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Via E-file

May 30, 2012

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

In re: Case No. 10-2929-EL-UNC

Dear Sir/Madam:

Please find attached the POST-HEARING REPLY BRIEF OF THE OHIO ENERGY GROUP e-filed today in the above-referenced matter.

Please place this document of file. Copies have been served on all parties listed on the attached Certificate of Service.

Respectfully yours,

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Certificate of Service

BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO

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

POST-HEARING REPLY BRIEF OF THE OHIO ENERGY GROUP

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COUNSEL FOR THE OHIO ENERGY GROUP

TABLE OF CONTENTS

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POST-HEARING REPLY BRIEF OF THE OHIO ENERGY GROUP

The Ohio Energy Group ("OEG") submits this Reply Brief in response to the Initial Post-Hearing Brief of the Ohio Power Company ("AEP Ohio" or the "Company").

At pages 99-103 of its Initial Brief, AEP Ohio addresses the Earnings Stabilization Mechanism ("ESM") proposed by OEG. The ESM was developed by OEG as the second step of a cost-based state compensation mechanism. OEG's position is that the state compensation mechanism should be RPM (either by PJM planning year or a three year average), but if it is not, then a cost-based state compensation mechanism should have two steps. First, the capacity price for CRES providers should be no higher than current the RPM of $145.79/MW-day. Second, the ESM should be adopted to prevent over or under compensation and to ensure that actual utility earnings fall within a Commission determined zone of reasonableness.

AEP Ohio advances three arguments against the ESM. 1) Legal: There is no statutory authority to impose a second more stringent earnings test on AEP Ohio than the already existing SEET procedure, and the ESM would violate the PJM RAA by not providing the utility with compensation based on its cost. 2) Equitable. The 7% ROE floor is too low because merely being above a confiscatory level is not a measure of reasonableness. 3) Practical. The ESM would be difficult to administer and intervenors would likely challenge any request by AEP Ohio for additional compensation to increase its earnings to the 7% ROE floor. As discussed below, AEP Ohio's arguments are without merit and should be rejected.

1. Maintaining Utility Earnings Within A Commission-Determined Zone Of Reasonableness Through An Annually Adjusting Mechanism Is The Essence Of A True Cost–Based Rate And Is Therefore Fully Consistent With The PJM RAA And Would Act Independent Of The SEET Procedure The Same As If The Company's Proposal Were Adopted.

AEP Ohio asserts that there is no statutory authority to impose a second more stringent earnings test in addition to the significantly excessive earnings test ("SEET").[1] The Company also alleges that the Commission's adoption of OEG's recommended ESM would "*render the existing statutory SEET inapplicable and obsolete*" since the upper threshold of 11% is lower than previously adopted SEET thresholds.[2] These concerns have no merit. When setting a cost-based rate for capacity, a return on equity component must be incorporated. This is true of the ESM floor and ceiling of 7% and 11%, respectively, as well as the 11.15%[3] ROE incorporated into AEP Ohio's proposal. The fact that OEG's cost-based methodology is trued-up through an annually adjusting mechanism to ensure that the end result is within a Commission established zone of reasonableness is not duplicative of the SEET statute. The SEET ROE threshold (which over the next three years may be above or below 11% depending upon prevailing economic conditions) is used for a completely different purpose than the ESM. The SEET ROE threshold is used to determine whether ESP "adjustments" (rate increases) resulted in excess profits and therefore must be refunded. No ESP adjustments are being decided in this capacity compensation case. The ESM upper and lower bounds simply ensure that the earnings level determined by the Commission to be a reasonable component of the state compensation mechanism are in fact actually realized. This is a more precise cost-based approach than that proposed by AEP Ohio whereby the ROE would established at 11.15%, but actual results could be higher or lower.

[1] AEP Ohio Brief at 101.
[2] AEP Ohio Brief at 101.
[3] Pearce Direct Testimony Exhibits KDP-3, p. 11; KDP-4, p. 11.

AEP Ohio claims that the ESM "*would not permit AEP Ohio to exercise its right, under Schedule 8.1, Section D.8, of the RAA to establish a price for capacity supplied to CRES providers based on AEP Ohio's cost.*"[4] And AEP Ohio alleges that the ESM "*would not provide any material protection to AEP Ohio from under-compensation of its costs incurred to furnish capacity to CRES providers.*"[5] This argument completely misses the point. The ESM would be an integral component of the cost-based rate that AEP Ohio seeks in this case. The ESM does not deny cost-based recovery. The ESM ensures it.

