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 its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets.	)	**Case No. 08-917-EL-SSO**
In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan.	)	**Case No. 08-918-EL-SSO**

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S MEMORANDUM CONTRA APPLICATIONS FOR REHEARING FILED BY THE OFFICE OF THE CONSUMERS' COUNSEL AND OHIO PARTNERS FOR AFFORDABLE ENERGY AND BY INDUSTRIAL ENERGY USERS - OHIO

I. INTRODUCTION.

On November 2, 2011, Intervenors Industrial Energy Users-Ohio ("IEU") and The Office of the Consumers' Counsel and Ohio Partners for Affordable Energy ("OCC/OPAE") (collectively "Intervenors") timely filed applications for rehearing of the Commission's October 3, 2011 Order on Remand ("Remand Order"), addressing the issues remanded to the Commission by the Ohio Supreme Court in *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788 (the "Decision"). The Intervenors' primary grounds for rehearing is their assertion that the Remand Order is unlawful or unreasonable in that the Commission failed to reduce the phase-in deferrals approved in AEP Ohio's 2009-2011 ESP Plan by an amount equal to the POLR charges collected during the period April 2009 through May 2011. (IEU AFR at p. 2, ¶¶ 5-7, pp.

15-25; OCC/OPAE at p. 2, ¶¶ 1-4.) OCC/OPAE also assert that the Commission erred in failing to return to customers interest charges on the POLR revenues collected by AEP Ohio from April 2009 through May 2011. (OCC/OPAE AFR at p. 3, ¶ 5, p. 15.) IEU separately asserts that the Commission erred in not addressing the flow-through effects of the Ohio Supreme Court's reversal and remand of the Commission's March 18, 2009 ESP Order on AEP Ohio's recovery of delta revenue, on revenue generated by the Universal Service Fund, or in the operation of the significantly excessive earnings test. (IEU AFR at p. 2, ¶8, pp. 118-19.) IEU also asserts that the Remand Order is unlawful and unreasonable in allowing AEP Ohio to continue to recover a carrying charge on 2001-2008 environmental investments ("Base Environmental charge") in the base generation rates charged to retail customers. (IEU AFR, at p. 1-2, ¶¶ 1-3, pp. 5-12.) As it did with respect to the POLR revenue, IEU argues for a reduction in deferrals equal to the Base Environmental charge recovered during the period April 2009 through October 3, 2011. (IEU AFR at p. 2, ¶ 4, pp. 13.15.)

Intervenors' applications for rehearing merely re-assert arguments they previously made in the post-hearing briefs or even earlier in these proceedings. See e.g., IEU Initial Post-Hearing Brief at 43-49; Reply Brief at 16-19 (discussing flow-through issues); IEU Post-Hearing Brief at 13; Reply Brief at 3 (discussing the Base Environmental charge issue); OCC/OPAE Initial Post Hearing Brief at 44-47; Reply Brief at 22. Their applications for rehearing may be denied for this reason alone. Intervenors' applications for rehearing, however, also are properly denied for lack of merit because they are premised on: 1) the erroneous assumption that the collection of POLR revenue and recovery of the Base Environmental charge as authorized in the March 18, 2009 ESP

Order was rendered unlawful by the Ohio Supreme Court's Decision; 2) the equally erroneous belief that the Commission can order a refund of revenues lawfully collected consistent with the Companies' approved tariffs; and 3) the assertion that the Commission erred in finding express statutory support for the approval of the Base Environmental charge.

II. ARGUMENT.

A. The Commission properly rejected Intervenors' flow-through arguments because revenue collected under the Commission-approved tariffs is lawfully collected, notwithstanding the fact that the Ohio Supreme Court subsequently reverses and remands the Commission's order approving the tariffs.

In their applications for rehearing, Intervenors argue, as they did throughout the remand proceedings, that the collection of POLR revenues and recovery of the Base Environmental charge by AEP Ohio during the period April 2009 through May 2011 or October 3, 2011 was "unjustified" or "unlawful." That assertion is simply unfounded and was properly rejected by the Commission in the Remand Order.

