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June 28, 2000

Mr. Paul Duffy  
Legal Director  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215-3793

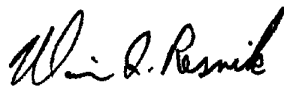
Marvin I. Resnik  
Assistant General Counsel -  
Regulatory Services  
(614) 223-1606

RE: 1999 Annual Reports  
Case No. 00-264-AU-UNC

Dear Mr. Duffy:

Attached please find a copy of the Application for Rehearing of Columbus Southern Power Company (CSP) and Ohio Power Company (OPCo) in the above-referenced case. As you are aware, the Commission's June 22, 2000 Entry in this case denied confidential treatment of certain pages of CSP's and OPCo's Annual Reports and directed the Secretary to make those pages available to the public seven days after the date of its Entry (i.e. June 29, 2000). Given this effective date, CSP and OPCo understand that, as provided in R.C. 4903.10, the filing of their Application for Rehearing stays the directive to make the confidential pages public pending disposition of this matter. In any event, to insure that the confidential information does not become public before our Application for Rehearing is considered, please inform the Commission's Secretary that the confidential pages of CSP's and OPCo's Annual Report, which were submitted to the PUCO's Fiscal Division under seal, are not to be made public until there is a final determination by the Commission on this matter. If you have any questions, please do not hesitate to contact me at 223-1606. Thank you for your cooperation in this matter.

Sincerely,



Marvin I. Resnik  
Counsel for  
Columbus Southern Power Company and  
Ohio Power Company

/bas

cc: Docketing Division

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Technician Anne M. Miller Date Processed June 29, 2000

AEP: America's Energy Partner<sup>SM</sup>

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Filing of Annual	)	
Reports for Calendar Year 1999 by	)	Case No. 00-264-AU-UNC
Regulated Public Utilities.	)	

**APPLICATION FOR REHEARING OF  
COLUMBUS SOUTHERN POWER COMPANY  
AND OHIO POWER COMPANY**

Pursuant to Section 4903.10, Ohio Revised Code, Columbus Southern Power Company (CSP) and Ohio Power Company (OPCo) hereby request rehearing of the June 22, 2000 Entry of the Public Utilities Commission of Ohio (PUCO or Commission) in the above-referenced case, which denied confidential treatment for certain information that was submitted under seal to the PUCO's Fiscal Division as part of CSP's and OPCo's Annual Reports to the Commission, and directed the secretary of the Commission make the reports available to the public seven days after the date of its Entry.<sup>1</sup> In support of this Application, CSP and OPCo state as follows:

1. On May 1, 2000, under cover of a letter signed by their counsel<sup>2</sup>, CSP and OPCo submitted to the PUCO's Fiscal Division as their Annual Reports a) copies of the

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<sup>1</sup> Given the effective date of the portion of the Commission's Entry making the confidential Information public (i.e. June 29, 2000), CSP and OPCo understand that, as provided by Section 4903.10, Ohio Revised Code, the filing of this Application for Rehearing stays the Commission's directive pending disposition of this matter.

<sup>2</sup> The first three lines of the first paragraph on page two of this letter were inadvertently left off. As shown on the draft copy of the May 1, 2000 letter, which is included as Attachment A, CSP and OPCo intended to indicate that they would file a request for protective order if their counsel were notified that anyone had sought access to, or requested a copy of, the Confidential Information. To the extent necessary, CSP and OPCo request that the Commission consider this Application for Rehearing a motion for protective order.

public versions of their Federal Energy Regulatory Commission (FERC) Form 1 for 1999, and b) in a separate, sealed envelope, copies of the following pages from their 1999 FERC Form 1s, which CSP and OPCo represented had been redacted from the public versions because those pages contain information that is confidential, proprietary, competitively sensitive and/or a trade secret (hereinafter referred to as Confidential Information): (i) Pages 310 and 311, entitled Sales for Resale (FERC Account 447), consisting of 57 individual pages (both companies) which contain a listing of 1999 sales for resale to individual customers; (ii) Pages 326 and 327, consisting of 40 individual pages (both companies) entitled Purchased Power (FERC Account 555), which contain a listing of 1999 power purchases from individual sellers; and (iii) Pages 402, 403, 406 and 407, consisting of 14 individual pages (both companies) entitled Steam/Hydroelectric Generating Plant Statistics (Large Plants), which contain a detailed listing of 1999 production statistics for CSP's and OPCo's generating plants. The public versions of the Annual Reports submitted to the PUCO's Fiscal Division by CSP and OPCo do contain total Account 447 and Account 555 information, as well as total 1999 production expenses.

