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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**INITIAL BRIEF OF
BUCKEYE ASSOCIATION OF SCHOOL ADMINISTRATORS, OHIO ASSOCIATION
OF SCHOOL BUSINESS OFFICIALS, OHIO SCHOOL BOARD ASSOCIATION,
AND OHIO SCHOOLS COUNCIL**

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I. SUMMARY AND CONCLUSION

In this proceeding, AEP Ohio¹ seeks an enormous increase in the capacity charge that it assesses to competitive retail electric service (“CRES”) providers – from approximately \$20/MW-day (the traditional Reliability Pricing Model (“RPM”) price), to approximately \$355/MW-day (AEP Ohio’s proposed “cost-based” price). Schools’ Exhibit 101, at 5-6. If approved, the dangers to Ohio’s schools are three-fold:

- (1) Schools that shop for retail electric supplies face the possibility of rate shock by reason of provisions in CRES provider contracts that permit these increases to be passed through to consumers. AEP Ohio’s proposal would violate Section 4928.02(A), Ohio Rev. Code, which requires the Commission to ensure reasonably priced electric service.
- (2) Schools that currently do not shop for retail electric supply would be denied the benefits of doing so because of the resulting price increase in CRES providers’ service. AEP Ohio’s proposal would violate Section 4928.02(C), Ohio Rev. Code, by limiting consumers’ choices over the selection of electricity supplies and suppliers.
- (3) Because of the significant price increases, schools likely would be forced to reduce funding for teaching positions, staff positions, equipment and materials. AEP Ohio’s proposal would violate Section 4928.02(N), Ohio Rev. Code, which requires the Commission to facilitate the state’s effectiveness in the global economy.

Schools Ex. 101, at 8-11.

AEP Ohio’s apparent response to these legitimate concerns is that the pass-through of capacity charges is discretionary to CRES providers, and CRES providers could choose to absorb some, or all, of the increased costs themselves. Tr. XI, at 1763-1764 and 1768. In effect, AEP Ohio is willing to roll the dice on how the change in capacity charges will affect Ohio’s schools. This position is disturbing considering the history of this proceeding and that Ohio’s schools,

¹ Ohio Power Company and Columbus Southern Power Company merged effective December 31, 2011. Ohio Power Company is the surviving entity and will be referred to as AEP-Ohio.

along with other consumers and the Commission, recently were blindsided by the rate impact that was hidden within the stipulation initially approved in this proceeding on December 14, 2011, and ultimately rejected by the Entry on Rehearing of February 23, 2012. Ohio's schools ask the Commission to protect them from a similar fate in this phase of the proceeding and order AEP Ohio to continue its traditional, competitively-based, RPM pricing.

Ohio's schools are not in a position to absorb these devastating cost increases. Schools are unique. Unlike business enterprises, schools cannot voluntarily increase their price for services to pass through the rate increase to consumers. Instead, schools must rely on scarce taxpayer funds for support. The drastically increased capacity charges proposed by AEP Ohio, coupled with the lack of traditional revenue sources for schools, likely would lead to funding cuts affecting the levels of teachers, staff, materials and programs. Schools' Exhibit 101, at 10.

II. HISTORY OF THE PROCEEDING

The Commission initiated this proceeding by Entry of December 8, 2010, in response to AEP Ohio filing an application with the Federal Energy Commission for approval of a cost-based mechanism in calculating its capacity charge. By its entry, the Commission formally adopted RPM pricing as the state compensation mechanism for AEP Ohio's capacity charges, and ordered further review of the effect a change in pricing mechanisms would have on retail electric competition in Ohio.