The Court did not find that AEP Ohio's POLR and Base Environmental charges were unlawful. To the contrary, the Court explicitly withheld judgment on the lawfulness of the POLR charge, stating:

> To be clear, we express no opinion on whether a formula-based POLR charge is per se unreasonable or unlawful, and the commission may consider on remand whether a non-cost-based POLR charge is reasonable and lawful. Alternatively, the commission may consider whether it is appropriate to allow AEP to present evidence of its actual POLR costs.

Remand Decision at ¶ 30. The Court also withheld judgment on the legality of AEP Ohio's recovery of the Base Environmental charge, remanding that issue and authorizing the Commission to "determine whether any of the listed categories of [R.C. 4928.143](B)(2) authorize recovery of [such] charges." *Id.* at ¶ 35. If the Court had truly

determined that AEP Ohio's recovery of these charges was "unlawful," those issues would not be before this Commission on remand.

More to the point of Intervenors' rehearing bid, the same Supreme Court Remand Decision purportedly relied upon to advance their unjust enrichment theory actually serves to firmly prohibit that result. In particular, the Court held that the Commission violated Ohio law by approving rates that "recouped losses." Remand Decision at ¶ 10. The Remand Decision enforced the bedrock *Keco* case and progeny by emphasizing that prospective rate adjustments that make up for prior errors are prohibited. *Id.* at ¶ 11. Stated differently, the Court held that rates already collected are "water under the bridge" and the the rule against retroactive rates also prevents refunds. *Id.* at ¶ 15. To be absolutely clear, the Court emphasized that "*any refund order* would be contrary to our precedent declining to engage in retroactive ratemaking" and reiterated the *Keco* holding that Title 49 "affords no right of action for restitution" of charges collected during the pendency of an appeal. *Id.* at ¶ 16 (emphasis added). In sum, the Remand Decision directly and emphatically held that the filed rate doctrine applies and prohibits retroactive ratemaking in ESP rates established under SB 221.

As a matter of law, AEP Ohio's receipt of the POLR charges and the Base Environmental charge was lawful – the POLR charges and the Base Environmental charge were collected pursuant to Commission-approved tariffs. The collection of POLR charges and the Base Environmental charge during the period April 2009 through May 2011 were expressly authorized as "justified" charges to be included in the Companies 2009-2011 ESP, in accordance with Ohio Rev. Code § 4928.143(B), by the March 18, 2009 ESP Order and July 23, 2009 Entry on Rehearing. The Commission's May 25,

2011 Entry prospectively converted the POLR and Base Environmental charges to be collected subject to refund as of June 1, 2011 until a decision was issued in the remand proceeding. AEP Ohio's collection of POLR charges and of base generation rates that included the Base Environmental charge, per the Commission's orders, was therefore lawful and justified. Indeed AEP Ohio could not have failed to collect these charges, as AEP Ohio is required by law to bill its customers only in accordance with its approved tariffs. Ohio Rev. Code § 4905.32; Lucas Cty. Commrs. v. Pub. Util. Comm. (1997), 80 Ohio St.3d 344, 347, 686 N.E.2d 501 ("[W]hile a rate is in effect, a public utility must charge its consumers in accordance with the commission-approved rate schedule.")

Intervenors are wrong in asserting that the Supreme Court's reversal and remand of the Commission's approval of the POLR and Base Environmental charges immediately rendered recovery of such revenue unlawful for the entire 2009-2011 ESP term. Notwithstanding the Supreme Court's Decision, the charges and rates approved by the Commission in the March 18, 2009 ESP Order remained the lawful charges and rates and to be collected until this Court issued its October 3, 2011 Remand Order. The Ohio Supreme Court ruled on this precise point in Cleveland Elec. Illum. Co. v. Pub. Util. Comm. (1976), 46 Ohio St.2d 105, 346 N.E.2d 778. The Court held at Syllabus 2:

> When this court reverses and remands an order of the Public Utilities Commission establishing a revised rate schedule for a public utility, the reversal does not reinstate the rates in effect before the commission's order or replace that rate schedule as a matter of law, but is a mandate to the commission to issue a new order, and the rate schedule filed with the commission remains in effect until the commission executes this court's mandate by an appropriate order. (Gene Slagle, Inc. v. Pub. Util. Comm., 41 Ohio St.2d 44, 322 N.E.2d 640, overruled.)

