

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of Columbus :
Southern Power Company and:
Ohio Power Company for :
Authority to Recover Costs:
Associated with the : Case No. 05-376-EL-UNC
Ultimate Construction and :
Operation of an Integrated:
Gasification Combined :
Cycle Electric Generation :
Facility. :

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PROCEEDINGS

before Ms. Greta See, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at 10 a.m.
on Tuesday, January 20, 2015.

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APPEARANCES:

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American Electric Power Services Corp.
By Mr. James R. Bacha
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On behalf of the Applicants.

McNees, Wallace & Nurick, LLC
By Mr. Matthew Pritchard
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On behalf of the Industrial Energy Users
of Ohio.

Bruce E. Weston, Ohio Consumers' Counsel
By Ms. Maureen R. Grady
Mr. Joseph P. Serio
Mr. Michael Schuler,
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On behalf of the Residential Consumers of
Columbus Southern Power Company and Ohio
Power Company.

Boehm, Kurtz & Lowry
By Mr. Michael Kurtz
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On behalf of the Ohio Energy Group.

Carpenter Lipps & Leland LLP
By Ms. Rebecca Hussey
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On behalf of the Ohio Manufacturers'
Association Energy Group.

APPEARANCES: (Continued)

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By Mr. David C. Rinebolt
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On behalf of the Ohio Partners for
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Mike DeWine, Ohio Attorney General
By Mr. William L. Wright,
Section Chief
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Mr. Thomas W. McNamee,
Principal Attorney
180 East Broad Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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Tuesday Morning Session,
January 20, 2015.

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EXAMINER SEE: Let's go on the record.
Scheduled for hearing today at this time is Case No.
05-376-EL-UNC, entitled "In the Matter of the
Application of Columbus Southern Power Company and
Ohio Power Company for Authority to Recover Costs
Associated with the Construction and Operation of an
Integrated Gasification Combined Cycle Electric
Generation Facility.

My name is Greta See. Sarah Parrot and I
are the attorney examiners assigned to this case by
the Commission. At this time I would like to take
appearances of the parties. On behalf of the
company.

MR. CONWAY: Thank you, your Honor. On
behalf of AEP Ohio, Daniel R. Conway and Christen M.
Blend of the firm Porter, Wright, Morris & Arthur, 41
South High Street, Columbus, Ohio 43215 and also
James R. Bacha, AEP Service Corporation, 1 Riverside
Plaza, Columbus, Ohio 43215. Thank you.

MR. PRITCHARD: Matt Pritchard with the
law firm of McNees, Wallace & Nurick, 21 East State
Street, Columbus, Ohio 43215. I am here representing

the Industrial Energy Users of Ohio.

MS. GRADY: Thank you, your Honor. On behalf of the residential customers of the Ohio Power Company, Bruce J. Weston, Consumers' Counsel, by Maureen R. Grady, Michael Schuler, and Joseph P. Serio.

MR. KURTZ: Good morning, your Honor. Mike Kurtz for the Ohio Energy Group, Boehm, Kurtz and Lowery, 1510 URS Center, Cincinnati, Ohio.

MS. HUSSEY: Good morning, your Honor. On behalf of the Ohio Manufacturers' Association Energy Group, Rebecca Hussey of the law firm Carpenter Lipps & Leland, 280 North High Street, Suite 1300, Columbus, Ohio 43215.

MR. McNAMEE: Your Honor, before I put in my own appearance, Dave Rinebolt asked me to put in an appearance for him this morning. He is recovering from minor surgery and couldn't make it here this morning in person. He asked me to put in his appearance. The name is David Rinebolt, R-I-N-E-B-O-L-T, of Ohio Partners for Affordable Energy, P.O. Box 1793, Findlay, Ohio.

And I am Thomas W. McNamee, Assistant Attorney General, counsel for the staff of the Public Utilities Commission, the address 180 East Broad

1 Street, Columbus, Ohio.

2 EXAMINER SEE: Okay. Are there members
3 of the public present that would like to make a
4 statement?

5 Let the record reflect there are no
6 members of the public present that wish to make a
7 statement.

8 Mr. Conway.

9 MR. CONWAY: Thank you, your Honor. Your
10 Honor, as you may be aware -- as you are aware, the
11 parties did enter into settlement negotiations at the
12 time of the -- subsequent to the prehearing
13 conference for this proceeding. And as a result of
14 their deliberations, their discussions, did arrive at
15 a settlement agreement. The joint stipulation and
16 recommendation among the parties was filed on
17 December 22, 2014. And the parties seek the
18 Commission's adoption of the joint stipulation and
19 recommendation as the basis for resolving the
20 remaining issues in this proceeding.

