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**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

2011 OCT 17 PM 4: 59

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In the Matter of the Application of )  
 Columbus Southern Power Company and )  
 Ohio Power Company, Individually and, if ) Case No. 11-351-EL-AIR  
 Their Proposed Merger is Approved, as a ) Case No. 11-352-EL-AIR  
 Merged Company (collectively, AEP Ohio) )  
 for an Increase in Electric Distribution Rates. )

In the Matter of the Application of )  
 Columbus Southern Power Company and )  
 Ohio Power Company, Individually and, if ) Case No. 11-353-EL-ATA  
 Their Proposed Merger is Approved, as a ) Case No. 11-354-EL-ATA  
 Merged Company (collectively, AEP Ohio) )  
 for Tariff Approval. )

In the Matter of the Application of )  
 Columbus Southern Power Company and )  
 Ohio Power Company, Individually and, if ) Case No. 11-356-EL-AAM  
 Their Proposed Merger is Approved, as a ) Case No. 11-358-EL-AAM  
 Merged Company (collectively, AEP Ohio) )  
 for Approval to Change Accounting Methods. )

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**OBJECTIONS TO THE STAFF REPORTS OF INVESTIGATION  
 AND SUMMARY OF MAJOR ISSUES  
 OF INDUSTRIAL ENERGY USERS-OHIO**

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October 17, 2011

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**OBJECTIONS TO THE STAFF REPORTS OF INVESTIGATION  
AND SUMMARY OF MAJOR ISSUES  
OF INDUSTRIAL ENERGY USERS-OHIO**

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Pursuant to Section 4909.19, Revised Code, Rule 4901-1-28, Ohio Administrative Code ("O.A.C."), and the Attorney Examiner's Entry dated September 16, 2011, Industrial Energy Users-Ohio ("IEU-Ohio") hereby files its Objections to the Staff Reports of Investigation and Summary of Major Issues ("Staff Reports") in the above-captioned matters. The Staff Reports were filed with the Public Utilities Commission of Ohio ("Commission") on September 15, 2011, setting forth the Commission Staff's ("Staff") findings regarding the applications for authority to increase rates for distribution

service, for approval of tariff modifications, and for approval of changes to certain accounting methods filed by Columbus Southern Power Company ("CSP"), and Ohio Power Company ("OP") (collectively, "Companies", or "AEP-Ohio") on February 28, 2011. In submitting the Objections listed below, IEU-Ohio specifically reserves the right to contest, through presentation of documentary evidence, testimony or cross-examination, issues on which Staff's position changes, or which are newly raised, between the issuance of the Staff Reports and the closing of the record.

**I. OBJECTIONS TO THE STAFF REPORT FOR CSP**

IEU-Ohio objects to the Staff Report for CSP in the following particulars:

**A. REVENUE REQUIREMENT**

1. IEU-Ohio objects to Staff's recommended revenue decrease range of \$2,302,000 to \$9,541,000 [Staff Report at 91 (Schedule A-1, line 9)] because such decrease is not large enough to yield just and reasonable rates in accordance with proper ratemaking practices and Ohio law. Based on IEU-Ohio's other objections below, the recommended revenue decrease must be increased to flow through the effects of other adjustments required by proper ratemaking practices and Ohio law.

**B. RATE BASE**

2. IEU-Ohio objects to Staff's failure to investigate and report on the tax benefits that were available to CSP as a result of adopting bonus depreciation for tax purposes on certain of its depreciable plant items included in the Staff Report's recommended rate base valuation. IEU-Ohio further objects to the

Staff Report's failure to apply such tax benefits to reduce the net rate base valuation recommended in the Staff Report. Under the Economic Stimulus Act of 2008, a significant tax incentive was created for businesses to make capital investments, by adding a 50% depreciation allowance for qualifying property. The special bonus depreciation allowance is available to all businesses and applies to most types of tangible personal property and computer software acquired and placed in service in 2008. It allows taxpayers to deduct 50% of the cost of qualifying property in addition to the regular depreciation that is normally available. The American Recovery and Reinvestment Act, which was enacted in February 2009, extended the bonus depreciation.<sup>1</sup> The bonus depreciation provision generally enables businesses to deduct half the cost of qualifying property in the year the property is placed in service. In addition, for certain types of property, including tangible property depreciated under the modified accelerated cost recovery system (MACRS) with a recovery period of 20 years or less, taxpayers may be able to take an additional first year special depreciation allowance. Similar to tax accelerated depreciation which has been in place for some time, the bonus depreciation results in even more rapid accelerated depreciation that provides benefits to the Companies. Thus, any "up-front" tax benefit available to CSP as a result of bonus depreciation must be applied to reduce the net rate base valuation so as to produce just and reasonable rates.

