BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan.	)	Case No. 11-346-EL-SSO Case No. 11-348-EL-SSO
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority.	)	Case No. 11-349-EL-AAM Case No. 11-350-EL-AAM

INITIAL POST-HEARING BRIEF OF WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Now comes Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, "Walmart"), by its attorneys, respectfully submits its post-hearing brief in the above-referenced proceeding concerning the Application of Ohio Power Company and Columbus Southern Power Company (collectively, "AEP-Ohio" or "Company") for approval of its Electric Security Plan. Walmart participated in this proceeding, through which it entered the Direct Testimony of Steve W. Chriss, Walmart's Senior Manager, Energy Regulatory Analysis, Hearing Exhibit Walmart-101. Walmart respectfully requests:

1. If the Commission approves a Generation Resource Rider ("GRR"), it should determine that the rider be bypassable by customers who take competitive supply service;

2. If the Commission approves a Retail Stability Rider ("RSR"), the ROE used to calculate the revenue requirement should be no higher than 10.2 percent; and

3. If the Commission approves a Retail Stability Rider ("RSR"), the Commission should direct AEP-Ohio to revise its methodology for calculating the annual revenue shortfall to be covered by RSR revenues and base the calculation on actual annual revenue gaps rather than on the average of multiple year revenue gaps as AEP-Ohio proposed.

ARGUMENT

A. Any Generation Resource Rider ("GRR") Approved By This Commission Should Not Be Assessed On Customers That Do Not Purchase Electricity Supply From AEP-Ohio

Walmart advocates that rates be set based on the cost of service. This produces equitable rates that reflect cost causation principles, send proper price signals, and minimize price distortions.[1] Generation-related riders that are charged on all of the electric distribution company's customers, including those who have opted to obtain electric supply from a competitive supplier, violate this principle.

Generally, it is appropriate for any generation-related riders to be bypassable by customers who take competitive supply service.[2] This is because these customers are already paying for generation-related costs through their competitive electricity supplier. In fact, the price paid to the supplier by customers taking competitive supply includes the cost of power and the cost of procurement for that power, compliance costs, and other underlying operating costs.[3] Charging competitively supplied customers for any part of the electric distribution company's generation-related costs is inequitable because the competitively supplied customer ends up paying for generation-related costs, such as

[1] *See* Walmart Ex. 101, Direct Testimony of Steve W. Chriss (filed May 4, 2012) at p. 5, lines 20-22.

[2] See i*d*. at p. 3, lines 3-4

[3] See *id*, lines 4-7.

compliance costs, more than once.[4] In other words, these competitively supplied customers will pay a cost for which they will receive no benefit.[5]

From a rate-setting perspective, the practice of imposing generation-related riders on all electric distribution customers, misaligns cost causation and cost responsibility, and results in inequitable rates. Additionally, this cost misalignment moves generation rates for the electric distribution company's default customers and competitively supplied customers away from the respective cost of service.[6] As a result, any rate structure that charges competitively supplied electric customers for the distribution company's generation related costs does not provide for rates that reflect cost causation, send proper price signals, and minimize price distortions. Thus, based both on fairness to ratepayers and on rate-setting theory, any distribution company's generation-related riders should be bypassable for those customers that procure competitive electric supply.

In this proceeding, AEP-Ohio has proposed the GRR as a method to recover its costs related to new generation resources that the Company owns or operates which are dedicated to serving their Ohio customers.[7] AEP-Ohio seeks to impose the GRR on all customers, even those customers who do not rely on AEP-Ohio for their electricity supply. For all of the reasons discussed above, AEP-Ohio's GRR proposal should be rejected and any GRR that the Commission permits AEP-Ohio to include in rates should be bypassable as applied to shopping customers.[8] Moreover, competitively supplied customers will not receive power from the plants the Company owns and operates that

[4] *See id*, lines 7-14.

[5] *See id* at p. 5, lines 9-10.

[6] *See id* at lines 13-15.

[7] *See* AEP Ex. 103, Direct Testimony of Philip J. Nelson, page 20, lines 9-11.