21 As part of the process that remains, we
22 would propose presenting -- AEP Ohio would propose
23 presenting Gary O. Spitznogle as a witness to support
24 the reasonableness of the stipulation that's been
25 filed as well as its compliance with the Commission's

1 traditional three-part test.

2 The stipulation itself calls for the
3 admission of all the prefiled testimony by all the
4 parties in this case, and so in addition to
5 presenting Mr. Spitznogle to support the stipulation,
6 we would like to, in addition to marking the
7 stipulation at this point as an exhibit -- as a joint
8 exhibit, also for the company's part mark their
9 prefiled testimony as exhibits also.

10 EXAMINER SEE: Okay. Mr. Conway, before
11 we get to that, let me just start with one thing,
12 there is a motion to strike outstanding filed by the
13 company.

14 MR. CONWAY: Yes, that's true as well as
15 a motion for protective order.

16 EXAMINER SEE: And the motion for
17 protective order will be addressed along with the
18 order but as to the motion to strike.

19 MR. CONWAY: We'll withdraw the motion to
20 strike, your Honor.

21 EXAMINER SEE: Okay. Go ahead.

22 MR. CONWAY: Thank you, your Honor. At
23 this time AEP Ohio would mark the stipulation and
24 recommendation that has been filed on December 22,
25 2014, as Joint Exhibit No. 1 and would also then mark

1 its prefiled direct testimony as follows: As AEP
2 Exhibit 1, Mr. Spitznogle's prefiled testimony; as
3 AEP Ohio Exhibit No. 2, the direct testimony of
4 Daniel M. Duellman; as prefiled -- excuse me, as AEP
5 Ohio Exhibit No. 3, the direct testimony of Heather
6 M. Whitney; and as AEP Ohio Exhibit No. 4, the
7 prefiled direct testimony of Andrea E. Moore. And
8 turn it over to other parties who wish to present
9 their testimony at this time.

10 (EXHIBITS MARKED FOR IDENTIFICATION.)

11 EXAMINER SEE: Mr. Pritchard.

12 MR. PRITCHARD: Yes, your Honor. I
13 apologize for not bringing a copy of the prefiled
14 testimony with me, but we would move to -- for the
15 admission -- I thought we were just going to
16 stipulate to the admission of all the prefiled
17 testimony rather than mark them as exhibits, but we
18 would request, your Honor, to admit the prefiled
19 testimony filed on behalf of IEU-Ohio in this
20 proceeding.

21 Would you like me to mark the two
22 testimonies as exhibits?

23 EXAMINER SEE: Yes.

24 MR. PRITCHARD: I would like to mark as
25 IEU-Ohio Exhibit 1 the prefiled testimony of

1 Mr. Bowser and as IEU Exhibit 2 the prefiled
2 testimony of Kevin M. Murray.

3 MR. CONWAY: And, your Honor, if I might
4 interject, there were actually two pieces of
5 testimony filed on behalf of Kevin Murray. One was a
6 public version, and the other is a confidential
7 version or a version that has confidential
8 information in it.

9 MR. PRITCHARD: Thanks for that
10 clarification. Can I mark the public version as 2A
11 and the confidential version as 2B?

12 EXAMINER SEE: Okay.

13 (EXHIBITS MARKED FOR IDENTIFICATION.)

14 MR. CONWAY: And at this point, your
15 Honor, if I might explain what our -- what our
16 position and purpose is, IEU had, when it prefiled
17 testimony, the confidential version of the testimony,
18 had appropriately filed a motion for a protective
19 order of all the information that it believed and the
20 company had taken the position is confidential.

21 And then after reviewing it, the company
22 concluded that the amount of information that would
23 be necessary to keep confidential was substantially
24 less than what IEU had very professionally and
25 conservatively identified. And so we filed our own

1 motion for protective order, and the gist of it is
2 that the company would request only that Exhibit
3 KMM-2 to Mr. Murray's testimony -- the confidential
4 version of his testimony be kept confidential going
5 forward.

