**Before**

**The Public Utilities Commission of Ohio**

In the Matter of the Application of )

Ohio Power Company and Columbus ) Case No. 10-2376-EL-UNC

Southern Power Company for Authority )

to Merge and Related Approvals. )

In the Matter of the Application of )

Columbus Southern Power Company and )

Ohio Power Company for Authority to ) Case No. 11-346-EL-SSO

Establish a Standard Service Offer ) Case No. 11-348-EL-SSO

Pursuant to §4928.143, Ohio Rev. Code, )

in the Form of an Electric Security Plan. )

In the Matter of the Application of )

Columbus Southern Power Company and ) Case No. 11-349-EL-AAM

Ohio Power Company for Approval of ) Case No. 11-350-EL-AAM

Certain Accounting Authority. )

In the Matter of the Application of )

Columbus Southern Power Company to ) Case No. 10-343-EL-ATA

Amend its Emergency Curtailment )

Service Riders. )

In the Matter of the Application of )

Ohio Power Company to Amend its ) Case No. 10-344-EL-ATA

Emergency Curtailment Service Riders. )

In the Matter of the Commission Review )

Of the Capacity Charges of Ohio Power ) Case No. 10-2929-EL-UNC

Company and Columbus Southern )

Power Company. )

In the Matter of the Application of )

Columbus Southern Power Company ) Case No. 11-4920-EL-RDR

for Approval of a Mechanism to Recover )

Deferred Fuel Costs Ordered Under )

Ohio Revised Code 4928.144. )

In the Matter of the Application of )

Ohio Power Company for Approval of a )

Mechanism to Recover Deferred Fuel ) Case No. 11-4921-EL-RDR

Costs Ordered Under Ohio Revised )

Code 4928.144. )

**Response by Industrial Energy Users-Ohio to Ohio Power COMPANY’S Reply to Tariff Objections**

1. **INTRODUCTION**

On February 28, 2012, Ohio Power Company (“OP”) filed compliance tariffs in response to the February 23, 2012 Entry on Rehearing of the Public Utilities Commission of Ohio (“Commission”) that rejected a Stipulation and Recommendation (“Stipulation”) and ordered OP to reinstate the terms and conditions of the prior electric security plan (“ESP”) and capacity charges. In response to the compliance filing, Industrial Energy Users-Ohio (“IEU-Ohio”) and others filed objections because OP attempted to introduce rates and terms that are inconsistent with the Commission’s orders.

In its reply to the objections, OP makes several factual and legal claims that are incorrect.[[1]](#footnote-1) These incorrect claims seek to portray OP’s compliance tariff filing as if OP had not materially violated the letter and spirit of the orders contained in the Entry on Rehearing. Because OP’s claims should not be accepted or delay the effect of the Commission’s decision to reject the Stipulation, IEU-Ohio again urges the Commission to direct OP to bill customers for rates in effect under the prior ESP (with the adjustments for fuel required by Section 4928.143, Revised Code) and to reject OP’s unlawful and unreasonable efforts to maintain the two-tiered capacity pricing scheme (“Pricing Scheme”).

1. **ARGUMENTS**
2. **The Merged Fuel Adjustment Clause (“FAC”) and Transmission Cost Recovery Rider (“TCRR”) Violate the Terms of the Commission’s Entry on Rehearing**

OP argues that it is permitted by the Entry on Rehearing to maintain a merged FAC and TCRR. It supports this argument by incorrectly asserting that the FAC was approved prior to the Commission’s adoption of the Stipulation and therefore was unaffected by the Commission’s Entry on Rehearing[[2]](#footnote-2) and that the completion of the merger makes it “impractical”[[3]](#footnote-3) to submit FAC and TCRR rates by zone. Neither assertion has merit.