2. <u>A 7% ROE Floor Is Reasonable. 7% Is Almost Identical To The 7.5% AEP Ohio Forecasts That It Will Earn In 2013 If It's ESP Is Approved Exactly As Filed. This Level Of Earnings Is Comparable To What Other AEP Affiliates Earned In 2010-2011.</u>

AEP Ohio complains that a 7% ROE floor provides it with some level of protection against confiscation, but is too low.[6] This complaint is to be expected as all utilities would prefer a higher profit margin, but the appropriate ROE floor is a policy mater within the Commission's discretion.

. Perhaps the most telling reason why a 7% ROE floor is reasonable is contained in the pending ESP case. In the AEP Ohio ESP case, Company witness Sever testified that, if the ESP was approved exactly as AEP Ohio requested, then the Company's return on equity in 2013 would be 7.5%.[7] AEP fails to explain how a projected 7.5% ROE in the ESP case can be acceptable, but a minimum guaranteed 7% ROE in this case is not. The exhibits and assumptions supporting AEP Ohio's 7.5% ROE forecast if its ESP is approved as filed are attached.

Further, the ESM floor of 7.0% is appropriate in light of the return on equity actually earned by the AEP East affiliated utilities (Appalachian Power, Indiana & Michigan and Kentucky Power) which averaged 6.8% in 2010 and 7.8% in 2011.[8]

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[4] AEP Ohio Brief at 101.
[5] AEP Ohio Brief at 102.
[6] <u>*Id*</u>.
[7] Case No. 11-346-EL-SSO, Ex. OJS-2 at 1.
[8] Kollen Testimony at 13:1-9.

Finally, a total company earnings floor of 7.0% would treat AEP Ohio similarly, but slightly better, than Duke Energy Ohio, Inc., which earned an ROE of between 5.84% and 6.21% in 2011.[9]

3. <u>Ensuring That The State Compensation Mechanism Does Not Result In Over Or Under Compensation Is Not Administratively Burdensome. Having Elected To Pursue A State-Regulated Cost-Based Capacity Rate Worth Billions Of Dollars Over Three Years, The Utility Should Not Be Heard To Complain That The Regulatory Process It Selected Could Be Burdensome.</u>

AEP Ohio claims that the ESM "*would be complex and difficult to administer, and it would be certain to result in protracted litigation on an annual basis.*"[10] Thus, AEP Ohio claims that the ESM should be rejected in order to avoid administrative burdens. But in requesting cost-based capacity pricing, AEP Ohio seeks to reap the benefits of regulation, which inherently involves an administrative process and potential litigation. Ironically, AEP Ohio advocates for rejecting the ESM to avoid the administrative burdens that the Company's own cost-based capacity pricing proposal makes necessary. Having elected to pursue a state-regulate cost-based capacity rate worth billions of dollars over three years, the utility should not be heard to complain that the regulatory process it selected could be burdensome.

The evidence in this case underscores that there is tremendous disagreement between the parties over what constitutes a cost-based rate. For example, the proposals include:

FirstEnergy	Staff	AEP Ohio
$78.53/MW-day[11]	$146.41/MW-day[12]	$355.72/MW-day[13]

---

[9] Case No. 12-1280-EL-UNC, Direct Testimony of Peggy Laub at 13.
[10] AEP Ohio Brief at 102.
[11] Direct Testimony Jonathan A. Lesser (April 4, 2012) at 56, Table 7.
[12] Ex. ESM-4.
[13] Direct Testimony of Kelley Pearce at 21.

Instead of selecting one expert's calculation over another, the Commission can determine the matter with precision. Under the ESM, there is no guess work about where AEP Ohio's earnings will fall. Under the ESM, the primary decision for the Commission is to determine as a policy matter what range of earnings is appropriate under the facts and circumstances of this case. That range of earnings will then in fact be the end result.

CONCLUSION

OEG proposed a plan that strikes a fair balance during the period before AEP Ohio transitions fully to RPM. OEG's proposal promotes the development of a competitive market and provides real savings to consumers by pricing capacity at some variant of RPM, while at the same time protecting the financial integrity of the utility by placing a floor on its total company earnings.