2. By Entry dated June 22, 2000, the Commission denied confidential treatment for the pages submitted under seal by CSP and OPCo and directed its Secretary to make the Confidential Information available to the public as of June 29, 2000. In its Entry, the Commission stated that "[i]f a change in circumstances has occurred to justify keeping such information confidential. . . , then companies should request modifications to future year annual report information by filing their proposal, prior to October 30, 2000, in Case No. 00-264-AU-UNC. (Entry, p. 4).

3. While CSP and OPCo appreciate the Commission's suggestion for dealing with information of a confidential nature in the future, the fact remains that the Confidential Information they submitted under seal currently has both competitive and independent economic value, in part, because of changed circumstances that have evolved over the past year. To begin with, a retail restructuring statute became law in Ohio last summer and restructuring in the rest of the country is proceeding at an accelerated pace, both within and beyond the service territories of other AEP operating companies<sup>3</sup>. In addition, the wholesale market is becoming more and more competitive and the amount of electric energy traded by AEP is growing significantly.

4. The Confidential Information submitted to the PUCO's Fiscal Division as part of CSP's and OPCo's Annual Report would be useful to competitors of CSP, OPCo and other AEP operating companies. Disclosure of the Confidential Information would unfairly allow competitors to analyze those companies' operations, and make pricing decisions or determine market entry, based, in part, on the Confidential Information. Disclosure of the Confidential Information would cause substantial detriment to the AEP operating companies and their customers.

5. Pages 310-311 of the Confidential Information provide the name of the purchasing entity, the demand charge component of the sale (if any), the number of megawatt hours sold, the energy charges of the sale as well as other charges collected on a customer-specific basis. Similarly, pages 326 and 327 provide, on a customer-by-

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<sup>3</sup> For purposes of this filing, the other AEP companies are Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, and Wheeling Power Company.

customer basis, information such as the entity from which CSP and OPCo<sup>4</sup> purchased the power, the megawatt hours purchased and the energy charges. The customer-specific data on pages 310, 311, 326 and 327 reveal to whom and from whom CSP and OPCo are selling and buying, as well as the nature of the transactions. This same type of information about retail customers is treated confidentially by AEP operating companies. Indeed, retail customers expect, and often request, confidential treatment for this type of information. In addition, this type of information, in conjunction with other information that is publicly available (such as from filings with the East Central Area Reliability Council) may permit interested parties to ascertain the price of individual transactions—precisely the type of information that may be of use to competitors in the wholesale market. The very detailed production information about the elements necessary to produce electricity at CSP's and OPCo's plants and the unit pricing derived therefrom contained on pages 402, 403, 406 and 407 is also the type of information of use to competitors that sell or buy electric power on the wholesale market.

6. The Confidential Information contained in the portion of CSP's and OPCo's Annual Reports that were submitted to the PUCO's Fiscal Division under seal is not readily available or ascertainable by competitors through normal or proper means. Each AEP operating company has requested, and the FERC is currently treating, the non-redacted version of its FERC Form 1 as confidential. Such confidential treatment

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<sup>4</sup> Sales and purchases of energy are made by American Electric Power Service Corporation (AEPSC) on behalf of the AEP operating companies. These sales and purchases are shared and reported on a Member Load Ratio basis.

has been requested from other state regulatory bodies for similar information. As of the date of the filing of this pleading, one state has granted confidential treatment to comparable information; none have made public any similar confidential information<sup>5</sup>. CSP and OPCo will notify the Commission within five business days if any comparable information becomes public as a result of an order of the FERC or other state regulatory body.

7. CSP, OPCo and the other AEP operating companies have taken reasonable and necessary steps to limit access to the Confidential Information contained in their FERC Form 1s and state Annual Reports to those employees who need to know the information. The files containing the Confidential Information are maintained separately from general records and access to those files is restricted.