The claims regarding the FAC approval are factually wrong, ignore the terms on which the Commission approved the merged FAC rates, and are inconsistent with the Commission’s Entry on Rehearing and the requirements of Section 4928.143, Revised Code. The merged FAC was approved on December 14, 2011, not December 1, 2011 as OP claims. Further, the Finding and Order approving the merged FAC rate was predicated on the Commission’s decision approving the Stipulation,[[4]](#footnote-4) also issued on December 14, 2011.[[5]](#footnote-5) In its Entry on Rehearing, moreover, the Commission rejected the Stipulation and ordered OP to file tariffs “to continue the provisions, terms, and conditions of its previous electric security plan, including but not limited to the base generation rates as approved in ESP I, along with the current uncapped fuel costs and the environmental carry [*sic*] cost rider set at the 2011 level.”[[6]](#footnote-6) Notably, the Commission made no provision for the FAC or any other rate to be filed on a merged basis. Instead, the Commission ordered that OP file tariffs to return rates to the prior levels with current uncapped fuel costs. The return to the prior ESP rates that the Commission ordered is required by the terms of Section 4928.143, Revised Code. Thus, there is no factual or legal basis to assert that the FAC should be continued on a merged basis.

The assertion that it is “impractical” to file either the FAC or the TCRR on a Columbus Southern Power Company (“CSP”) and OP zone-specific basis is also incorrect. OP had no difficulty in instituting a zone-specific basis for other provisions of the prior ESP. There is no reason to believe that it cannot establish similar zone-specific rates for the FAC and the TCRR.

Additionally, the “impracticality” of complying with the Commission’s order provides no legal basis for assigning revenue responsibilities without reference to the customers who are responsible for those costs. The Commission’s recent experience with OP’s attempt to reassign rate responsibilities without some rational and understandable basis has produced the fine state of affairs in which it, OP’s customers, and the Commission find themselves.

Finally, OP asserts that the merger provides some basis for these illegal tariff filings.[[7]](#footnote-7) If it provided some legal basis for ignoring a Commission order, that basis is now gone. The OP-CSP merger authority was part of the Stipulation which has been rejected.[[8]](#footnote-8) Beyond the lack of authority supporting the merged rates, however, OP ignores a more fundamental problem: regardless of whether the merger can or should be unwound at this point, it does not provide a legal basis for ignoring the Commission’s order to unwind the rates as required by Section 4928.143(C), Revised Code.

1. **OP Incorrectly States that the Commission Authorized the Phase-in Recovery Rider (“PIRR”) in *ESP I***

OP’s assertion that the Commission authorized the PIRR in its Opinion and Order in *ESP I* also is incorrect. As all of the parties that have filed objections to OP’s inclusion of the PIRR in its compliance tariffs have noted and as demonstrated by the Stipulation itself, OP recognized it lacked the requisite authority and sought the authorization it needed to recover the outstanding deferrals.[[9]](#footnote-9) OP’s assertion that the *ESP I* Opinion and Order provided it authorization for establishing the PIRR is simply wrong.

The assertion is also not credible in light of the statements OP made in the Application it filed to establish the PIRR. In the Application, OP explained that it was “submit[ting] this application to seek approval of a mechanism to recover the fuel costs ordered to be deferred for later collection by the Commission as part of the phase-in of rate changes ordered by the Commission” in *ESP I*.[[10]](#footnote-10) Further, the Application stated:

Based on the reasons stated above, the Companies request the creation of a recovery mechanism to ensure recovery of the their accumulated deferred fuel costs, including carrying costs, that were the direct result of the Commission's phase-in decision in the *Initial ESP cases*. The Companies submit as Exhibit A their nonbypassable Phase-In Recovery Rider (PIRR) to be effective with the first billing cycle of January 2012.[[11]](#footnote-11)

Obviously, OP was aware (at least as recently as September 1, 2011 when it filed the Application) that the Opinion and Order in *ESP I* did not authorize a recovery mechanism.