Ironically, as explained above, the very same Remand Order relied upon by IEU and OCC/OPAE to support their assertion that the POLR and Base Environmental charges are

unlawful explicitly precludes the recapturing and refunding of revenues collected under those charges during the 2009-2011 period in which they were collected pursuant to a Commission-approved tariff – even if the refund occurs through a prospective rate adjustment.

B. The fuel adjustment clause ("FAC") cost deferrals were properly approved in the Commission's ESP Order and cannot now be collaterally attacked in this remand proceeding.

Perhaps recognizing the weakness of their assertion that the POLR charges collected during the period April 2009 through May 2011 were unjustified, OCC and OPAE re-tool their argument to directly attack the FAC cost deferrals. They argue that the deferrals are "overvalued" and "violate[] R.C. 4928.143." (OCC/OPAE AFR at 8, 6.) This new argument has no place in this limited remand proceeding. The FAC cost deferrals were approved in the March 18, 2009 ESP Order. OCC sought rehearing as to the FAC deferrals but argued only that were unfair and would have a destabilizing effect. (OCC April 17, 2009 AFR at 42-44.) OCC did not argue for rehearing of the FAC deferrals on the grounds that they would be overvalued by the amount of any charges subsequently found to be unjustified. OCC did not make this argument even though in that application for rehearing it attacked the justification for both the POLR charges and the recovery of the Base Environmental charge. (*Id.* at 29, 37.) Moreover, OCC did not pursue its assignment of error regarding the FAC deferrals in its appeal to the Ohio Supreme Court, as evident from the fact no such assignment of error is mentioned by the Court in its Decision. As a result, the validity of the FAC deferrals are not open to collateral attack in this proceeding under the law of the case. Hubbard ex rel Creed v.

Sauline (1996), 74 Ohio St.3d 402, 404, 659 N.E.2d 781; Office of the Consumers' Counsel v. Pub. Util. Comm. (1985), 16 Ohio St. 3d 9, 10-11, 475 N.E.2d 782.

C. The deductions in referrals Intervenors advocate constitute prohibited retroactive rate-making.

Proceeding from the false premise that AEP Ohio's Commission-approved collection of POLR and Base Environmental charges is "unlawful," OCC/OPAE argue that Commission erred by not reducing the residual ESP phase-in deferrals by the amount of revenue collected from the POLR charge during the period April 2009 through May 2011 and by not returning to customers interest charges on the POLR revenue collected during this period. (OCC/OPAE AFR at 15.) IEU echoes and expands this argument by seeking to have the ESP phase-in deferrals and other ESP-authorized revenue recovery mechanisms reduced by the amount of revenue attributable to both the POLR charges and Base Environmental charge for the period April 2009 through the effective date of the Remand Order. While OCC/OPAE seek to blunt the "impact of the unjustified POLR charges" on the phase-in deferrals collected in 2012-2018 (OCC/OPAE AFR at 16), IEU would have the Commission "strip[] away all the effects of the unlawfully authorized revenue increases." (IEU AFR at 20.) Both requests, however, were properly denied by the Commission in its Remand Order at 35 as seeking prohibited retroactive rate-making.

As AEP Ohio has explained in numerous filings in this proceeding, restitution is not an available remedy. "[T]he remedy provided by law" for a purportedly unlawful rate increase is to seek a stay and post a bond, per Ohio Rev. Code § 4903.16. Decision at ¶ 20. That is the manner in which Ohio's "statutes protect against unlawfully high rates[.]" *Id.* at ¶ 17. No Intervenor took advantage of this option, and Intervenors cannot now back-door a remedy by seeking an offsetting adjustment to other authorized

recoveries. Prospectively curing for past rates collected and subsequently determined to be unjustified or unauthorized is precisely the nature of unlawful retroactive rate-making that was rejected by the Supreme Court. Decision at ¶¶ 15-16.

