

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of Ohio Power)	
Company for Approval to Issue Phase-in-)	
Recovery Bonds to Recover Phase-In Costs and)	
Financing Costs, and Impose and Collect Phase-)	Case No. 12-1969-EL-ATS
in-Recovery Charges, and for Tariff and Bill)	
Format Approvals and for Commission Action.)	

In the Matter of the Application of Ohio Power)	
Company for Approval of a Change in Bill)	Case No. 12-2999-EL-UNC
Format.)	

**APPLICATION FOR REHEARING OF OHIO POWER COMPANY
AND REQUEST FOR EXPEDITED RULING**

Pursuant to Section 4903.10, Ohio Revised Code (“R.C.”), and Rule 4901-1-35, Ohio Administrative Code (“O.A.C.”), Ohio Power Company respectfully files this Application for Rehearing of the Commission’s March 20, 2013 Financing Order in the above-referenced proceeding. The sole issue raised in this Application for Rehearing is the Commission’s requirement that the 5 percent cap on ongoing financing costs be applied on a line-item basis rather than on an aggregate basis. This requirement is impracticable and may, for the reasons explained in the attached Memorandum in Support, adversely impact the costs of the bonds. Accordingly, the Commission should grant this Application for Rehearing and modify its March 20, 2013 Financing Order to permit the 5 percent cap on ongoing financing costs to be calculated and applied on an aggregate basis.

Given the impacts to customers that will result from delay in reaching a final decision in this proceeding, Ohio Power Company respectfully requests expedited ruling on this Application for Rehearing.

Respectfully submitted,

//s/ Steven T. Nourse

Steven T. Nourse
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 716-1608
Fax: (614) 716-2950
Email: stnourse@aep.com

Counsel for Ohio Power Company

MEMORANDUM IN SUPPORT

I. INTRODUCTION & BACKGROUND

On July 31, 2012, Ohio Power Company (“AEP Ohio” or “the Company”) filed an Application, pursuant to R.C. 4928.231, seeking authority to recover certain specified “phase-in costs” and “financing costs” through the issuance of bonds payable from the collection of phase-in-recovery (“PIR”) charges and requesting the Commission to issue a financing order (as defined in R.C. 4928.231). In an October 10, 2012 decision in AEP Ohio’s corporate separation proceeding, the Commission decided not to permit AEP Ohio to fund the defeasance costs of PCRBs with securitization proceeds. *See In the Matter of the Application of Ohio Power Company for Approval of an Amendment to its Corporate Separation Plan*, Case No. 12-1126-EL-UNC (“*Corporate Separation Order*”). In response to the *Corporate Separation Order* and pursuant to an Entry issued December 12, 2012, AEP Ohio submitted Supplemental Initial Comments and Revised Exhibits on January 4, 2013.

On March 30, 2013, the Commission issued its Financing Order, approving AEP Ohio’s Application with certain modifications. One such modification was to cap the collection of ongoing financing costs associated with the securitization. Although it recognized that the majority of the ongoing financing costs are fixed over the life of the PIR bonds, the Commission found that it was necessary to adopt a 5 percent adjustment factor (or cap) on all ongoing financing costs in order to “ensure that the ongoing expenses not be entirely uncapped and result in the potential that much, if not all, of the savings to customers * * * be jeopardized.” Financing Order at 31 (Mar. 30, 2013). Thus, the Commission adopted a 5 percent cap on ongoing financing costs “[i]n order to address the potentiality of an increase to * * * non-fixed

expenses beyond the estimated levels.” *Id.* The Commission further declined to apply the 5 percent cap to the aggregate amount of ongoing financing costs, as AEP Ohio proposed consistent with the FirstEnergy case, and instead directed that the cap be “applied on a line-item basis so that the amount for each of the ongoing Financing Costs should not exceed the estimated line-item amount by more than 5 percent.”

II. ARGUMENT

As discussed above, the Commission’s stated rationale for a cap on ongoing financing costs is to assure that customers receive savings benefits. The aggregate cap that AEP Ohio proposed achieves that goal without the need to cap expenses on a line-item basis. An aggregate cap allows for the savings to customers to be confirmed for the life of the securitization transaction while still enabling the special purpose entity that implements the securitization (the “SPE”) to react to circumstances that are out of its control, such as a change in Securities and Exchange Commission (“SEC”) rules or review procedures that could impose additional compliance costs on the SPE. The line-item cap ordered in the Financing Order, however, constrains the ability of the SPE to respond, for example, to regulatory or legal changes or actions by governmental regulators that are not within the Company’s or the SPE’s control, even though the increased costs necessitated by such changes would not cause overall costs to exceed the levels used to demonstrate benefits to customers in the Company’s Application.

For example, the Company estimated an annual ongoing expense amount for “Trustee/Trustee’s Counsel Fees & Expenses” of \$2,500 or \$20,000 over the maximum eight year life of the bonds.¹ (*See* Application at Ex. B; AEP Ohio Supplemental Initial Comments at Ex. B.) Application of a 5 percent line-item cap would limit an annual increase to only \$125, or

¹The maximum scheduled term of the bonds is 6.71 and not 8 years; the order allows for a legal final maturity date of 7.71 years after issuance, however, so an eight-year multiple is used here for simplicity of argument.

a \$1,000 increase over the maximum eight years that the bonds could be outstanding. Such a cap leaves virtually no room for variation of trustee/trustee's counsel costs in a given year. This is problematic because those costs (and others) reasonably could increase-for completely valid reasons for which recovery of those increased costs would be wholly appropriate. For example, the SEC must review filings made by public companies at least once during a three year period, which would include the SPE's SEC filings. To the extent there are trustee/trustee's counsel costs associated with that review, those costs may be higher than the estimate by more than the 5 percent line item cap due to the cost of meeting the obligations to the SEC and yet be entirely reasonable and worthy of recovery.