Further, OP tries to hide the fact that the PIRR has not yet been authorized in its Reply to the objections. OP states that “the issue is whether AEP-Ohio’s proposed tariffs, including the PIRR, appropriately implement the prior rate plan—not whether a prior order exists (besides the December 14 Opinion and Order) which authorizes the PIRR tariffs filed by AEP Ohio on February 28.”[[12]](#footnote-12) OP’s argument is nonsensical: there was no PIRR in the prior rate plan, only the authority to create the deferral balances. OP’s cat-and-mouse game of trying to reframe simple and clear directives to achieve unreasonable and unlawful results should be rejected.

In conclusion, OP was well aware that it needed authorization outside of the *ESP I* Opinion and Order to implement a recovery mechanism to begin amortizing the deferral the Commission authorized in *ESP I*. OP itself filed an Application seeking this result and requested that the Commission “create” the recovery mechanism.[[13]](#footnote-13) Therefore, OP’s arguments are without merit and must be rejected.

1. **OP’s Refusal to Remove the Detailed Implementation Plan (“DIP”) Represents a Continuing Violation of the Commission’s Entry on Rehearing**

OP further asserts that IEU-Ohio misstates the status of the proceeding when IEU-Ohio objected to OP’s failure to address the capacity issues in its compliance filing.[[14]](#footnote-14) As a justification for ignoring the Commission’s order, OP asserts that Section 4928.143(C), Revised Code, the statutory provision requiring it to implement the prior ESP rates, provides no guidance as to what it is required to do to comply with the Commission’s orders in regard to the Pricing Scheme and that it sought clarification of the Commission’s Entry on Rehearing.[[15]](#footnote-15)

The Commission need not decide any grand jurisdictional issue regarding the scope of Section 4928.143, Revised Code, to decide whether OP should have removed the vestiges of the Pricing Scheme from its state filings.[[16]](#footnote-16) The Pricing Scheme was a part of the Stipulation, and OP filed the DIP to implement the Pricing Scheme. The Stipulation, however, has been rejected and with it the authorization for the Pricing Scheme.[[17]](#footnote-17) The DIP, however, remains on file with the Commission in its rejected form,[[18]](#footnote-18) and OP has indicated that it will continue to apply the DIP until the Commission rejects it a third time.[[19]](#footnote-19)

Moreover, OP has failed to revise its state filings under the unsupportable claim that it needs “clarification.”[[20]](#footnote-20) This need for clarification stands in stark contrast to representations AEP has made to federal authorities concerning the status of the Pricing Scheme. As previously noted, American Electric Power Service Corporation (“AEPSC”) has represented that OP is required to return capacity pricing to its previously approved levels.[[21]](#footnote-21) OP’s parent, American Electric Power, has also been more forthcoming in a recent filing with the Securities and Exchange Commission (“SEC”). The SEC filing states, “Currently, there are no limitations on the obligation to provide below cost capacity rate pricing to alternative suppliers to support customers switching in Ohio.”[[22]](#footnote-22) The suggestion that OP needs clarification before it brings its state filings into compliance with the Commission’s Entry on Rehearing is not credible.

1. **Conclusion**

As previously stated, OP’s February 28, 2012 tariff filing fails to comport with the Commission’s Entry on Rehearing. The failure of OP to comply, however, should not put customers at risk. To avoid the continuing rate shock of the Stipulation ESP and Pricing Scheme, OP should be directed to bill customers at the legal rates. The Commission also should order that rates currently billed are subject to reconciliation. Additionally, the Commission should direct that OP take all necessary actions to assure that capacity is priced in compliance with the terms of the Entry on Rehearing. By taking these actions, the Commission can assure that OP’s customers will not continue to face the excessive and unreasonable rates established through the Stipulation or the incomplete and unlawful rates proposed in the February 28, 2012 compliance filing.

