted by the Commission, AEP-Ohio's ESP directed, among other things, that AEP-Ohio be permitted to recover the incremental capital carrying costs that would be incurred after January 1, 2009, on past environmental investments (2001-2008)² and approved a provider of last resort (POLR) charge for the ESP period.
- (2) The Commission's decision in the AEP-Ohio ESP cases was appealed to the Ohio Supreme Court. The Ohio Supreme Court determined that Section 4928.143(B)(2), Revised Code, does not authorize the Commission to allow recovery of items not included in the section. The Court remanded the case to

1 *In re AEP-Ohio ESP cases*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order (March 18, 2009).

2 AEP-Ohio ESP Order at 24-28, 38-40; First ESP EOR at 10-13, 24-27.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician ke Date Processed 4/28/09

the Commission for further proceedings in which “the Commission may determine whether any of the listed categories set forth in Section 4928.143(B)(2), Revised Code, authorize recovery of environmental carrying charges.”³ In regards to the POLR charges, the Court concluded that the Commission’s decision that the POLR charge is cost-based is against the manifest weight of the evidence, an abuse of the Commission’s discretion and reversible error. While the Court specifically stated that “we express no opinion on whether a formula-based POLR charge is per se unreasonable or unlawful,” the Court noted two other methods by which the Commission may establish the POLR charge: a non-cost-based POLR charge or evidence of AEP-Ohio’s actual POLR costs.

- (3) By entry issued May 25, 2011, the Commission directed AEP-Ohio to file tariff pages that reflect that the POLR riders and environmental carrying charges included in rates are being collected subject to refund, until the Commission specifically orders otherwise on remand. Additionally, the Commission adopted a procedural schedule for the remand proceedings in order to afford AEP-Ohio and intervenors the opportunity to present testimony and additional evidence in regard to the POLR and environmental carrying charges remanded to the Commission.
- (4) Rule 4901-1-11(E), Ohio Administrative Code (O.A.C.), provides that a “motion to intervene will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding.” Rule 4901-1-11(F), O.A.C., further provides that a “motion to intervene which is not timely will be granted only under extraordinary circumstances.”
- (5) On May 26, 2011, FirstEnergy Solutions Corp. (FES) filed a motion to intervene in these cases. In support of its motion, FES states that it has a real and substantial interest in the remand due to the potential effects of the outcome of these cases on AEP-Ohio’s pending ESP proceedings, Case No.

³ *In re Application of Columbus S. Power Co.*, Slip Opinion No. 2011-Ohio-1788.

11-346-EL-SSO, *et al.* (11-346),⁴ in addition to the effects on competition more generally. FES explains that it had no customers in the Companies' service territories at the time when the current ESP application was filed, but it has since begun to serve as a competitive retail electric service (CRES) provider to customers in those service territories. FES also notes that it is uniquely positioned to assist in a resolution of the remand as it has spent considerable time and resources in developing the legal and factual issues in 11-346, including issues related to POLR and environmental costs. Finally, FES asserts that its motion to intervene is timely because the procedural schedule for the remand proceedings was recently established. Citing Rule 4901-1-11(E), O.A.C., FES points out that its motion was filed more than five days in advance of the remand hearing date of July 12, 2011, and that the motion is thus timely. FES concludes that its participation will not unduly prejudice the existing parties or delay the remand proceedings.

- (6) On June 2, 2011, the Appalachian Peace and Justice Network (APJN) filed a motion to intervene in the remand proceedings. APJN states that it has a real and substantial interest in these cases by virtue of the direct impact on its members and other low-income rural residential consumers that are adversely affected by the Companies' rates, as well as due to the impact of the Commission's decision in these cases on 11-346. Like FES, APJN notes that its motion was filed more than five days before the remand hearing date and that its participation will not unduly prejudice the existing parties or delay the remand proceedings.
- (7) Exelon Generation Company, LLC (Exelon) also filed a motion to intervene on June 2, 2011. In support of its motion, Exelon states that it has a real and substantial interest in these proceedings, which will immediately impact the current retail and wholesale markets for power in AEP-Ohio's service area and thus affect Exelon as a regional power supplier. Exelon further notes that the Commission's decision regarding the

⁴ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Case No. 11-346-EL-SSO, et al.*

legality and factual basis of the POLR and environmental investment carrying charges in these cases will impact 11-346. Exelon asserts that its motion was filed in a timely fashion, given that the remand hearing is set to commence in July and that it will, therefore, not delay the proceedings.