This proceeding subsequently was consolidated with AEP Ohio's electric security plan proceeding, Case No. 11-346-EL-SSO, et al. By Opinion and Order of December 14, 2011, in the consolidated cases, the Commission approved a stipulation resolving all proceedings. However, by subsequent Entry on Rehearing issued February 23, 2012, the Commission rejected the stipulation because of the significant and unexpected rate shock to rate classes GS-2 and GS-

3, to which Ohio's schools primarily belong. See February 23, 2012 Entry on Rehearing, at 11 (“...the actual impacts suffered by a significant number of GS-2 customers appear to have vastly exceeded AEP-Ohio's representations at hearing. Since we issued the Opinion and Order, numerous customers have filed, in the case record of this proceeding, actual bills containing total bill rate increases disproportionately higher than the 30 percent predicted by AEP-Ohio. The disproportionate rate impacts indicated by these bills undermine the evidence presented by the signatory parties that the MTR and LFR provide rate certainty and stability pursuant to Section 4928.143(B)(2)(d), Revised Code.”)

In response to AEP Ohio's Motion for Relief filed on February 27, 2012, the Commission approved a two-tiered capacity charge on an interim basis, until May 31, 2012, at which time the charge would revert to the traditional RPM charge for all capacity, absent other PUCO action. The first tier consists of the traditional RPM price of \$145.79/MW-day and is available to the first 21% of each customer class switching. The second tier is a charge of \$255/MW-day and is applicable to remaining switching customers. See Entry of March 7, 2012,

To protect their interests, the Ohio Schools² moved to intervene in this proceeding on March 19, 2012, noting that during the brief period in which the stipulated ESP rates were in effect, hundreds of school districts in AEP Ohio's service territory experienced double digit percentage increases in their tariffed electricity rates – some in excess of fifty percent (50%). Ohio Schools' Motion to Intervene, at 6.

Hearing commenced on April 17, 2012, and the Ohio Schools presented one witness, Mark Frye, on April, 27, 2012. Hearing concluded on May 16, 2012.

² Joint Intervenors Buckeye Association of School Administrators (“BASA”), Ohio Association of School Business Officials (“OASBO”), Ohio School Boards Association (“OSBA”) and Ohio Schools Council (“OSC”) are collectively referred to as the “Ohio Schools.”

III. BACKGROUND

BASA, OASBO, OSBA and OSC are non-profit groups of public school administrators who seek to share best practices and information concerning the operation of educational institutions. The Schools' members include all of Ohio's 612 public school districts, as well as 55 educational service centers and 49 career technical centers. Among their services, the Ohio Schools offer their members group purchasing programs for a host of goods and services, including an electricity purchasing program, which operates throughout the state, including AEP-Ohio's service territory.

BASA, OASBO and OSBA initiated an electricity purchasing program commonly referred to as "SchoolPool" that has had over 300 Ohio public school districts as participants at one point of time or another. Similarly, OSC has operated an electricity purchasing program since 1998 as a consortium of 161 school districts, educational service centers, joint vocational districts and boards of developmental disabilities in 28 northern Ohio counties.

The four organizations have combined their efforts to offer "Power4Schools" electricity purchasing programs to various school districts throughout Ohio, serving nearly 600,000 school children. The Power4Schools program is designed to reduce the Schools' cost of electricity. Electricity is purchased and delivery arranged through a third party CRES under a master contract and the savings are passed through to school district participants. To date, the Schools' electricity purchasing programs have saved participating schools an estimated \$20 million dollars since initiating third party power supplies.

III. ARGUMENT

Traditionally, AEP Ohio has charged CRES providers the competitive RPM price for capacity. Schools' Exhibit 101, at 5. Currently, the RPM rate is \$145.79/MW-day. Effective

June 1, 2012, the RPM rate will drop to \$20.01/MW-day. *Id.*, at 8. In this proceeding, AEP Ohio is seeking to increase that cost to \$355.72/MW-day under the proposed “cost-based” methodology. *Id.*, at 6. If approved, the increase would have profound consequences for Ohio’s schools. The dangers are threefold:

- (1) Schools that shop for retail electricity supply face the possibility of rate shock by reason of provisions in CRES provider contracts that permit these increases to be passed through to consumers. AEP Ohio’s proposal would violate Section 4928.02(A), Ohio Rev. Code, which requires the Commission to ensure reasonably priced electric service.
- (2) Schools that currently do not shop for retail electric supply would be denied the benefits of doing so because of the resulting price increase in CRES providers’ service. AEP Ohio’s proposal would violate Section 4928.02(C), Ohio Rev. Code, by limiting consumers’ choices over the selection of electricity supplies and suppliers.
- (3) Because of the significant price increases, schools likely would be forced to reduce funding for teaching positions, staff positions, equipment and materials. AEP Ohio’s proposal would violate Section 4928.02(N), Ohio Rev. Code, which requires the Commission to facilitate the state’s effectiveness in the global economy.

A. SHOPPING SCHOOLS FACE RATE SHOCK UNDER AEP OHIO’S COST BASED CAPACITY CHARGE PROPOSAL IN VIOLATION OF SECTION 4928.02(A), OHIO REV. CODE.

Ohio Schools’ witness Frye testified at hearing that AEP Ohio traditionally has charged CRES providers for capacity at RPM prices (Schools Ex. 101, at 5), and that CRES providers had relied on AEP Ohio’s RPM pricing when setting the price in their contracts with Ohio’s schools. *Id.*, at 8, 9. However, to protect against subsequent and material regulatory changes, e.g., changes to capacity charges and new taxes, CRES providers inserted provisions in their contracts that would permit them to pass through such incremental costs to consumers. *Id.*, at 9;

Tr. XI, at 1769. Mr. Frye's assertion that AEP Ohio's "cost-based" \$355.72/MW-day capacity charge could be passed through to Ohio's schools was not disputed at hearing.

Mr. Frye quantified the significant effects of such a pass-through on a large high school and a smaller elementary school, both at the interim RPM rate of \$145.79/MW-day, and the RPM rate of \$20.01/MW-day, which will become effective on June 1, 2012. AEP-Ohio's requested increase equals 8.7 mils per kWh for a customer with a 100% load factor $[(\$209.93 \text{ per MW-day} * 365 \text{ days per year}) / (8760 \text{ hours per year} * 1000 \text{ MW per kW})]$. A large high school operating at a 60% load factor would experience an increase of 14.6 mils or \$0.0146 per kWh. A smaller elementary school operating at a 50% load factor would experience an increase of 17.5 mils or \$0.0175 per kilowatt-hour given AEP-Ohio's request. Each of these is a large increase for customers. Schools' Exhibit 101, at 8-9.

The effect becomes even greater on June 1, 2012, when RPM capacity rates will fall to \$20.01. If AEP-Ohio is granted the requested \$355.72 per MW-day payment for capacity, then using the same methodology as above, the 60% load factor high school would see its costs rise by \$0.023 per kWh, and the 50% load factor elementary school would see its costs rise by \$0.028 per kWh. Id.

Although Mr. Frye's testimony was not refuted at hearing, AEP Ohio likely will argue that, if the Commission adopts AEP-Ohio's proposed charge, the CRES provider still retains the discretion to pass it through to consumers, in whole or in part. While Mr. Frye acknowledged the CRES provider's discretion (Tr. XI, at 1768), it was his opinion that CRES providers would not absorb the enormous one-time capacity charge increase in this case, noting that the ability to absorb such costs usually occurs when charges increase over time. Tr. XI, at 1786-178. Such

large increases would violate Section 4928.02(A), Ohio Rev. Code, which requires the Commission to ensure reasonably priced electric service

AEP Ohio apparently is willing to roll the dice on how much of its capacity charge increase CRES providers will pass through. This position is disturbing considering that Ohio's schools, along with other consumers and the Commission, recently were blindsided by the rate impact hidden within the stipulation approved in this proceeding on December 14, 2011, but ultimately rejected by the Entry on Rehearing of February 23, 2012. Ohio's schools ask the Commission to protect them from a similar fate in this phase of the proceeding and order AEP Ohio to continue its traditional, competitively-based, RPM pricing.