Respectfully Submitted,

/s/ Matthew R. Pritchard

Samuel C. Randazzo (Counsel of Record) Frank P. Darr

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

mpritchard@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

**Certificate of Service**

I hereby certify that a copy of the foregoing *Response by Industrial Energy Users-Ohio to the Ohio Power Reply to Tariff Objections* was served upon the following parties of record this 7th day of March 2012, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Matthew R. Pritchard

Matthew R. Pritchard

Matthew J. Satterwhite

Steven T. Nourse

Anne M. Vogel

American Electric Power Service Corporation

1 Riverside Plaza, 29th Floor

Columbus, OH 43215

mjsatterwhite@aep.com

stnourse@aep.com

amvogel@aep.com

Daniel R. Conway

Porter Wright Morris & Arthur

Huntington Center

41 S. High Street

Columbus, OH 43215

dconway@porterwright.com

**On Behalf of Columbus Southern Power Company and Ohio Power Company**

Dorothy K. Corbett

Amy Spiller

139 East Fourth Street

1303-Main

Cincinnati, OH 45202

Dorothy.Corbett@duke-energy.com

Amy.spiller@duke-energy.com

Philip B. Sineneng

Terrance A. Mebane

THOMPSON HINE LLP

41 S. High St., Suite 1700

Columbus, OH 43215

Philip.Sineneng@ThompsonHine.com

Terrance.Mebane@ThompsonHine.com

**On Behalf of Duke Energy Retail Sales, LLC**

David F. Boehm

Michael L. Kurtz

Boehm, Kurtz & Lowry

36 East Seventh Street Suite 1510

Cincinnati, OH 45202

dboehm@BKLlawfirm.com

mkurtz@BKLlawfirm.com

**On Behalf of the Ohio Energy Group**

Gregory J. Poulos

EnerNOC, Inc.