- (8) On June 3, 2011, AEP-Ohio filed a memorandum contra the motions to intervene of FES, APJN, and Exelon (collectively, Movants). The Companies point out that the Commission's entry of May 25, 2011, does not provide an opportunity for intervention at this stage in the proceedings and that the Movants have acknowledged that their real interest is the potential outcome of the remand on 11-346. AEP-Ohio argues that the Movants have intervened in 11-346 and that they will be able to fully participate in those proceedings, regardless of the Commission's decision on remand. The Companies contend that Movants' ability to defend their interests in 11-346 will not be disadvantaged if they are denied intervention in these cases. Additionally, AEP-Ohio notes that the motions to intervene were untimely filed by nearly three years and that Movants have failed to demonstrate extraordinary circumstances as required by the Commission's rules. According to the Companies, the intervention deadline in these cases was September 4, 2008, as established by entry on August 5, 2008. AEP-Ohio asserts that it would be distracting, disruptive, and prejudicial to allow new parties at this late stage in the proceedings. Finally, the Companies note that the Movants' interests are adequately represented by other CRES providers, power marketers, and residential consumer protection advocates.
- (9) On June 6, 2011, Exelon filed a reply memorandum. In response to AEP-Ohio's memorandum contra, Exelon states that the Commission's entry of May 25, 2011, does not address the subject of intervention. Exelon maintains that its motion to intervene was timely filed and argues that there is no legal precedent in support of AEP-Ohio's contention that the attorney examiner's entry of August 5, 2008, bars intervention in future proceedings scheduled by the Commission. Should its motion to intervene be considered untimely, Exelon requests leave to intervene out of time, noting that the remand was

unforeseeable and constitutes extraordinary circumstances. Exelon states that, although the existing parties may include other wholesale suppliers, that does not mean that they will all have the same position on AEP-Ohio's proposal with respect to POLR charges. Finally, Exelon concludes that the issues under consideration in the remand proceedings are undoubtedly and inextricably interrelated to the issues in 11-346.

- (10) On June 7, 2011, FES filed a reply memorandum in response to AEP-Ohio's memorandum contra. FES states that, in addition to the impact of the outcome of these cases on 11-346, it has identified several other real and substantial interests in these proceedings, including the structure and pricing of the current ESP on FES as a CRES provider in the Companies' service territories and ensuring the state's policy of promoting effective competition is realized. Additionally, FES notes that the Commission's decision in these cases may effectively foreclose certain arguments in 11-346. FES maintains that the remand is a new evidentiary proceeding and that its motion is thus timely. Even if the motion is not timely, FES asserts that extraordinary circumstances exist in light of the remand of significant issues that will impact future proceedings and given that FES was not a CRES provider in the Companies' service territories at the time of the earlier proceedings in these cases, but is now such a provider. FES concludes that AEP-Ohio has failed to demonstrate any prejudice that would occur based on FES' intervention.
- (11) On June 9, 2011, APJN filed a reply memorandum, responding to AEP-Ohio's arguments in the same fashion as Exelon and requesting leave to intervene out of time, if necessary, on the basis that the remand establishes extraordinary circumstances.
- (12) Upon review of the motions to intervene filed by Movants, AEP-Ohio's memorandum contra, and Movants' reply memoranda, the attorney examiner finds that the motions were untimely filed, given that a specific intervention deadline of September 4, 2008, was established in these proceedings by entry issued August 5, 2008. Rule 4901-1-11(E), O.A.C. Additionally, Movants have not shown that extraordinary circumstances exist for granting their motions nearly three years past the intervention deadline, as required by Rule 4901-

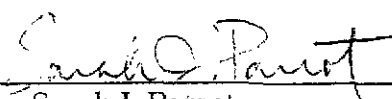
1-11(F), O.A.C. Movants mainly point to the remand of these cases by the Ohio Supreme Court in support of their claim of extraordinary circumstances. A remand, however, is not an unforeseeable occurrence, as Movants contend, and does not constitute extraordinary circumstances. Any final order of the Commission may be appealed and subsequently remanded by the Ohio Supreme Court. Section 4903.13, Revised Code. Further, Movants' primary interest in the remand proceedings, as they acknowledge, is the impact of the Commission's decision in these cases on 11-346. Movants, however, were granted intervention in 11-346 by entry of March 23, 2011, and thus may fully participate in discovery, introduce evidence, and present testimony in 11-346, regardless of the outcome of the present remand proceedings. Accordingly, the motions to intervene filed by FES, APJN, and Exelon should be denied.


It is, therefore,

ORDERED, That the motions to intervene filed by FES, APJN, and Exelon be denied in accordance with finding (12). It is, further,

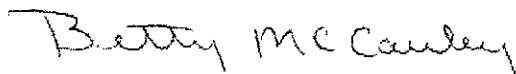
ORDERED, That a copy of this entry be served upon all persons of record in these cases.

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Sarah J. Parrot
Attorney Examiner

/sc

Entered in the Journal
JUN 16 2011



Betty McCauley
Secretary