6 EXAMINER SEE: Thank you.

7 Ms. Grady.

8 MS. GRADY: Yes, thank you, your Honor.
9 OCC would mark for identification purposes at this
10 time the testimony of Scott Norwood filed November 6,
11 2014, and we did bring two copies of that, one for
12 the Bench and one for the court reporter.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 EXAMINER SEE: Okay. Thank you.

15 Mr. Kurtz.

16 MR. KURTZ: Thank you, your Honor. We
17 would ask that the testimony of Lane Kollen be marked
18 as OEG Exhibit 1. I did not bring a copy with me.

19 EXAMINER SEE: The Bench has copies, and
20 they were docketed so.

21 MR. KURTZ: Thank you, your Honor.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 EXAMINER SEE: Okay. As part of the
24 stipulation, I note that the parties agreed to the
25 admission of those, but I will still ask are there

any objections to the admission of AEP Exhibits 1 through 4, IEU Exhibits 1 and 2 being 2A and 2B, OCC Exhibit 1 -- I'm sorry, OEG Exhibit 1?

MR. McNAMEE: No objection.

MR. CONWAY: No, your Honor.

MR. PRITCHARD: No, your Honor.

EXAMINER SEE: With that all exhibits, AEP Exhibits 1 through 4, IEU Exhibits 1 and 2 being 2A and 2B, OCC Exhibit 1, and OEG Exhibit 1 are admitted into the record.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MR. CONWAY: And, your Honor, just to put a bow on that package --

EXAMINER SEE: Put a?

MR. CONWAY: Just to put a bow on that package, are you granting the motion for protective order also with regard --

EXAMINER SEE: Not at this time. I will be addressing the motion for protective order as part of the opinion and order to be issued in this proceeding.

Okay. Mr. Conway.

MR. CONWAY: Thank you, your Honor. At this time AEP Ohio calls Mr. Spitznogle to the stand.

(Witness sworn.)

1 EXAMINER SEE: Thank you. Have a seat.

2 - - -

3 GARY O. SPITZNOGLE

4 being first duly sworn, as prescribed by law, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Conway:

8 Q. Good morning, Mr. Spitznogle. Could you
9 please state your full name and your position with
10 AEP Ohio and briefly describe your responsibilities
11 with AEP Ohio.

12 A. My name is Gary Owen Spitznogle. I am
13 the vice president of regulatory and finance for AEP
14 Ohio. I'm responsible for the regulatory operations
15 and financial performance of AEP Ohio.

16 Q. And my understanding is could you
17 correct -- or could you confirm for me that your
18 background, educational experience, are listed in
19 further detail as part of your prefiled direct
20 testimony which has been marked as AEP Ohio Exhibit
21 No. 1?

22 A. Yes, that is correct.

23 Q. Mr. Spitznogle, did you have the
24 opportunity to review and become familiar with Joint
25 Exhibit 1, the stipulation and recommendation that's

1 been marked as Joint Exhibit No. 1?

2 A. Yes.

3 Q. And you are familiar with that document?

4 A. Yes, I am.

5 Q. In fact, you participated in the
6 negotiations of that settlement agreement that's
7 reflected in the stipulation and recommendation,
8 correct?

9 A. That is correct.

10 Q. And in your opinion does that
11 stipulation, that settlement agreement, reach a
12 reasonable outcome for this proceeding; and does it
13 provide a reasonable basis for resolving the
14 remaining issues in this case?

15 A. Yes, I do.

16 Q. And do you recommend that the Commission
17 adopt that stipulation, Joint Exhibit 1, as a basis
18 for resolving the remaining issues in this case?

19 A. Yes.

20 Q. And are you also familiar with the
21 Commission's three-part test that is used to evaluate
22 stipulations that are presented to it?

23 A. I am, yes.

24 Q. And with respect to the first part of
25 that test, is the stipulation, Joint Exhibit 1, is it

1 the product of serious bargaining among AEP Ohio, the
2 staff, and the remaining intervenors in this case who
3 signed it?

4 A. Yes, it was. In fact, there were
5 numerous meetings held between all parties. All
6 parties were involved. We had discussions between
7 November 21 and December 22. I was involved in those
8 discussions, and I can attest they were very
9 rigorously discussed.

10 Q. And in your opinion were -- are the
11 representatives of the parties who participated in
12 the settlement discussions experienced,
13 knowledgeable, and capable?

14 A. Yes.

15 Q. And is support for the stipulation across
16 the board, is it unanimous among the parties that
17 have remained active in this case?