OCC/OPAE argue that the Ohio Supreme Court creates an exception to the general prohibition against retroactive ratemaking "if there is a mechanism built into the rates that allow[s] for prospective rate adjustments," and further argue that the phase-in deferrals provide such a mechanism. (OCC/ OPAE AFR at 13-14.) IEU likewise agues that the phase-in deferrals are "uncollected amounts that remain subject to adjustments," such that its proposal does not result in prohibited retroactive rate-making. (IEU AFR at 24-25.) Intervenors also argue that Ohio Rev. Code § 4928.144 requires the Commission to restate the deferred revenue balance. (IEU AFR at 18; OCC/OPAE at 10-11.) These arguments mischaracterize the fuel adjustment clause ("FAC") cost deferral mechanism established in the Commission's ESP Order at 20-24.

OCC/OPAE's argument is based on misreading of Lucas Cty. Commrs. v. Pub. Util. Comm, 80 Ohio St.3d at 348. In suggesting that a built-in rate adjustment mechanism might be a way of avoiding the prohibition against rate-making, the Court was referring to a mechanism incorporated into the original rate authorization, which allowed for a refund or adjustment (increase or decrease) upon a pre-determined condition precedent. There is no mechanism built into AEP Ohio's ESP to adjust AEP Ohio's collection of deferred FAC costs. The ESP Order explained that "Section 4928.144, Revised Code, . . . mandates that any deferrals associated with the phase-in authorized by the Commission *shall be collected* through an unavoidable surcharge." ESP Order at 22 (emphasis added). Accordingly, the Commission held that "[a]ny

amount over the allowable total bill increase percentage levels will be deferred . . . with carrying costs[,]" and "any deferred FAC expense balance remaining at the end of 2011 *shall be recovered* via an unavoidable surcharge." (*Id.* at pp. 22-23 (emphasis added).) The Commission further held that "the collection of any deferrals, with carrying costs, . . . *shall occur* from 2012 to 2018[.]" (*Id.* at p. 23 (emphasis added).) Thus, the FAC mechanism did not "allow for prospective rate adjustments." To the contrary, AEP Ohio's recovery of its deferred FAC expense balance is mandatory, under both the Commission's ESP Order and Ohio Rev. Code § 4928.144. The only period of time during which the POLR and Base Environmental charges were collected subject to refund was between the first billing cycle of June 2011 through the last billing cycle of October 2011 – per the May 25, 2011 Entry. Thus, the Commission can reach back only to June 1, 2011 in recapturing revenue collected under the POLR and Base Environmental charges.

IEU again asserts, as it did in its initial brief at 48, that "[t]he Commission itself recognized . . . that the deferrals booked by the Companies were not sacrosanct," pointing to provisions in the Commission's ESP Order that required AEP Ohio to "phase-in any authorized increases so as not to exceed" the rate increase caps and defer "[a]ny amount over the *allowable total bill increase* percentage levels[.]" (IEU AFR at 21, quoting ESP Order at 22 (emphasis in IEU AFR).) That is revisionist history. There is no question that the phased-in rate increases that occurred before the Supreme Court's remand decision were "authorized" by the Commission. There is also no question as to what the "allowable total bill increase percentage levels" were. Authorized increases were capped at 7% for CSP and 8% for OP in 2009, 6% for CSP and 7% for OP in 2010, and 6% for

CSP and 8% for OP in 2011. ESP Order at 22. When the Commission held that "[a]ny amount over the allowable total bill increase percentage levels will be deferred" (*id.*), it meant that any amount *over the yearly rate increase caps* would be deferred. Nothing in the Commission's Opinion and Order allowed, must less required, a redetermination of AEP Ohio's deferred FAC expenses after they had already been deferred. The Commission's ESP Order stated that any deferred FAC expense balance "*shall be recovered.*" *Id.* (emphasis added). Thus, IEU's inaccurately analogizes this situation to the Commission's decision not to include in rate base the booked amount of AFUDC related to the period of interrupted construction of the Zimmer plant. (IEU AFR at 21.) The obvious and overriding distinction is that those costs were not previously authorized or approved by the Commission in a prior rate-making order.