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<sup>1</sup> The bonus depreciation was extended through January 1, 2013. See I.R.C. §168(k)(2010).

**C. OPERATING INCOME**

3. IEU-Ohio objects to the Staff Report's failure to include distribution revenue CSP collected through its provider of last resort ("POLR") charge in adjusted test year revenue which was utilized in the Staff Report to calculate CSP's revenue requirement. During the test year, June 1, 2010 through May 31, 2011, CSP collected \$95,789,894 in distribution revenue through its POLR charge from customers. (AEP's Supplemental Response to Staff Data Request 83-001). The failure to recognize POLR revenue actually collected by CSP during the test year significantly understates CSP's operating income at current rates and charges.

4. IEU-Ohio objects to the Staff Report's failure to investigate and completely remove operating expenses and revenues recovered by CSP's riders.<sup>2</sup> The amounts listed on Schedule C-2, Unadjusted Revenue & Expenses (column C) reflect 9 months of actual data and 3 months of forecast data. But the Adjustments (column D) shown on Schedule C-2 reflect twelve months of actual data. As a result, the Adjusted Revenue and Expense (column E) shown on Schedule C-2 are mismatched and incorrect. The net effect of this failure is an understatement of the rider related expenses that must be removed from the test year based on proper ratemaking practices and Ohio law. More specifically, this

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<sup>2</sup> In conducting the revenue requirement calculation, the net effect of the riders should be canceled out. That is, the adjustments to the test year must remove all associated revenue and expenses from the riders. Staff erred in this regard by failing to correctly remove all of the expenses and revenues associated with the listed riders.

error in the Staff Report results in an overstatement of test year expense by approximately \$28 million<sup>3</sup> and consisting of the following amounts:

- \$15.4 million inclusion under CSP's Energy Efficiency and Peak Demand Reduction ("EE/PDR") Rider,
- \$7.2 million inclusion under CSP's Enhanced Service Reliability Rider ("ESRR"), and,
- \$5.4 million under the Monongahela Power Litigation Termination Rider.

5. IEU-Ohio objects to the Staff Report's inclusion of \$11.8 million in CSP's test year operating expense for Factored Customer Accounts Receivable.<sup>4</sup> Inclusion of this expense is inconsistent with past Commission policies and practices and is inconsistent with sound regulatory practices and principles. In prior rate cases<sup>5</sup> the Commission included an offsetting rate base deduction when operating expenses for Factored Customer Accounts Receivable were included for purposes of determining the applicant's operating expenses. No such offsetting deduction to rate base was recommended in the Staff Report in this case. Accordingly, it is improper to recognize the \$11.8 million as a test year expense.

6. IEU-Ohio objects to the Staff Report's recommendation that CSP's adjusted depreciation reserve imbalance over-accrual be amortized over 15

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<sup>3</sup> These differences can be calculated by comparing the value of the exclusions of CSP's Schedule C-3 and Staff's Schedule C-3.

<sup>4</sup> CSP's Application. WP C-2.1, page 2 of 5, line 42.

<sup>5</sup> *In the Matter of the Application of Ohio Edison Company for Authority to Change Certain of its Filed Schedules Fixing Rates and Charges for Electric Service*, Case No. 89-1001-EL-AIR, Opinion and Order at 21 (August 16, 1990).

years.<sup>6</sup> Staff's recommendation is inconsistent and unreasonable inasmuch as it has recommended that unrecovered regulatory assets contained in the Distribution Asset Recovery Rider ("DARR") be amortized over seven years.<sup>7</sup> Rather, it would be reasonable that the over-accrual of depreciation reserve be amortized over seven years to mitigate the impact of the DARR, which Staff recommended to be amortized over a seven-year period.

**D. DISTRIBUTION ASSET RECOVERY RIDER**

7. IEU-Ohio objects to the Staff Report's failure to recommend that CSP's carrying cost for the DARR be calculated on a deferred balance that is net of accumulated deferred income tax benefits received by CSP. The DARR deferred balance should have been and should be reduced by the accumulated deferred income tax balance created by earlier tax deductions. Applying a carrying cost to the gross deferred balance that is not offset by the accumulated deferred income tax balance overstates CSPs' costs for ratemaking purposes and is not consistent with sound regulatory principles. In addition, IEU-Ohio objects to the Staff Report's failure to investigate and identify opportunities, such as securitization, that CSP should have prudently pursued to reduce the accumulated carrying charges embedded in the accumulated DARR balance subject to amortization and opportunities to reduce the carrying charge rate used during the amortization period. Had CSP prudently pursued these opportunities, the accumulated deferred balance subject to amortization through the DARR

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<sup>6</sup> Staff Report at 6.