8. The foregoing facts, besides making an independent case for confidential treatment, also demonstrate that the Confidential Information qualifies as a trade secret, under Section 1333.61, Ohio Revised Code, that is exempt from disclosure as a public record under state law. The Confidential Information constitutes a trade secret under Section 1333.61, Ohio Revised Code, because it is "business information" that "derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use" and "is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." The Supreme Court of Ohio has held that trade secrets are exempt from disclosure as public records under

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<sup>5</sup> Kentucky Power Company is preparing to file an appeal of a determination of the Public Service Commission of Kentucky that would otherwise make similar information public. Indiana Michigan Power Company's request for confidential treatment in Michigan is "on appeal" to the Director of the Department of Consumer Industry and Services.

Section 149.43(A)(1)(p), Ohio Revised Code. The State ex rel. Besser et al. v. Ohio State University et al., 87 Ohio St. 3d 535, 721 N.E. 2d 1044, 2000 Ohio LEXIS

54(2000). According to the Court:

A contrary holding would afford no protection for an entity's trade secrets that are created or come into the possession of an Ohio public office and would render the remedies in R.C. 1333.61 through 1333.69 meaningless when a request for these records is made under R.C. 149.43.

Id. at 540. Consequently, the Commission should preserve the secrecy of the Confidential Information, per CSP's and OPCo's request, by granting a protective order, which is one means of preserving secrecy authorized by Section 1333.65, Ohio Revised Code.

WHEREFORE, for the reasons advanced above, CSP and OPCo respectfully request that the Commission:

1. grant this Application for Rehearing;
2. protect Pages 310, 311, 326, 327, 402, 403, 406 and 407 of CSP's and OPCo's Annual Reports, which were submitted under seal to the PUCO's Fiscal Division, from disclosure;
3. limit access to the Confidential Information to those Commission employees with a need to review that information; and

4. grant all other relief to which CSP and OPCo may be entitled.

Respectfully submitted,



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Attorneys for Columbus Southern Power  
Company and Ohio Power Company



Attachment A

(614) 223-1606

May 1, 2000

Fiscal Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, OH 43215-3793

Dear Gentlemen:

Pursuant to the February 17 and March 7, 2000 Entries in Case No. 00-264-AU-UNC, enclosed herewith please find a copy of the public versions of Columbus Southern Power Company's (CSP) and Ohio Power Company's (OPCo) Federal Energy Regulatory Commission (FERC) Form 1 for 1999. As in the case of the public versions on file with the FERC, information that is confidential, proprietary, competitively sensitive and/or a trade secret (hereinafter referred to as "Confidential Information") has been redacted from these public versions. In particular, the following Confidential Information has been redacted from these public versions:

- Pages 310-311 Sales for Resale (Account 447)
- Pages 326-327 Purchased Power (Account 555)
- Pages 402-403 Steam-Electric Generating Plant Statistics (Large Plants)
- Pages 406-407 Hydroelectric Generating Plant Statistics (Large Plants) - OPCo only

With this letter, CSP and OPCo are providing the pages of their individual FERC Form 1 that contains Confidential Information under seal in a separate envelope marked to the Fiscal Division's attention. These pages are being provided under the condition that they be preliminarily treated as Confidential Information, and thus exempt from public disclosure, and that the Confidential Information be handled under the Commission's traditional safeguards for Confidential Information.

Fiscal Division-PUCO  
May 1, 2000  
Page 2

If anyone requests access to or a copy of this Confidential Information, please notify me immediately and I will arrange to retrieve the Confidential Information. Within ten (10) business days of such notification and retrieval, CSP or OPCo or both will then seek a Commission order protecting the Confidential Information.

Acceptance of this transmittal signifies that the Fiscal Division agrees to the procedures outlined herein and will treat the nonpublic portions of CSP's and OPCo's FERC Form 1 as Confidential Information exempt from public disclosure and will notify me if anyone requests access to or a copy of that Confidential Information. Any questions regarding this matter may be directed to me at (614) 223-1606.

Very truly yours,

Marvin I. Resnik  
Counsel for Columbus Southern Power Company  
and Ohio Power Company

MIR:mjl

Enclosures