Section 4928.144 of the Ohio Revised Code similarly states that any "incurred costs" that are deferred to allow the phase-in of an electric distribution utility rate "shall" be collected "through a nonbypassable surcharge on any such rate or price so established[.]" Ohio Rev. Code § 4928.144. Thus, recalculating the deferred FAC expenses would violate Section 4928.144. OCC/OPAE's contrary argument that the failure to reduce the deferrals by the amount of the POLR collections violates Section 4928.144 is based on a clear misdirection. OCC/OPAE argue that "[b]ecause the deferrals to be phased in were the result of a residual rate calculation of ESP rates, which included POLR charges that were unrelated to POLR costs incurred, the deferral created under the phase-in cannot be said to relate entirely to 'incurred costs.'" (OCC/OPAE AFR at 11.) The ESP Order did not defer any POLR costs; it deferred and phased-in FAC costs actually incurred. The only challenge related to FAC costs before the Ohio

Supreme Court on appeal was IEU's assignment of error based on how the fuel-cost baseline was established – an argument the Court rejected. Decision at 20-21. Thus, the propriety or amount of the FAC cost deferral is not open to debate in this remand proceeding. The deferred costs must be collected under § 4928.144, notwithstanding the finding that no actual POLR costs were incurred.

D. Intervenors' flow through proposal undermines state policy.

OCC/OPAE's state policy argument is also misdirected. (OCC/OPAE AFR at 11-12.) The reason the Commission deferred recovery of the FAC increases was its belief that a phase-in of the increases was "necessary to ensure rate or price stability and to mitigate the impact on customers during [a] difficult economic period." ESP Order at 22. The Commission's action fully supports the state policy favoring "rate or price stability for consumers," as expressed in Ohio Rev. Code § 4928.144. Intervenors' argument, if accepted, would seriously undermine the ability of public utilities in Ohio to implement expense deferral accounting mechanisms in the future. It would call into question whether Commission expense deferral orders could be relied upon and, as a result, would call into question whether the deferrals themselves were legitimate in the first place. Such a result would conflict with §§ 4928.144, 4928.143(d) and 4928.143(f), undermine the state policy favoring "rate stability" for consumers, and undermine the state policy supporting "future revenue certainty for the Companies." ESP Order at 72.

E. The Commission did not err in finding that the Base Environmental charge is properly authorized by Ohio Rev. Code § 4928.143(B)(2)(d).

IEU has not presented any new or accurate arguments to call into question the Commission's determination that the Base Environmental charge is properly included in

the Companies current ESP. The Commission has fully addressed and properly rejected the argument that the Base Environmental charge cannot be authorized under Section 4928.143(B)(2)(d) because the carrying costs do not have the effect "of stabilizing or providing certainty regarding retail electric service." Remand Order at 14.

IEU premises its request for rehearing on an unnatural reading the of the statute. IEU argues that subsection (B)(2)(d) authorizes the approval of only those terms, conditions and charges that "are necessary to make retail electric service probable" or "are necessary to provide certainty in the provision of retail electric service." (IEU AFR at 6-8.) That is not the statutory standard. The statute authorizes such terms, conditions and charges as "would have the effect of stabilizing or providing certainty regarding retail electric service." A term, condition or charge may well have the effect of stabilizing or providing certainty regarding service without being necessary to make the service certain or probable. For example, fairly compensating investors for making environmentally-necessary improvements to generation facilities has the effect of assuring the certainty of a firm supply of retail electric generation service, even though retail electric service may continue to be available for some period of time even without such improvements or fair compensation for such improvements.

IEU also is plainly wrong in suggesting that there is no record support for the Commission's conclusion that the Base Environmental charge has the effect of providing certainty to both the Companies and their customers. The testimony established that the environmental investments related to these carrying costs "are necessary to keep the Companies' low-cost coal-fired generating units running," that the "operating costs of these units remain well below the cost of securing the power on the market," and that the

"Companies are passing the lower-cost power through the FAC. (Cos. Ex. 7B at 6.) Thus, contrary to IEU argument (AFR at 7) there was nothing speculative about the beneficial effect of the Base Environmental charge on retail electric service. Moreover, the manner by which PJM dispatches resources does not negate the established practice that the Companies pass the benefits of lower-cost power to customers through the FAC.