<sup>7</sup> Staff Report at 13.



would be significantly less as would be the carrying cost rate applicable during the amortization period. The Staff Report's failure to reduce the deferred balance by the accumulated deferred income tax balance and the Staff Report's failure to hold CSP accountable for prudently taking advantage of opportunities to reduce the past as well as future carrying cost rates produces an unjust, unreasonable and unlawful burden on CSP's customers.<sup>8</sup>

8. IEU-Ohio objects to the Staff Report's recommendation that the carrying cost on the DARR be set using an undefined long-term cost of debt.<sup>9</sup> Consistent with sound regulatory principles, the Staff should have recommended that the long-term cost of debt be set at a debt rate based on the currently available interest rates available to investment grade rated newly issued corporate bonds or lower cost alternatives available to CSP.

#### **E. RATE OF RETURN**

9. IEU-Ohio objects to the Staff Report's proposed rate of return range of 7.06-7.57% for CSP because it is unreasonable and excessive relative to CSP's

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<sup>8</sup> As explained in the Form 10-K filed with the Securities and Exchange Commission ("SEC") for 2010 and at pages 19 and 51-52 of the section containing the annual report for American Electric Power Company, Inc., securitization is used to factor receivables. A securitization agreement was renewed in 2010 and the use of securitization is expected to continue into the future through the renewal of the securitization agreement. At page 51-52, it states:

AEP Credit factors accounts receivable on a daily basis, excluding receivables from risk management activities, for CSPCo, I&M, KGPCo, KPCo, OPCo, PSO, SWEPCo and a portion of APCo. ... AEP Credit has a receivables securitization agreement with bank conduits. Under the securitization agreement, AEP Credit receives financing from the bank conduits for the interest in the billed and unbilled receivables AEP Credit acquires from affiliated utility subsidiaries.

The weighted average interest rate on such securitization transactions identified in the Form 10-K for 2010 was 0.31%.

<sup>9</sup> Staff Report at 13 ("[s]taff also recommends the use of the latest Commission approved long term cost of debt to calculate the carrying cost").

business and financial risks. Staff's proposed rate of return range fails to properly take into account the significant reductions in risks associated with regulatory lag that no longer exist for CSP. These risks have been significantly dissipated due to the numerous riders that allow CSP to recoup distribution related expenses on a much shorter time-frame than would otherwise be available through the traditional distribution rate case process. These riders currently include the ESRR, the gridSMART Rider, the Universal Service Fund ("USF") Rider, the Advanced Energy Fund ("AEF") Rider, the Kilowatt-Hour Tax ("KWh Tax") Rider, the EE/PDR Rider, the POLR Rider, and the Monongahela Power Litigation Termination Rider.<sup>10</sup> These riders recovered approximately 47% of CSP's overall distribution revenues during the test year. The proposed DARR and Distribution Investment Rider ("DIR") will, if approved, further increase the percentage of overall distribution revenues collected through riders and further reduce regulatory lag and recovery risk.

**F. DISTRIBUTION INVESTMENT RIDER**

10. IEU-Ohio objects to Staff's failure to investigate all of "the facts set forth in [CSP's] application and the exhibits attached thereto, and of the matters connected therewith" as required by Section 4909.19(C) Revised Code and to report the results of such investigation in the Staff Report associated with CSP's rate increase Application. In CSP's Application, it specifically proposed that a DIR be included in its rates and charges. Moreover, CSP states in its Application

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<sup>10</sup> The Monongahela Power Litigation Termination Rider expired in February 2011. *In the Matter of the Application of Columbus Southern Power Company to Extend the Monongahela Power Litigation Termination Rider*, Case No. 10-3104-EL-RDR, Finding and Order (February 9, 2011).