18 A. Yes, it was. It was. All the active
19 parties did agree to the stipulation and there were
20 no parties who opposed it.

21 Q. And with regard to parties that had
22 previously participated in the proceeding such as
23 FirstEnergy Solutions and AMP-Ohio, did those two
24 parties actually withdraw from the proceeding?

25 A. That's right.

1 Q. And Calpine and Green Mountain Energy,
2 who had previously participated in the proceeding, is
3 it your understanding they are no longer in business?

4 A. That is right.

5 Q. And is it your understanding or your --
6 to your knowledge Constellation and the union, the
7 International Brotherhood of Electrical Workers, did
8 not choose to actively participate in this case?

9 A. That is right.

10 Q. Okay. Now, with regard to the second
11 part of that three-part test that the Commission uses
12 to evaluate settlement agreements, does the
13 stipulation in your opinion provide benefits to
14 ratepayers and serve the public interest?

15 A. Yes, it does.

16 Q. And could you describe in what ways that
17 you believe that ratepayers are benefited and the
18 public interest is served by the stipulation.

19 A. I believe there is at least a few. A
20 first, it was about a \$24 million collection by AEP
21 Ohio, and the stipulation agrees to return a large
22 portion of that, or \$13 million, so I think the
23 ratepayers get a lot of benefit from that.

24 Second, because we were able to come to
25 an agreement on it, the amount returned to the

1 ratepayers was larger -- or was quicker than it would
2 be if we had gone into litigation. And also I
3 believe it's potentially larger than it would have
4 been had we litigated the process.

5 Q. And that last point you made reflects the
6 fact that the company's position was that
7 substantially less than \$13 million should be
8 returned while on the other hand a number of the
9 intervenors' position was that substantially more
10 than 13 million should be returned?

11 A. That's right. Our position was that
12 about \$4.7 million to be returned so this settled it
13 at 13 million. And also I believe it finally
14 provided some finality to a complex set of issues.
15 So that was a benefit to the public as well.

16 Q. Thank you, Mr. Spitznogle. Now, turning
17 to the third criterion for the test that the
18 Commission uses, in your opinion does the stipulation
19 violate any important regulatory principle or
20 practice?

21 A. No, it does not.

22 Q. And in your opinion does it on the other
23 hand advance the regulatory objective of finality and
24 certainty by resolving a substantial set of issues
25 that the Commission had up until this point faced?

1 A. Yes, I believe it does.

2 Q. So if you sum it all up, in your opinion
3 does the stipulation address the result -- address
4 and resolve the outstanding issues in this proceeding
5 in a manner that benefits all participants?

6 A. Yes, it does.

7 MR. CONWAY: Thank you, Mr. Spitznogle.

8 Your Honor, I have no further direct
9 exam. I would move for the admission of Joint
10 Exhibit No. 1 and AEP Ohio Exhibits 1 through 4.
11 Thank you.

12 EXAMINER SEE: Any cross-examination for
13 this witness, Mr. Pritchard?

14 MR. PRITCHARD: None, your Honor.

15 EXAMINER SEE: Ms. Grady?

16 MS. GRADY: No, your Honor.

17 EXAMINER SEE: Mr. Kurtz?

18 MR. KURTZ: No, your Honor.

19 EXAMINER SEE: Ms. Hussey?

20 MS. HUSSEY: No, your Honor.

21 EXAMINER SEE: Mr. McNamee?

22 MR. McNAMEE: No, thank you, your Honor.

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EXAMINATION

By Examiner See:

Q. Mr. Spitznogle, I have one clarifying question.

A. Okay.

Q. All current parties, all parties that are still existing legal entities, were invited to participate in the negotiation of the resolution of this issue?

A. That's right, yes.

EXAMINER SEE: Thank you very much, Mr. Spitznogle. You may step down.

Are there any objections to the admission of Joint Exhibit 1, the joint stipulation and recommendation?

MR. McNAMEE: No objection, your Honor.

MR. PRITCHARD: None, your Honor.

EXAMINER SEE: Hearing none, Joint Exhibit 1 is admitted into the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: Is there anything further?

MR. McNAMEE: Nothing.

EXAMINER SEE: So defiant.

With that the hearing is adjourned.

(Thereupon, the hearing was adjourned at 10:22 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, January 20,
2015, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5991)

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This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 05-0376-EL-UNC

Summary: Transcript in the matter of the Columbus Southern Power Company and Ohio Power Company hearing held on 01/20/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.