Moreover, the line-item cap is most restrictive on the items that will have the lowest impact on the ongoing financing costs. As an example, as discussed above, an annual increase of Trustee/Trustee's Counsel Fees & Expenses of any amount more than \$125 over the estimate that the Company provided in this proceeding would result in some of those expenses not being recoverable under the restrictive 5 percent line-item cap. More than 55 percent of the ongoing financing costs (*e.g.*, Servicer Fees, Administration Fees) are static throughout the life of the SPE. Consistent with Revised Exhibit B, an annual 5% across the board increase would equal approximately \$31,000 (assuming the Company is the Servicer), and therefore would, at most, allow the SPE to recover up to an aggregate of \$248,000 in increased costs over the maximum eight years during which the bonds may be outstanding. These incremental amounts are quite small when compared to the savings that the Company estimated in its Supplemental Initial Comments: nominal cost savings of approximately \$22 million and net present value savings of approximately \$28.8 million. Given the value of the bonds, the amount of other costs, and the amount of customer savings that are lost each week that a final order in this proceeding is

delayed, those amounts of potential additional expense are reasonable and are not excessive. Most importantly, allowing an aggregate cap on ongoing financing costs provides the SPE with the needed flexibility throughout the life of the bonds to manage changes in fees that are non-negotiable, such as rating agency fees, or to address regulatory actions that may require additional reviews periodically throughout the term of the bonds.

Further, a line-item cap could end up resulting in less savings to customers because it would create concerns about the SPE's ability to meet expenses. A line-item cap has not been a feature of precedent transactions, including the pending transaction for FirstEnergy.

Accordingly, any impact resulting from a line-item cap would need to be reviewed by the rating agencies and lead to an unfavorable comparison with past transactions which could negatively impact interest costs. Any required changes in the documents to address these concerns would in turn cause upfront costs to increase. Such potential negative costs, while uncertain, are likely to outweigh the minimal incremental costs the SPE would be allowed to recover under the Company's proposed aggregate cap versus the line-item cap proposed by the Commission.

Adopting a line-item cap also is inappropriate because doing so will require Ohio Power Company to find a mechanism to replenish the SPE's capital account. As the Company has previously explained, it is critical to the bonds' legal structure, and therefore the anticipated AAA ratings, that ongoing financing costs be paid by the SPE and not by AEP Ohio. (*See* AEP Ohio Initial Reply Comments at 3-4.) It is imperative that AEP Ohio and the SPE be legally separate and that AEP Ohio does not become required to assume the SPE's liabilities. Adopting a line-item cap may render that task impossible as the Company will be required to inject equity into the SPE to cover the SPE's reasonable and unavoidable costs.

Finally, adopting a line-item cap for ongoing financing costs is inconsistent with the Commission's financing order in the FirstEnergy utilities' securitization proceeding, which imposed a 5 percent aggregate cap on both up front and ongoing financing costs. *In the Matter of the Joint Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Issue Phase-In Recovery Bonds*, Case No. 12-1465-EL-ATS, Financing Order (Oct. 10, 2012); *see also In the Matter of the Joint Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Issue Phase-In Recovery Bonds*, Case No. 12-1465-EL-ATS, Entry on Rehearing (Dec. 19, 2012). In that regard, the Company also requests that the clarification granted to FirstEnergy in the Commission's January 9, 2013 *nunc pro tunc* order with respect to the five percent cap on upfront costs be adopted in this case.²

In light of the foregoing, the Company requests that the Commission act consistently and approve terms for AEP Ohio that are comparable to those it approved for the FirstEnergy utilities.

² Specifically, the Commission in its January 9, 2013 order clarified that the statement about upfront and ongoing costs "should not exceed five percent of the amounts reflected in ... the application be revised to read "should not exceed by more than five percent the amounts reflected in ... the application". The final sentence of the first complete paragraph on page 30 of the Order in this case contains the identical wording to the original FirstEnergy order and should be similarly clarified.

III. CONCLUSION

For the reasons set forth above, the Commission should grant this Application for Rehearing and modify its March 20, 2013 Financing Order to permit the 5 percent cap on ongoing financing costs to be calculated and applied on an aggregate basis. Because customers' potential savings are impacted as a result of any delay in reaching a final decision in this proceeding, AEP Ohio respectfully requests expedited ruling on this Application for Rehearing.

Respectfully submitted,

//s/ Steven T. Nourse

Steven T. Nourse
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 716-1608
Fax: (614) 716-2950
Email: stnourse@aep.com

Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served this 3rd day of April, 2013, to the following recipients by electronic mail:

jay.agranoff@puc.state.oh.us
williamwright@puc.state.oh.us
thomas.mcnamee@puc.state.oh.us
kern@occ.state.oh.us
dconway@porterwright.com
ktrafford@porterwright.com

//s/ Steven T. Nourse

Steven T. Nourse

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/3/2013 5:25:53 PM

in

Case No(s). 12-1969-EL-ATS, 12-2999-EL-UNC

Summary: App for Rehearing electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company