for a rate increase that the DIR is “[a] primary proposal connecting the ESP cases and this Application...”<sup>11</sup> Thus, it was incumbent upon Staff to investigate all of the facts associated with the DIR and all matters connected with it.<sup>12</sup> The Staff Report’s indication that the DIR was being considered in Case Nos. 11-346-EL-SSO, *et al.*, and that the Staff would address the DIR in its testimony in Case Nos. 11-346-EL-SSO, *et al.*, fails to meet the statutory burden established by Section 4909.19(C), Revised Code. Further complicating this failure is the fact that Staff’s testimony in Case Nos. 11-346-EL-SSO, *et al.*, recommended that the DIR not be approved. Contrary to the Staff testimony filed in Case Nos. 11-346-EL-SSO, *et al.*, however, the Staff eventually signed a Stipulation and Recommendation that was filed in Case Nos. 11-346-EL-SSO, *et al.*, on September 7, 2011, which recommends approval of a DIR that will significantly, unreasonably and unlawfully increase rates and charges above any level recommended by the Staff Report. Therefore, Staff failed to fully investigate all aspects of the DIR as proposed in CSP’s rate increase Application and report back on all of the facts, exhibits, and matters connected with the Application. The practical effect of what the Staff has done in response to the DIR proposal contained in CSP’s Application and Staff’s support of the Stipulation and Recommendation filed in Case Nos. 11-346-EL-SSO, *et al.*, is to evade obligations to establish distribution rates and charges based on the traditional ratemaking formula contained in Section 4909.15, Revised Code.

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<sup>11</sup> Application at 4.

<sup>12</sup> See Section 4909.19(C), Revised Code.

11. IEU-Ohio objects to the Staff Report's failure to recommend a mechanism to refund or offset revenues that will be collected—unreasonably and duplicatively—through base distribution rates as well as the DIR if a DIR is approved in Case Nos. 11-346-EL-SSO, *et al.* If approved as recommended in the Stipulation and Recommendation submitted in Case Nos. 11-346-EL-SSO, *et al.*, the DIR will be based on net plant investment post 2000. But the rate base recommended by the Staff Report values investments and associated costs as of the date certain of August 31, 2010, which includes all post 2000 net plant investment eligible for inclusion in rate base under Ohio law. The Staff Report appropriately recommends that the DIR not permit CSP to raise rates and charges based upon post 2000 net plant investment,<sup>13</sup> a position directly contrary to what Staff agreed to as a signatory party to the Stipulation and Recommendation submitted in Case Nos. 11-346-EL-SSO, *et al.*, and directly contrary to the testimony submitted by the Staff in Case Nos. 11-346-EL-SSO, *et al.* Therefore, if the Stipulation and Recommendation is approved, CSP will obtain recovery of, and recovery on, plant investment between December 31, 2000 and August 31, 2010, through base distribution rates that the Staff Report recommends be approved in this proceeding, as well as through the DIR recommended in the Stipulation and Recommendation pending before the Commission in Case Nos. 11-346-EL-SSO, *et al.* Without an adjustment to reconcile the difference, CSP will unlawfully and unreasonably recover the costs

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<sup>13</sup> Staff Report at 17.

of plant investment from 2000 through the date certain in both the DIR and the rates recommended in the Staff Report.

## **II. OBJECTIONS TO THE STAFF REPORT FOR OP**

IEU-Ohio objects to the Staff Report for OP in the following particulars:

### **A. REVENUE REQUIREMENT**

1. IEU-Ohio objects to Staff's recommended revenue increase range of \$23,220,000 to \$31,909,000 [Staff Report at 68 (Schedule A-1, line 9)] because OP's revenue requirement should have been decreased to yield just and reasonable rates in accordance with proper ratemaking practices and Ohio law. Based on IEU-Ohio's other objections below, the recommended revenue requirement should be decreased to flow through the effects of other adjustments required by proper ratemaking practices and Ohio law.

### **B. RATE BASE**

2. IEU-Ohio objects to Staff's failure to investigate and report on the tax benefits that were available to OP as a result of adopting bonus depreciation for tax purposes on certain of its depreciable plant items included in the Staff Report's recommended rate base valuation. IEU-Ohio further objects to the Staff Report's failure to apply such tax benefits to reduce the net rate base valuation recommended in the Staff Report. Under the Economic Stimulus Act of 2008, a significant tax incentive was created for businesses to make capital investments, by adding a 50% depreciation allowance for qualifying property. The special bonus depreciation allowance is available to all businesses and applies to most

types of tangible personal property and computer software acquired and placed in service in 2008. It allows taxpayers to deduct 50% of the cost of qualifying property in addition to the regular depreciation that is normally available. The American Recovery and Reinvestment Act, which was enacted in February 2009, *extended the bonus depreciation.*<sup>14</sup> The bonus depreciation provision generally enables businesses to deduct half the cost of qualifying property in the year the property is placed in service. In addition, for certain types of property, including tangible property depreciated under the modified accelerated cost recovery system (MACRS) with a recovery period of 20 years or less, taxpayers may be able to take an additional first year special depreciation allowance. Similar to tax accelerated depreciation which has been in place for some time, the bonus depreciation results in even more rapid accelerated depreciation that provides benefits to the Companies. Thus, any “up-front” tax benefit available to OP as a result of bonus depreciation must be applied to reduce the net rate base valuation so as to produce just and reasonable rates.