The Commission also fully addressed IEU's argument that there is no "economic basis" for authorizing the recovery of the Base Environmental charge. In doing so, it appropriately noted that there is no such requirement for carrying costs authorized under § 4928.143(B)(2)(d). Remand Order at 13. IEU's reliance on the Commission's previous determination that the Companies' enhanced service reliability plan ("ESR") rider should be based on the Companies' prudently incurred costs to challenge the continuation of the Base Environmental charge is entirely misplaced. (IEU AFR at 9, citing ESP Order at 34.) The Companies proposed, and the Commission approved, the ESR rider under Section 4928.143(B)(2)(h), which authorizes certain types of provisions related to distribution service to be included in an ESP. The Companies proposed the ESR rider as a distribution infrastructure modernization plan, which is intended to "provid[e] for the utility's recovery of costs." The distinction is important given the Commission's analysis in the ESP Order at 33:

> The Commission recognizes that Section 4928.143(B)(2)(h), Revised Code, authorizes the Companies to include in its ESP provisions regarding single-issue ratemaking for distribution infrastructure and modernization incentives. . . . In deciding whether to approve an ESP that contains provisions for distribution infrastructure and modernization incentives, Section 4928.143(B)(2)(h), Revised Code, specifically requires the Commission to examine the reliability of the electric utility's distribution system and ensure that customers' and the electric utilities' expectations are aligned, and to ensure that the electric utility is emphasizing and dedicating sufficient resources to the reliability of its distribution system.

> Given AEP-Ohio's proposed ESRP, the only way to examine the full distribution system, the reliability of such system, and customers' expectations, as well as whether the programs proposed by AEP-Ohio are "enhanced" initiatives (truly incremental), is through a distribution rate case where all components of distribution rates are subject to review. Therefore, at this time, the Commission denies the Companies' request to implement, as well as recover costs associated therewith, the enhanced underground cable initiative, the distribution automation initiative, and the enhanced overhead inspection and mitigation initiative.

Thus, the Commission determination that there should be some cost basis for approval of the recovery of distribution-related infrastructure improvements under subsection (B)(2)(h) does nothing to call into question the propriety or wisdom of the Commission's determination that subsection (B)(2)(d) does not contain a similar requirement. Nothing about IEU's application for rehearing changes the factual finding in the 2009 ESP Order (at 28) that the carrying costs for the 2001-2008 environmental investment "will be incurred after January 1, 2009, on past environmental investments (2001-2008) that are not presently reflected in the Companies' existing rates."

Finally, IEU quarrels with the Commission's notation in the Remand Order at 15 that its Base Environmental charge decision is consistent with the broad authority granted by Ohio Rev. Code § 4928.143(B)(1), arguing that the Commission came to this conclusion without benefit of briefing and that the conclusion violates the law of the case doctrine. (IEU AFR at 10-12.) Its criticism is unfounded.

First, IEU cites no authority for the proposition that the Commission must confine its analysis of an issue to only those arguments specifically advanced by the parties. The proposition, in fact, flies in the face of the abundant authority recognizing the Commission's unique role and expertise in administering the complex scheme of public utility rate regulation.

Second, IEU misstates the law of the case doctrine. The law of the case doctrine "precludes a litigant from attempting to rely on arguments at a retrial which were fully pursued, or available to be pursued, in a first appeal." Hubbard ex rel Creed v. Sauline, 74 Ohio St.3d at 404. The law of the case doctrine does not limit the Commission's authority to fully analyze the issues actually remanded to it. Here the Supreme Court remanded the Base Environmental charge to the Commission after reversing the Commission's prior "legal determination that R.C. 4928.143(B)(2) permits ESPs to include unlisted items." Decision at ¶ 35. While the Court indicated that "[o]n remand, the commission may determine whether any of the listed categories of (B)(2) authorize recovery of environmental carrying charges," (*id.*), that statement is not necessarily, or even fairly, read to limit the Commission's authority to consider other subsections in the statute. The fact that the Court considered the Commission free to find the Base Environmental charge authorized by one or more of the listed categories in (B)(2) does not mean that the Court meant to preclude the Commission from looking for the requisite authority elsewhere in the statute. IEU's argument is inconsistent with the Court's and the Commission's ultimate goal of determining the intent of the General Assembly. Decision at ¶73.