101 Federal Street, Suite 1100

Boston, MA 02110

gpoulos@enernoc.com

**On Behalf of EnerNOC, Inc.**

Terry L. Etter

Maureen R. Grady

Office of the Ohio Consumers’ Counsel

10 W. Broad Street, 18th Floor

Columbus, OH 43215-3485

etter@occ.state.oh.us

grady@occ.state.oh.us

small@occ.state.oh.us

**On Behalf of the Office of the Ohio**

**Consumers’ Counsel**

Richard L. Sites

General Counsel & Senior Director of Health Policy

Ohio Hospital Association

155 East Broad Street, 15th Floor

Columbus, OH 43215-3620

ricks@ohanet.org

Thomas J. O’Brien

Bricker & Eckler, LLP

100 South Third Street

Columbus, OH 43215-4291

tobrien@bricker.com

**Oh Behalf of Ohio Hospital Association**

John W. Bentine

Mark S. Yurick

Zachary D. Kravitz

Chester Willcox & Saxbe, LLP

65 East State Street, Suite 1000

Columbus, OH 43215

jbentine@cwslaw.com

myurick@cwslaw.com

zkravitz@cwslaw.com

**On Behalf of The Kroger Co.**

Terrence O’Donnell

Christopher Montgomery

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215-4291

todonnell@bricker.com

cmontgomery@bricker.com

**On Behalf of Paulding Wind Farm II LLC**

Mark A. Hayden

FirstEnergy Service Company

76 South Main Street

Akron, OH 44308

haydenm@firstenergycorp.com

James F Lang

Laura C. McBride

N. Trevor Alexander

Calfee, Halter & Griswold LLP

1400 KeyBank Center

800 Superior Ave.

Cleveland, OH 44114

jlang@calfee.com

lmcbride@calfee.com

talexander@calfee.com

David A. Kutik

Jones Day

North Point

901 Lakeside Avenue

Cleveland, OH 44114

dakutik@jonesday.com

Allison E. Haedt

Jones Day

P.O. Box 165017

Columbus, OH 43216-5017

aehaedt@jonesday.com

John N. Estes III

Paul F. Wight

Skadden, Arps, Slate, Meagher & Flom LLP

1440 New York Ave., N.W.

Washington, DC 20005

jestes@skadden.com

paul.wight@skadden.com

**On Behalf of FirstEnergy Solutions Corp.**

Michael R. Smalz

Joseph V. Maskovyak

Ohio Poverty Law Center

555 Buttles Avenue

Columbus, OH 43215

msmalz@ohiopovertylaw.org

jmaskovyak@ohiopovertylaw.org

**On Behalf of the Appalachian Peace and Justice Network**

Lisa G. McAlister

Matthew W. Warnock

Thomas O’Brien

BRICKER & ECKLER LLP

100 South Third Street

Columbus, OH 43215-4291

lmcalister@bricker.com

mwarnock@bricker.com

tobrien@bricker.com

**On Behalf of OMA Energy Group**

Jay E. Jadwin

American Electric Power Service Corporation

1 Riverside Plaza, 29th Floor

Columbus, OH 43215

jejadwin@aep.com

**On Behalf of AEP Retail Energy Partners LLC**

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

P.O. Box 1008

Columbus, OH 43215-1008

mhpetricoff@vorys.com

smhoward@vorys.com

**On Behalf of PJM Power Providers Group and the Retail Energy Supply Association**

Glen Thomas

1060 First Avenue, Ste. 400

King of Prussia, PA 19406

gthomas@gtpowergroup.com

Laura Chappelle

4218 Jacob Meadows

Okemos, MI 48864

laurac@chappelleconsulting.net

**On Behalf of PJM Power Providers Group**

M. Howard Petricoff

Michael Settineri

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

P.O. Box 1008

Columbus, OH 43215-1008

mhpetricoff@vorys.com

mjsettineri@vorys.com

William L. Massey

Covington & Burling, LLP

1201 Pennsylvania Ave., NW

Washington, DC 20004

wmassey@cov.com

Joel Malina

Executive Director

COMPLETE Coalition

1317 F Street, NW

Suite 600

Washington, DC 20004

malina@wexlerwalker.com

**On Behalf of the COMPETE Coalition**

Henry W. Eckhart

1200 Chambers Road, Suite 106

Columbus, OH 43212

henryeckhart@aol.com

Christopher J. Allwein

Williams, Allwein and Moser, LLC

1373 Grandview Ave., Suite 212

Columbus, OH 43212

callwein@williamsandmoser.com

**On Behalf of the Natural Resources Defense Council and the Sierra Club**

M. Howard Petricoff

Michael J. Settineri

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

P.O. Box 1008

Columbus, OH 43216-1008

mhpetricoff@vorys.com

mjsettineri@vorys.com

smhoward@vorys.com

**On Behalf of Constellation NewEnergy, Inc., Constellation Energy Commodities Group, Inc. , Direct Energy Services, LLC**

David I. Fein

Vice President, Energy Policy – Midwest

Constellation Energy Group, Inc.

Cynthia Fonner Brady

Senior Counsel

Constellation Energy Resources LLC

550 West Washington Blvd., Suite 300

Chicago, IL 60661

david.fein@constellation.com

cynthia.brady@constellation.com

**On Behalf of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc.**

Pamela A. Fox

C. Todd Jones,

Christopher L. Miller,

Gregory H. Dunn

Asim Z. Haque

Schottenstein Zox and Dunn Co., LPA

250 West Street

Columbus, OH 43215

pfox@hillardohio.gov

cmiller@szd.com

gdunn@szd.com

ahaque@szd.com

**On Behalf of the City of Hilliard, Ohio, the City of Grove City, Ohio and the Association of Independent Colleges and Universities of Ohio**

Sandy I-ru Grace

Assistant General Counsel

Exelon Business Services Company

101 Constitution Ave., NW

Suite 400 East

Washington, DC 20001

sandy.grace@exeloncorp.com

M. Howard Petricoff

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

P.O. Box 1008

Columbus, OH 43216-1008

mhpetricoff@vorys.com

David M. Stahl

Eimer Stahl Klevorn & Solberg LLP

224 South Michigan Avenue, Suite 1100

Chicago, IL 60604

dstahl@eimerstahl.com

**On Behalf of Exelon Generation Company, LLC**

Gary A Jeffries

Assistant General Counsel

Dominion Resources Services, Inc.