### **C. OPERATING INCOME**

3. IEU-Ohio objects to the Staff Report’s failure to include distribution revenue OP collected through its POLR charge in adjusted test year revenues which was utilized in the Staff Report to calculate OP’s revenue requirement. During the test year, June 1, 2010 through May 31, 2011, OP collected \$53,152,347 in distribution revenue through its POLR charge from customers. (AEP’s Supplemental Response to Staff Data Request 83-001). The failure to

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<sup>14</sup> The bonus depreciation was extended through January 1, 2013. See I.R.C. §168(k)(2010).

recognize POLR revenues actually collected by OP during the test year significantly understates OP's operating income at current rates and charges.

4. IEU-Ohio objects to the Staff Report's failure to investigate and completely remove operating expenses recovered by OP's riders.<sup>15</sup> The amounts listed on Schedule C-2, Unadjusted Revenue & Expenses (column C) reflect nine months of actual data and three months of forecast data. But the Adjustments (column D) shown on Schedule C-2 reflect 12 months of actual data. As a result the Adjusted Revenue and Expenses (column E) shown on Schedule C-2 are mismatched and incorrect. The net effect of this failure is an understatement of the rider expenses that must be removed from the test year based on proper ratemaking practices and Ohio law. More specifically, this error in the Staff Report results in an overstatement in test year expense by approximately \$10.6 million. The understatement results from Staff failing to exclude \$10.6 million under OP's ESRR.<sup>16</sup>

5. IEU-Ohio objects to the Staff Report's inclusion of \$10.2 million in OP's test year operating expenses for Factored Customer Accounts Receivable.<sup>17</sup> Inclusion of this expense is inconsistent with past Commission policies and practices and is inconsistent with sound regulatory practices and principles. In

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<sup>15</sup> In conducting the revenue requirement calculation, the net effect of the riders should be canceled out. That is, removing all associated revenue and expenses from the calculation. Staff erred in this regard by failing to completely remove all of the expenses associated with the listed riders.

<sup>16</sup> These differences can be calculated by comparing the value of the exclusions of CSP's Schedule C-3 and Staff's Schedule C-3.

<sup>17</sup> OP's Application. WP C-2.1, page 2 of 5, line 43.

prior rate cases<sup>18</sup> the Commission included an offsetting rate base deduction when operating expenses for Factored Customer Accounts Receivable were included for purposes of determining the applicant's operating expenses. No such offsetting deduction to rate base was recommended in the Staff Report in this case. Accordingly, it is improper to recognize the \$10.2 million as a test year expense.

6. IEU-Ohio objects to the Staff Report's recommendation that CSP's adjusted depreciation reserve imbalance over-accrual be amortized over 15 years.<sup>19</sup> Staff's recommendation is inconsistent and unreasonable inasmuch as it has recommended that unrecovered regulatory assets contained in the DARR be amortized over seven years.<sup>20</sup> Rather, it would be reasonable that the over-accrual of depreciation reserve be amortized over seven years to mitigate the impact of the DARR, which Staff recommended to be amortized over a seven year period.

#### **D. DISTRIBUTION ASSET RECOVERY RIDER**

7. IEU-Ohio objects to the Staff Report's failure to recommend that OP's carrying cost for the DARR be calculated on a deferred balance that is net of accumulated deferred income tax benefits received by OP. The DARR deferred balance should have been and should be reduced by the accumulated deferred income tax balance created by earlier tax deductions. Applying a carrying cost to

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<sup>18</sup> *In the Matter of the Application of Ohio Edison Company for Authority to Change Certain of its Filed Schedules Fixing Rates and Charges for Electric Service*, Case No. 89-1001-EL-AIR, Opinion and Order at 21 (August 16, 1990).

<sup>19</sup> Staff Report at 6.