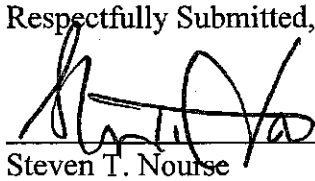
Third, and most telling of all, while IEU criticizes the Commission for noting that § 4928.143(B)(1) also authorizes the inclusion of the Base Environmental charge in the Companies' ESP, it does not, and cannot, criticize the merits of the Commission's conclusion. The environmental investment carrying charges are a legitimate component of the Companies SSO generation rates as they are directly related to generating facilities used to serve SSO customers, such that they are properly included in the base generation

rates under section (B)(1), in addition to being expressly authorized under subsection (B)(2)(d).

III. CONCLUSION.

For all the foregoing reasons, Columbus Southern Power and Ohio Power Company request that the Commission deny the November 2, 2011 Applications for Rehearing filed by IEU and OCC/OPAE.

Respectfully Submitted,



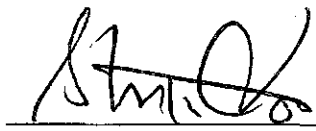
Steven T. Nourse
Matthew J. Satterwhite
American Electric Power Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215-2373
Telephone: (614) 716-1608
Facsimile: (614) 716-2950
stnourse@aep.com
mjsatterwhite@aep.com

Daniel R. Conway
Porter Wright Morris & Arthur
Huntington Center
41 S. High Street
Columbus, Ohio 43215
Telephone: (614) 227-2770
Fax: (614) 227-2100
dconway@porterwright.com

Counsel for Columbus Southern Power Company and Ohio Power Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Columbus Southern Power Company's and Ohio Power Company's Application for Rehearing has been served upon the below-named counsel and Attorney Examiners via electronic mail this11th day of November, 2011.



Steven T. Nourse

sbaron@jkenn.com	ricks@ohanet.org
lkollen@jkenn.com	tobrien@bricker.com
charlieking@snavely-king.com	david.fein@constellation.com
mkurtz@bkllawfirm.com	cynthia.a.fonner@constellation.com
dboehm@bkllawfirm.com	mhpetricoff@vssp.com
grady@occ.state.oh.us	smhoward@vssp.com
etter@occ.state.oh.us	cgoodman@energymarketers.com
roberts@occ.state.oh.us	bsingh@integrysenergy.com
idzkowski@occ.state.oh.us	lbell33@aol.com
dconway@porterwright.com	kschmidt@ohiomfg.com
jbentine@cwslaw.com	sdebroff@sasllp.com
myurick@cwslaw.com	apetersen@sasllp.com
khiggins@energystrat.com	sromeo@sasllp.com
barthroyer@aol.com	bedwards@aldenlaw.net
gary.a.jeffries@dom.com	sbloomfield@bricker.com
nmoser@theOEC.org	todonnell@bricker.com
trent@theOEC.org	cvince@sonnenschein.com
henryeckhart@aol.com	preed@sonnenschein.com
nedford@fuse.net	ehand@sonnenschein.com
rstanfield@nrdc.org	erii@sonnenschein.com
dsullivan@nrdc.org	tommy.temple@ormet.com
tammy.turkenton@puc.state.oh.us	agamarra@wrassoc.com
thomas.lindgren@puc.state.oh.us	steven.huhman@morganstanley.com
werner.margard@puc.state.oh.us	dmancino@mwe.com
john.jones@puc.state.oh.us	glawrence@mwe.com
sam@mwncmh.com	gwung@mwe.com
lmcalister@mwncmh.com	stephen.chriss@wal-mart.com
jclark@mwncmh.com	lgearhardt@ofbf.org
drinebolt@aol.com	cmiller@szd.com
cmooney2@columbus.rr.com	gdunn@szd.com
sarah.parrot@puc.state.oh.us	greta.see@puc.state.oh.us