[8] *See also* Walmart Ex. 101 at p. 6, lines 13-21.

are dedicated to its Ohio retail load and as such should not be required to pay any portion of those plants' cost.[9]

B. If the Commission Approves AEP-Ohio's Requested Retail Stability Rider ("RSR"), No Higher Than A 10.2 Percent ROE Should Be Employed to Calculate RSR Revenues

In this proceeding, AEP-Ohio proposes to employ a Retail Stability Rider ("RSR") in order to recoup what they state are lost revenues due to the difference in their proposed cost of service-based capacity price and the lower capacity price they have proposed as part of their overall ESP proposal. The Company proposes to terminate the RSR at the end of May, 2015, when they will no longer provide capacity as an FRR entity.[10] The amount the Company will collect through the riders is dependent upon the return on equity ("ROE") factored into the calculation. The Company proposes to use a ROE of 10.5 percent which results in a target non-fuel generation revenue requirement of $929 million.[11] However, the Commission should not adopt the Company's proposal because it is unjustified and should be no greater than 10.2 percent.[12]

First, while the Company filed exhaustive direct testimony in this proceeding, it failed to provide any direct testimony to support the employment of a 10.5% ROE in its RSR calculation.[13] While the Company proffered the testimony of William Avera in its

[9] *Id* at p.6, lines 18-21.

[10] *See* AEP Ex. 116, Direct Testimony of William A. Allen at p. 13, lines 4-15.

[11] *See id* at p. 14, lines 7-10 and AEP Ex. 116 at WAA-6.

[12] Walmart Ex. 101 at p. 8, lines 4-6 and p. 9, lines 12-18.

[13] In his Direct Testimony, Witness Chriss pointed out:

> My understanding is that the Company believes that a ROE of 10.5 would produce a level of revenues that would provide financial stability for AEP-OHIO. However, this statement does not appear to be directly supported by any analysis. *See* Walmart Ex. 101 at p. 8, lines 17-20.

At the hearing, beginning at tr. v. V, p. 1709, line 14, Administrative Law Judge Tauber probed Witness Chriss about his conclusion on page 8 of his direct testimony:

rebuttal case, Witness Avera conceded that he did not directly develop the 10.5% ROE number.[14] The testimony of Witness Avera that attempted to distinguish using an ROE in a rider calculation such as the RSR from using an ROE to set a utility's overall ROE should be discounted because he was not a witness on direct and his analysis is severely flawed. Specifically, when Witness Avera asserts that the ROE for the RSR is merely a "benchmark," he ignores that when a Commission sets a utility's overall ROE it represents only an opportunity, not a guarantee, to earn the stated return. In contrast, the ROE built into the RSR to calculate the revenues the Company needs to "be made whole" with respect to capacity, results in guaranteed revenues to the Company. So the ROE built into the RSR represents more than an opportunity to earn a return on the Company's investment.

> ALJ Tauber: So then it's your opinion that the company did not justify its return on equity.
>
> Witness Chriss: As a part of this filing, yes. *See* tr. v. V at p. 1710, lines 8-11.

After confirming that he was a rebuttal witness on the issue of ROE for AEP, Witness Avera testified:

> Mr. Ruben: You were not asked to provide direct testimony in support of AEP's desired ROE in this proceeding, were you?
>
> Witness Avera: No, Sir.
>
> Mr. Ruben: In fact you didn't provide any direct testimony on that very issue.
>
> Witness Avera: That is correct. [. . .] *See* tr. v. XVII at p. 4698, lines 3-9.

[14] AEP Witness Avera further testified at the hearing, under cross-examination by Mr. Ruben:

> Q. Are you familiar with the determination for the RSR that AEP is seeking a 10.5 percent rate of return equity for the years of the RST
>
> A. That is not my understanding. My understanding is that for the purposes of designing the RSR, a 10.5 benchmark was used, but, in fact, it is not expected to actually realize, in a company basis, 10.5. So its not the same as an – the 10.2., for example, in the D case, which is an allowed return and the rates are design to achieve that return.
>
> Q. [. . .] My question refers to the first part, the benchmark, the 10.5 benchmark. My question is: Did you play a role in establishing, the 10.5 benchmark [used for purposes of designing the RSR]? . . .
>
> A. Not directly . . . *See* tr. v. XVII at p. 4698, line 3 to p. 4699, line 12.