<sup>20</sup> Staff Report at 13.



the gross deferred balance that is not offset by the accumulated deferred income tax balance of OP's costs for ratemaking purposes is not consistent with sound regulatory principles. In addition, IEU-Ohio objects to the Staff Report's failure to investigate and identify opportunities, such as securitization, that OP should have prudently pursued to reduce the accumulated carrying charges embedded in the accumulated DARR balance subject to amortization and opportunities to reduce the carrying charge rate used during the amortization period. Had OP prudently pursued these opportunities, the accumulated deferred balance subject to amortization through the DARR would be significantly less as would be the carrying cost rate applicable during the amortization period. The Staff Report's failure to reduce the deferred balance by the accumulated deferred income tax balance and the Staff Report's failure to hold OP accountable for prudently taking advantage of opportunities to reduce the past as well as future carrying cost rates produces an unjust, unreasonable and unlawful burden on OP's customers.<sup>21</sup>

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<sup>21</sup> As explained in the Form 10-K filed with the Securities and Exchange Commission ("SEC") for 2010 and at pages 19 and 51-52 of the section containing the annual report for American Electric Power Company, Inc., securitization is used to factor receivables. A securitization agreement was renewed in 2010 and the use of securitization is expected to continue into the future through the renewal of the securitization agreement. At page 51-52, it states:

AEP Credit factors accounts receivable on a daily basis, excluding receivables from risk management activities, for CSPCo, I&M, KGPCo, KPCo, OPCo, PSO, SWEPCo and a portion of APCo. ... AEP Credit has a receivables securitization agreement with bank conduits. Under the securitization agreement, AEP Credit receives financing from the bank conduits for the interest in the billed and unbilled receivables AEP Credit acquires from affiliated utility subsidiaries.

The weighted average interest rate on such securitization transactions identified in the Form 10-K for 2010 was 0.31%.

8. IEU-Ohio objects to Staff's recommendation that the carrying cost on the DARR be set using an undefined long-term cost of debt.<sup>22</sup> Consistent with sound regulatory principles, Staff should have recommended that the long-term cost of debt be set at a debt rate based on the currently available interest rates available to investment grade rated newly issued corporate bonds or lower cost alternatives available to OP.

**E. RATE OF RETURN**

9. IEU-Ohio objects to Staff's proposed rate of return range of 7.05-7.60% for OP. Staff's proposed range fails to properly take into account the significant reductions in risks associated with regulatory lag that no longer exist for OP. These risks have been significantly dissipated due to the various riders that allow OP to recoup distribution related expenses on a much shorter time-frame than would otherwise be available through the traditional distribution rate case process. These riders currently include the ESRR, the USF Rider, the AEF Rider, the KWh Tax Rider, the POLR Rider, and the EE/PDR Rider. These riders recovered 45% of OP's base revenues during the test year. The DARR and DIR will, if approved, further increase the percentage of overall distribution revenues collected through riders and further reduce regulatory lag and recovery risk.

**F. DISTRIBUTION INVESTMENT RIDER**

10. IEU-Ohio objects to Staff's failure to investigate all of "the facts set forth in [OP's] application and the exhibits attached thereto, and of the matters

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<sup>22</sup> Staff Report at 13 ("[s]taff also recommends the use of the latest Commission approved long term cost of debt to calculate the carrying cost").

connected therewith” as required by Section 4909.19(C) Revised Code, and to report the results of such investigation in the Staff Report associated with OP’s rate increase Application. In OP’s Application, OP specifically proposed that a DIR be included in its rates and charges. Moreover, OP’s Application specifically stated that “[a] primary proposal connecting the ESP cases and this Application is the Distribution Investment Rider (DIR).”<sup>23</sup> Thus, it was incumbent upon Staff to investigate all of the facts associated with the DIR and all matters connected with it.<sup>24</sup> The Staff Report’s indication that the DIR was being considered in Case Nos. 11-346-EL-SSO, *et al.*, and that it would address the DIR in its testimony in Case Nos. 11-346-EL-SSO, *et al.*, fails to meet the statutory burden established by Section 4909.19(C), Revised Code. Further complicating this failure is the fact that Staff’s testimony in Case Nos. 11-346-EL-SSO, *et al.*, recommended that the DIR not be approved. Contrary to the Staff testimony filed in Case Nos. 11-346-EL-SSO, *et al.*, however, the Staff eventually signed a Stipulation and Recommendation in Case Nos. 11-346-EL-SSO, *et al.*, on September 7, 2011, which recommends approval of a DIR that will significantly, unreasonably, and unlawfully increase rates and charges above any level recommended by the Staff Report. Therefore, Staff failed to fully investigate all aspects of the DIR as proposed in OP’s rate increase Application and report on all of the facts, exhibits, and matters connected with the Application. The practical effect of what the Staff has done in response to the DIR proposal contained in OP’s Application and Staff’s support of the Stipulation and Recommendation filed in Case Nos. 11-

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<sup>23</sup> Application at 4.