501 Martindale Street, Suite 400

Pittsburgh, PA 15212-5817

Gary.A.Jeffries@aol.com

**On Behalf of Dominion Retail, Inc.**

Kenneth P. Kreider

David A. Meyer

Keating Muething & Klekamp PLL

One East Fourth Street

Suite 1400

Cincinnati, OH 45202

kpkreider@kmklaw.com

dmeyer@kmklaw.com

Holly Rachel Smith

Holly Rachel Smith, PLLC

Hitt Business Center

3803 Rectortown Road

Marshall, VA 20115

holly@raysmithlaw.com

Steve W. Chriss

Manager, State Rate Proceedings

Wal-Mart Stores, Inc.

Bentonville, AR 72716-0550

Stephen.Chriss@wal-mart.com

**On Behalf of Wal-Mart Stores East, LP and Sam’s East, Inc.**

Barth E. Royer (Counsel of Record)

Bell & Royer Co., LPA

33 South Grant Avenue

Columbus, OH 43215-3927

BarthRoyer@aol.com

Tara C. Santarelli

Environmental Law & Policy Center

1207 Grandview Ave., Suite 201

Columbus, OH 43212

tsantarelli@elpc.org

**On Behalf of the Environmental Law &**

**Policy Center**

Nolan Moser

Trent A. Dougherty

Camille Yancy

Cathryn Loucas

Ohio Environmental Council

1207 Grandview Avenue, Suite 201

Columbus, OH 43212-3449

nolan@theoec.org

trent@theoec.org

camille@theoec.org

cathy@theoec.org.

**On Behalf of the Ohio Environmental Council**

Douglas G. Bonner

Emma F. Hand

Keith C. Nusbaum

Clinton A. Vince

Daniel D. Barnowski

SNR Denton US LLP

1301 K Street NW

Suite 600, East Tower

Washington, DC 20005

doug.bonner@snrdenton.com

emma.hand@snrdenton.com

keith.nusbaum@snrdenton.com

clinton.vince@snrdenton.com

daniel.barnowski@snrdenton.con

**On Behalf of Ormet Primary Aluminum Corporation**

Jay L. Kooper

Katherine Guerry

Hess Corporation

One Hess Plaza

Woodbridge, NJ 07095

jkooper@hess.com

kguerry@hess.com

**On Behalf of Hess Corporation**

Allen Freifeld

Samuel A. Wolfe

Viridity Energy, Inc.

100 West Elm Street, Suite 410

Conshohocken, PA 19428

afreifeld@viridityenergy.com

swolfe@viridityenergy.com

Jacqueline Lake Roberts,

Counsel of Record

101 Federal Street, Suite 1100

Boston, MA 02110

jroberts@enernoc.com

**On Behalf of CPower, Inc., Viridity Energy, Inc., EnergyConnect Inc., Comverge Inc., Enerwise Global Technologies, Inc., and Energy Curtailment Specialists, Inc.**

Robert Korandovich

KOREnergy

P.O. Box 148

Sunbury, OH 43074

korenergy@insight.rr.com

**On Behalf of KOREnergy**

Benita Kahn

Lija Kaleps-Clark

Vorys Sater, Seymour and Pease LLC

52 East Gay Street, P.O. Box 1008

Columbus, OH 43216-1008

bakahn@vorys.com

lkalepsclark@vorys.comMark A. Whitt

Melissa L. Thompson

Whitt Sturtevant LLP

PNC Plaza, Suite 2020

155 East Broad Street

Columbus, OH 43215

whit@whitt-sturtevant.com

thompson@whitt-sturtevant.com

Vincent Parisi

Matthew White

Interstate Gas Supply, Inc.