Respectfully submitted,

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May 30, 2012

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ATTACHMENTS

Assumptions Used in the Projected Financial Statements for Purposes of this Proceeding

- The AEP Interconnection Agreement and Interim Allowance Agreement are in effect until December 31, 2013. The AEP Transmission Agreement continues through the entire forecast period.
- Beginning in 2014, all current AEP Ohio generation assets and entitlements will be separated from Ohio Power Company (wires only beginning in 2014).
- Generation beyond the system internal load requirements will be sold into the wholesale energy market.
- The load forecast for 2012 through 2015 is provided below:

Data by Customer Class (GWh)				
	2012	2013	2014	2015
Residential	14,578	14,622	14,434	14,329
Commercial	14,137	14,263	14,319	14,306
Industrial	19,091	19,357	19,363	19,311
Other Retail	128	128	128	128
Total Retail	**47,935**	**48,369**	**48,243**	**48,074**
SSO Load	26,526	13,869	13,819	13,762
Shopping Load	21,408	34,500	34,424	34,311

- By the end of 2012, shopping customers reach 65% for the Residential class, 80% in the Commercial class, and 90% in the Industrial class, excluding a single large industrial customer, and stay at that level for the forecast period.
- Capacity is priced in two tiers based upon the testimony of William Allen.
- A Retail Stability Rider has been modeled to increase pre-tax earnings by $19M in the last seven months of 2012, $78M in 2013, $119M in 2014 and $68M in the first five months of 2015.
- The AEP east operating companies continue to operate in the PJM ISO.
- The AEP OATT is based upon the FERC formula rate.
- O&M expense for 2012 reflects the Control Budget level. For 2013 and beyond, certain expense items are specifically forecasted by year (not trended); however, the majority of the O&M forecast is treated as base and is escalated at 2% throughout the forecast period.
- Current depreciation rates continue through the forecast period.
- Long-term interest rates are shown below:

2012	2013	2014	2015
5.53%	5.75%	5.29%	5.53%

- The capital structure of the wires company after corporate separation is maintained at approximately 50% debt and 50% equity throughout the forecast period.
- The Fuel Adjustment Clause (FAC) is in place until December 31, 2014.
- After corporate separation, the wires company provides non-shopping customers with SSO Service based upon the table shown below:

Jan 2014-Dec 2014	Jan 2015-May 2015	June 2015-Dec 2015
Retail Stability Rider TCRR FAC SSO-generation rate	Retail Stability Rider TCRR Auction Rate with capacity at $255 MW/day	TCRR New Auction Rate with RPM capacity

- The PIRR is modeled to collect deferred balances at WACC from June 1, 2013 until Dec 31, 2018.
- Upon termination of the DIR May 31, 2015, a base case starts June 1, 2015 and is assumed to provide 10.5% ROE.

Projected Financial Statements Prepared Consistent with Filing

INCOME STATEMENT
($000,000)

Line		Integrated Utility 2012	Integrated Utility 2013	Wires Only 2014	Wires Only 2015
(1)	**AEP Ohio**				
(2)	**REVENUE**				
(3)	Sales of Electricity	4,692.0	4,655.0	2,633.3	2,573.6
(4)	Other Operating Revenue	246.0	322.8	51.2	52.0
(5)	Total Revenue	4,938.0	4,977.8	2,684.6	2,625.5
(6)	**COST OF SALES**				
(7)	Total Cost of Sales	2,100.8	2,213.0	984.9	873.8
(8)	Gross Margin	2,837.1	2,764.9	1,699.7	1,751.7
(9)	**OPERATING EXPENSES**				
(10)	Operations & Maintenance	1,035.6	1,111.5	632.6	649.3
(11)	Taxes Other Than Income	409.0	403.8	354.6	360.2
(12)	Loss (Gain) on Sale of Property	(1.5)			
(13)	TOTAL OPERATING EXPENSES	1,443.1	1,515.3	987.2	1,009.5
(14)	Operating Margin/EBITDA	1,394.0	1,249.6	712.5	742.2
(15)	Depreciation & Amortization	574.5	576.3	410.9	419.3
(16)	Other (Income) / Deductions	(72.1)	(102.1)	(111.4)	(100.1)
(17)	EBIT	891.6	775.3	413.0	423.1
(18)	Total Interest Expense	220.8	229.8	101.5	106.7
(19)	Total Income Taxes	234.6	194.8	106.9	109.1
(20)	Preferred Stock Dividends				
(21)	**NET INCOME**	436.2	350.7	204.7	207.3
(22)	**Return on Common Equity**	9.5%	7.5%	10.5%	10.5%

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 30th day of May, 2012 to the following:

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