<sup>24</sup> See Section 4909.19(C), Revised Code.

346-EL-SSO, *et al.*, is to evade obligations to establish distribution rates and charges based on the traditional ratemaking formula contained in Section 4909.15, Revised Code.

11. IEU-Ohio objects to the Staff Report's failure to recommend a mechanism to refund or offset revenues that will be collected—unreasonably and duplicatively—through base distribution rates as well as the DIR if a DIR is approved in Case Nos. 11-346-EL-SSO, *et al.* If approved as recommended in the Stipulation and Recommendation submitted in Case Nos. 11-346-EL-SSO, *et al.*, the DIR will be based on net plant investment post 2000. But the rate base recommended by Staff in this case values investments and associated costs as of the date certain of August 31, 2010, which includes all post 2000 net plant investment eligible for inclusion in rate base under Ohio law. The Staff Report appropriately recommends that the DIR not permit OP to raise rates and charges based upon post 2000 net plant investment,<sup>25</sup> a position directly contrary to what Staff agreed to as a signatory party to the Stipulation and Recommendation submitted in Case Nos. 11-346-EL-SSO, *et al.*, and directly contrary to the testimony submitted by the Staff in Case Nos. 11-346-EL-SSO, *et al.* Therefore, if the Stipulation and Recommendation is approved, OP will obtain recovery of, and recovery on, plant investment between December 31, 2000 and August 31, 2010, through base distribution rates that the Staff Report recommends be approved in this proceeding, as well as through the DIR recommended in the Stipulation and Recommendation pending before the Commission in Case Nos.

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<sup>25</sup> Staff Report at 17.

11-346-EL-SSO, *et al.* Without an adjustment to reconcile the difference, OP will unlawfully and unreasonably recover the costs of plant investment from 2000 through the date certain in both the DIR and the rates recommended in the Staff Report.

#### **G. RATE AND REVENUE ANALYSIS**

12. IEU-Ohio objects to the Staff Report's failure to establish rate class and rate schedule revenue responsibility as well as rate design in accordance with the results indicated by the fully allocated cost-of-service study submitted by OP as part of its Standard Filing Requirements. The Staff Report recommended deviating from the revenue responsibility indicated in OP's cost-of-service study<sup>26</sup> in what can only be interpreted as an attempt to gradually bring rates in line with principles of cost causation.<sup>27</sup> The Staff Report's proposal in Table 3 outlines the level of increases by customer class that would be acceptable without offending principles of gradualism. Subsequently to calculating reasonable revenue requirements by customer class that appreciate the principles of gradualism Staff made downward adjustments to OP's overall revenue requirement. However, these downward adjustments are not considered in the portion of the Staff Report that addresses rate design and revenue distribution or responsibility. Allocating

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<sup>26</sup> Table 3, Staff Report Page 33.

<sup>27</sup> "From a practicable rate design standpoint, absolute equality between costs and revenue may be difficult to achieve in the short term. While it may be viewed as equitable to set rates at cost, if there is a substantial divergence in the current rates, the resulting impact on individual customers may be viewed as unreasonable. While desiring cost supported charges, Staff considers such items as resulting typical billings and resulting revenue increases which would necessarily occur. These tests help provide benchmarks with regard to reasonableness of charges in rate forms. While it is Staff's position that rate schedules reflect costs, it is also important to consider the continuity associated with current and proposed pricing structures. This may result in movement towards more closely aligning revenue with costs rather than an absolute match at a particular time period." Staff Report at 29.

costs according to the midpoint of Staff's recommended revenue requirement and according to the revenue responsibility results of the cost-of-service study (Column F in modified Table 3) yields lower revenue requirements across 5 of the 6 rate classes than what Staff had previously found reasonable. (Table 3, Staff Report Page 33, designated as Column E below). The 6th rate class would see a slight increase in revenue responsibility over what Staff had previously found reasonable (OL would exceed Staff's recommendation by \$283,890). The table below, which modifies Table 3 by adding two additional columns (Columns F and G), illustrates these relationships:

	A	B	C	D	E	F	G
1	Class	<u>Current Revenue Distribution</u>	<u>COSS Levelized Revenue Distribution*</u>	<u>Applicant Proposed Revenue Distribution*</u>	<u>Staff Proposed Revenue Distribution*</u>	<u>COSS Proposed Percentage Distribution**</u>	<u>Revenue Distribution Based on COSS Applied to Midpoint of Staff's Revenue Recommendation ***</u>
2	RS	187,678,408	225,776,925	226,448,735	223,446,163	59.10224%	208,003,233
3	GS-1	11,379,917	12,988,729	12,830,654	13,100,523	3.40009%	11,966,226
4	Secondary	69,786,357	96,657,881	92,466,495	91,685,218	25.30240%	89,048,744
5	Primary	25,391,002	31,201,614	28,987,886	30,841,210	8.16773%	28,745,349
6	Sub/Trans	21,095,582	1,992,831	2,521,347	10,499,088	0.52167%	1,835,951
7	OL	5,088,054	8,593,143	7,931,188	7,632,780	2.24945%	7,916,671
8	SL	3,954,167	4,799,654	4,608,839	4,800,645	1.25642%	4,421,814
9	Total	324,373,487	382,010,777	375,795,144	382,005,627	100.00000%	351,937,987

(\* These values are based on OP's requested revenue increase)

(\*\* These values are based on COSS Levelized Revenue (lines C2 thru C8) / Total COSS Revenue (line C9)

(\*\*\* These values are based on Staff's Recommended Increase: COSS Proposed Percentage Distribution multiplied by Staff's midpoint proposed revenue requirement (lines F2 thru F8 ) x G9)

Column B indicates the current revenue distribution under current rates. Column E indicates the revenue amount that the Staff Report proposes be used to determine revenue responsibility for each customer class. Column F indicates the percentage of overall distribution revenue responsibility that the cost-of-

service study indicated was appropriate for each rate class according to principles of cost causation. Finally, Column G represents an allocation of revenue according to the cost-of-service study based on a total revenue increase of \$27,564,500 (the midpoint of Staff's recommended revenue increase).<sup>28</sup> As illustrated in Table 3, when the revenue allocation percentage supported by the cost-of-service study (Column F) is applied to the overall revenue requirements assuming the midpoint of the Staff's recommended revenue increase, all classes other than OL are responsible for a lower amount of the overall revenue requirement (Column G) than what the Staff Report proposed (Column E). For OL customers, their revenue responsibility would increase modestly (\$283,890) over the Staff Report proposed revenue responsibility. Therefore, establishing rate class and rate schedule revenue responsibility according to the fully allocated cost-of-service study will not, based on the midpoint of the Staff Report's revenue requirement recommendation, offend the principle of gradualism as the principle is applied in the Staff Report. More simply put, as the amount of any total revenue requirement increase is reduced relative with what OP proposed, the opportunity to more aggressively align revenue responsibility with the identified cost of providing service is increased. Failing to fully respect the results of the cost-of-service study for purposes of the revenue distribution recommendation in the Staff Report, the Staff Report further erred by not recommending that the ultimate revenue distribution authorized by the Commission should more aggressively align revenue responsibility with the

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<sup>28</sup> Schedule A-1, line 9.

identified cost of providing service as the magnitude of any rate increase is reduced relative to what OP proposed.

### **III. SUMMARY OF MAJOR ISSUES**

The major issues in this case will be:

1. The magnitude of the decrease in rates Staff recommended for CSP and the magnitude of the increase (or potential decrease) in rates Staff recommended for OP;
2. The appropriate accounting of POLR revenues;
3. The appropriate recognition of the benefits CSP and OP retained from “bonus depreciation”;
4. The appropriate consideration of cost recovery riders in this proceeding;
5. The appropriate rate of return for both CSP and OP due to the decrease in regulatory lag risks from the various distribution related riders;
6. The appropriate level of guidance the cost-of-service study should have had on the Staff Report’s recommended revenue distribution by rate schedule;
7. The appropriate accounting of Factored Customer Accounts Receivable;
8. The appropriate accounting of expenses associated with riders whose net effects (both revenue and expenses) were to be removed from base rates;
9. The appropriate accounting of adjusted depreciate reserve imbalances and the period over which to amortize both CSP’s and OP’s over accrual; and
10. Whether there is any statutory basis that would authorize CSP or OP to establish the DIR and how any DIR approved in the pending ESP cases needs to be



synchronized with the establishment of distribution rates and charges in accordance with Section 4909.15, Revised Code.

11. The appropriate value of the deferred balance proposed for recovery through the DARR.

Respectfully submitted,

  
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Objections to the Staff Reports of Investigation and Summary of Major Issues of Industrial Energy Users-Ohio* was served upon the following parties of record this 17<sup>th</sup> day of October, 2011, via electronic transmission, hand-delivery or first class mail, postage prepaid.

  
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