6100 Emerald Parkway

Dublin, OH 43016

vparisi@igsenergy.com

mswhite@igsenergy.com

**On Behalf of Interstate Gas Supply, Inc.**

William Wright

Werner Margard

Thomas Lindgren

John H. Jones

Assistant Attorneys’ General

Public Utilities Section

180 East Broad Street, 6th Floor

Columbus, OH 43215

john.jones@puc.state.oh.us

werner.margard@puc.state.oh.us

thomas.lindgren@puc.state.oh.us

william.wright@puc.state.oh.us

**On Behalf of the Public Utilities Commission of Ohio**

Greta See

Jon Tauber

Attorney Examiner

Public Utilities Commission of Ohio

180 East Broad Street, 12th Floor

Columbus, OH 43215

**Attorney Examiners**

1. Given the limited time to prepare a response, IEU-Ohio does not intend to respond to all the claims made by OP. The failure to address each assertion is not and should not be construed as agreement with any of OP’s claims that are not addressed herein. [↑](#footnote-ref-1)
2. AEP Ohio Reply to the Tariff Objections Filed by Industrial Energy Users-Ohio, Ormet Primary Aluminum and the Office of the Ohio Consumers’ Counsel/Appalachian Peace and Justice Network at 4 (Mar. 6, 2012) (“OP Reply”). [↑](#footnote-ref-2)
3. *Id*. [↑](#footnote-ref-3)
4. *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company and Related Matters*, Case No. 11-5906-EL-FAC, Finding and Order at 2 (Dec. 14, 2011). [↑](#footnote-ref-4)
5. *Id*. at 3. [↑](#footnote-ref-5)
6. Entry on Rehearing at 12 (Feb. 23, 2012). [↑](#footnote-ref-6)
7. OP Reply at 4 [↑](#footnote-ref-7)
8. The Stipulation served as the proposed authorization for the merger. Stipulation at 24 (Sept. 7, 2011). [↑](#footnote-ref-8)
9. *In the Matter of the Application of Columbus Southern Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Ohio Revised Code 4928.144*, Case Nos. 11-4920-EL-RDR, *et al.*, Application at 1 (Sept. 1, 2011) (hereinafter, *“PIRR Application*”). [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. *Id.* at 3. [↑](#footnote-ref-11)
12. OP Reply at 6. [↑](#footnote-ref-12)
13. PIRR Application at 3. [↑](#footnote-ref-13)
14. Notably, OP’s cover letter of the compliance filing itself raised the issue by stating that it was not complying with the Commission’s Entry on Rehearing with regard to capacity charges. See below. [↑](#footnote-ref-14)
15. OP Reply at 9-10. [↑](#footnote-ref-15)
16. As the Commission will recall, OP filed the revised Detailed Implementation Plan to implement the Commission’s modifications of the Pricing Scheme. Letter to Attorney Examiner Greta See and Jonathan J. Tauber from Steven Nourse (Dec. 29, 2011). [↑](#footnote-ref-16)
17. Entry on Rehearing at 12. [↑](#footnote-ref-17)
18. Entry (Jan. 23, 2012). [↑](#footnote-ref-18)
19. In its cover letter accompanying the tariffs filed on February 28, 2012, OP continued to maintain that it needed “clarification” of the Commission’s Entry on Rehearing and would “await further direction based on the disposition of its Motion for Relief filed yesterday (February 27, 2012) in Case No. 10-2929-EL-UNC.” Letter from Steven T. Nourse to Betty McCauley (Feb. 28, 2012). [↑](#footnote-ref-19)
20. OP Reply at 9. [↑](#footnote-ref-20)
21. Previously, IEU-Ohio noted that American Electric Power Service Company had represented to the Federal Energy Regulatory Commission that OP was under an obligation to provide capacity at the price established by PJM Interconnection, Inc.’s Reliability Pricing Model. Industrial Energy Users-Ohio’s Objections to Ohio Power Company’s Compliance Tariffs and Request to Set a Reconciliation Date at 6 (Mar. 2, 2012) (“IEU-Ohio Objections”). [↑](#footnote-ref-21)
22. American Electric Power Annual Report at 33 (viewed at http://www.aep.com/investors/financialfilingsandreports/edgar/docs/AEP\_10K\_2011.pdf). [↑](#footnote-ref-22)