The main reason why the Company can simply not justify employing a 10.5% ROE to calculate the RSR is that it differs from what the Company proposed to be used to calculate the weighted average cost of capital to be applied to non-FAC riders included in their proposed ESP.[15] Instead, the Company has proposed a ROE of 10.2 percent, which they represent as the cost of equity to which the Company agreed in Case No. 11-351-EL-AIR and Case No. 11-352-EL-AIR and approved by the Commission in its Order in those dockets.[16]

In sum, without clear justification for a higher ROE than that previously and recently approved by the Commission, if the Commission approves a RSR, the ROE used to calculate the revenue requirement should be no higher than 10.2 percent, the ROE previously approved by the Commission.[17]

C. If the Commission Approves the RSR, It Should Direct AEP-Ohio to Use the Actual Revenue Gap for Each Plan Year Instead of Using the Same Averaged Annual Figure for Each of Three Years

Two AEP-Ohio witnesses presented information regarding the proposed annual RSR revenue requirements and it appears the information provided by each does not match.[18] Company witness Allen presents a three-year look in his exhibit. From his exhibit it appears that, using an annual target revenue of $929 million, for Plan Year ("PY") 2012/2013, the revenue requirement is estimated to be $44.1 million, for PY 2013/2014 the revenue requirement is estimated to be $102.9 million, and for PY

[15] *See* AEP Ex. 102, Direct Testimony of Renee V. Hawkins at p 4, lines 1-4.

[16] The Commission's order in Case Nos. 11-351-EL-AIR and 11-352-EL-AIR indicates that the approved ROE for Columbus Southern Power is 10.0 percent and for Ohio Power is 10.3 percent. *See* Opinion and Order, December 14, 2011, page 12.

[17] *See* Walmart Ex. 101 at p. 14. lines 12-18.

[18] *See id* at p. 10, lines 3-5.

2014/2015 the revenue requirement is estimated to be $137.2 million.[19] However, Company Witness Roush calculates his illustrative RSR using an annual revenue requirement of $94.7 million, the average of witness Allen's three PYs instead of calculating the RSR separately for each year.[20]

AEP-Ohio appears to be hedging its bets in its selection of data points to include in its RSR calculation methodology. Specifically, AEP-OHIO's RSR calculation methodology front loads a portion of their revenue gaps from PYs 2013/2014 and 2014/2015 into the first year of the ESP, when per-year rather than averaged annual projections are available.[21] This is not an equitable result, as it fails to reflect the actual revenue gap and would charge customers early for revenue gap revenues that may not materialize in the later PYs.[22]

Thus, if the Commission approves a RSR, the annual revenue requirement should be based on the actual revenue gap for each PY given the approved target revenue, not on the average of the three PYs.

* * * *

WHEREFORE, for all of the reasons discussed above, Walmart respectfully requests:

1. If the Commission approves a Generation Resource Rider ("GRR"), it should determine that the rider be bypassable by customers who take competitive supply service;

2. If the Commission approves a Retail Stability Rider ("RSR"), the ROE used to calculate the revenue requirement should be no higher than 10.2 percent.

[19] *See id* at lines 6-10; *see also* AEP Ex. 116 at WAA-6.

[20] *See* AEP Ex. 11, Direct Testimony of David Roush at DMR-3.

[21] Walmart Ex. 101 at p. 10, lines 15-18.

[22] *Id* at lines 18-20.

3. If the Commission approves an RSR, the Commission should direct AEP-Ohio to revise its methodology for calculating the annual revenue shortfall to be covered by RSR revenues and base the calculation on actual annual revenue gaps rather than on the average of multiple year revenue gaps as AEP-Ohio proposed.

Dated: June 29, 2012

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Initial Brief of Wal-Mart Stores East, LP and Sam's East, Inc. was served by sending a true and correct copy via electronic mail to all parties on this 29th day of June, 2012.

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