B. NON-SHOPPING SCHOOLS WILL BE DENIED THE BENEFITS OF SHOPPING UNDER AEP OHIO'S COST BASED CAPACITY CHARGE PROPOSAL IN VIOLATION OF SECTION 4928.02(C), OHIO REV. CODE.

Similar to his analysis with shopping schools, Ohio School's witness Frye testified that non-shopping schools would be harmed by AEP Ohio's proposed capacity charge increase, as it would increase CRES providers' price of service and impair shopping. Schools Ex. 101, at 10-11. Indeed, Mr. Frye testified that even a partial pass-through of the costs would impair shopping. Tr. XI, at 1769-1770.

AEP Ohio's intent to impair shopping is made evident by its Motion for Relief filed in this proceeding on February 27, 2012, in which it asked the Commission for an interim two-tiered capacity charge, with the Tier 1 charge of approximately \$145.79/MW-day available only to the first 21% of load in each customer class, and the Tier 2 charge of \$255 available to all other shopping customers. AEP Ohio sought the two-tiered charge claiming that, if the charge were based solely on RPM pricing (currently at \$145.79/MW-day), it would lose a majority of its customers to shopping. Entry of March 7, 2012, at 5. The impairment will be much more

significant if the Commission were to approve AEP-Ohio's proposed capacity charge of \$355.72/MW-day charge in this phase of the proceeding. AEP Ohio clearly intends to economically require a substantial portion of its distribution customers to remain on its standard service offer. Thus, the proposed charge violates Section 4928.02(C), Ohio Rev. Code, because it deprives consumers of effective choices over their electric supplies and suppliers.

**C. APPROVAL OF AEP OHIO'S PROPOSED CAPACITY CHARGE
LIKELY WILL RESULT IN REDUCTIONS IN TEACHING POSITIONS,
STAFF, EQUIPMENT AND MATERIALS, IN VIOLATION OF SECTION
4928.02(N), OHIO REV. CODE.**

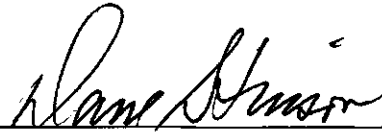
Ohio Schools' witness Frye testified about the practical effect of approving AEP Ohio's proposed capacity charge in these challenging economic times. He testified that schools are unique and, unlike business enterprises, cannot voluntarily increase their price for services to pass through the rate increase to consumers. Instead, schools must rely on scarce taxpayer funds for support. The drastically increased capacity charges proposed by AEP Ohio, coupled with the lack of traditional revenue sources for schools, likely would lead to funding cuts affecting the levels of teachers, staff, materials and programs. Schools' Exhibit 101, at 10.

The future of Ohio depends on, and belongs to, its children. Our Constitution has recognized as much for over 150 years, by requiring the creation of a public school system universally available to all children. See Ohio Constitution, Article 6. Our public schools are charged with the duty to educate our school children to participate in 21st Century's global economy. Imposition of AEP Ohio's capacity charge, and the attendant reduction in teachers, staff, equipment and materials, will impair that duty, and violate Section 4928.02(N), Ohio Rev. Code, which requires the Commission to "facilitate the state's effectiveness in the global economy."

IV. CONCLUSION

For the foregoing reasons, the Ohio Schools respectfully request the Commission to order AEP Ohio to continue its traditional, competitively-based, RPM pricing.

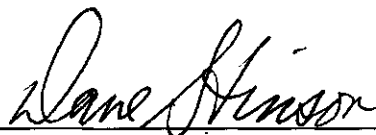
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dane Stinson", is written over a horizontal line.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Initial Brief was served by electronic mail this 23rd day of May upon the following.



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