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FILE**FAX**

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)
of the Columbus Southern Power)
Company and Ohio Power Company)
For Approval of Their Plan to Provide)
Additional Options for Customer)
Participation in the Electric Market)

Case No. 06-1153-EL-UNC

**REPLY COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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January 22, 2007

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In the Matter of the Application)	
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COMMENTS OF OHIO PARTNERS FOR AFFORDABLE ENERGY

Introduction

On July 5, 2006, the Supreme Court issued a decision in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St. 3d 511, 2006 Ohio 3154, which vacated and remanded the Rate Stabilization Plan of Columbus Southern Power Company and the Ohio Power Company ("CSP" and "OP"; collectively "AEP") approved by the Public Utilities Commission of Ohio on January 26, 2005, Case No. 04-169-EL-UNC. The Court found that the failure of the Commission to require AEP to conduct a Competitive Bid Process violated §4928.14(A), Ohio Revised Code ("O.R.C."). On August 9, 2006, the Commission issued an Entry in the RSP docket ordering AEP to file a plan for complying with Supreme Court holding. By Entry dated December 14, 2006, the Commission invited interested parties to file comments on January 12, 2007 and reply comments on January 22, 2007. OPAE hereby provides its reply comments. Failure to address a specific issue raised by other parties in their initial comments should not be construed as support for the position espoused.

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Reply Comments

I. Market-Based Prices

Buckeye Energy Brokers, Inc. (Buckeye) begins by alleging that the competitive bid process (CBP) proposed by AEP to satisfy the requirements of §4928.14, Ohio Revised Code (O.R.C.) will not generate market-based prices. The statute, however, does not specify that the CBP be linked to some fictional 'market' price. There has been significant testimony before the Commission -- with which the Commission has indicated agreement -- that neither retail nor wholesale electricity sales occur in a marketplace subject to effective competition.¹ Thus, in order to satisfy the statute, there needs to be a competition which focuses on an option for consumers where there is a market.² As noted by the Ohio Consumers' Counsel (OCC) and Staff, a green power bidding process offers the best option for complying with the statutory requirements and offering something of value to customers.

Buckeye's assertion that real-time pricing should be instituted as a part of the process is misplaced. There is a dearth of evidence that real-time pricing can

¹ The fact that while there are 19 certified suppliers throughout Ohio and that almost 200 communities have passed opt-out and opt-in aggregation programs that does not mean there is a fully developed electricity market as alleged by Buckeye. The fact that many of those 200 communities cannot find a competitive option that is beneficial to customers and those that have are served by utility affiliates. Traditional indicia of a functioning market are not present in either the wholesale or retail electricity 'markets'.

² Buckeye notes that electric prices have recently dropped but fails to indicate that these lower prices could result in savings to AEP customers. The Ohio Consumers' Counsel and the Industrial Energy Users - Ohio (IEU) both noted that the supposed 'market' still cannot deliver lower prices than those established in the rate stabilization plan (RSP) as demonstrated by the failure of previous auctions. Where auctions have occurred, such as Connecticut, Delaware, Illinois, and Maine, the result has been massive price increases. The General Assembly never intended this outcome and gave the Commission discretion to protect customers from market failures. While OPAE has not supported the approach taken by the utilities and the Commission in the RSP cases, it does believe that the Commission has the statutory authority to mitigate the impacts of a fictional market on customers.

produce any savings to customers, particularly residential and small business consumers, since the cost of more sophisticated metering will likely outweigh any savings. In addition, real-time metering simply shifts load to off-peak hours, thus producing no environmental advantage for customers like the benefits of a green power option..

II. Cost Recovery of CBP Expenses

The comments of the Industrial Energy Users—Ohio (IEU) raise the specter of an issue of a more fundamental nature: who should pay the costs of a CBP that will likely not produce any price advantage for customers? IEU notes that its members can already participate in a competitive market – as could residential consumers if anyone actually wanted to serve them – and thus will not benefit from the CBP and therefore should not have to pay the costs.

This position demonstrates the dangers of single-issue ratemaking which eliminates the opportunity to balance increasing and declining costs that should provide the basis for rates developed based on cost-of-service models. AEP's based rates have not been reviewed for many years. The companies have closed all their customer service offices, the cost of which was primarily allocated to residential customers in the last rate case. If IEU's logic was accepted, residential customers will continue to pay for ghost employees and have the pleasure of paying the costs of a CBP that is unlikely to provide any savings while other customers evade that scenario.

AEP should be prohibited from collecting the costs of the CBP without filing a distribution rate case. Under SB 3, the CBP is required and it is a distribution

function. If AEP was concerned about recovery of those costs it could have negotiated for them in the ETP or RSP cases; it did not. The Commission could, if it chose, permit deferral of the costs until the next rate case, but those costs should be minimal. After all, AEP takes bids for all kinds of products, including wholesale power, everyday. Those personnel can probably handle the bidding process with no incremental costs.

III. The Green Power Option

OPAE agrees with OCC and Staff that making a green power option available provides added value to consumers while meeting the statutory requirements of §4928.14, O.R.C. Meaningful competition exists among the companies selling Renewable Energy Certificates (RECs). And, such an auction would satisfy the goals for competition established by the General Assembly and embodied in §4928.02, O.R.C. that supports development of a diversity of supply and innovation in the generation industry. A green power program will stimulate the development of additional renewable resources and satisfy the requirements of the statute and will prepare Ohio for inevitable controls over CO2 emissions and the cap and trade system that will be used to implement those controls. The positions of OPAE and OCC in their initial comments can be easily reconciled through the discussion process proposed by Staff. OPAE reiterates that the green power option should be certified under the Green-e National Standard to promote fluidity in the market and provide consumer assurance that they are getting the green they pay for.

IV. Percentage Income Payment Plan Customers

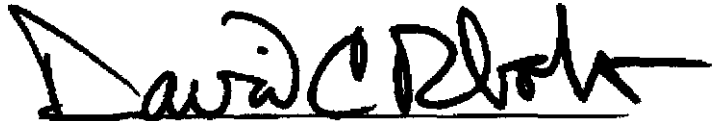
As OPAE indicated in its initial comments, customers participating in the Percentage Income Payment Plans should be able to participate if the CBP produce a lower price than the current SSO. Public policy dictates that the cost of serving the most vulnerable customers should be as low as possible.

Conclusion

The record is clear that the shift to a dysfunctional competitive market has harmed customers by forcing them to pay higher prices than those available under traditional regulation which, after all, was designed to mimic the market. If through some fluke the CBP actually results in a lower price, it should be available to all customers, including PIPP customers.

Using the Green-e National Standard will provide customers with assurance that the green power they purchase is the real thing through an established certification and verification regime. Following the standard will also promote a more liquid and transparent market which will advantage customers. Allowing a product that combines RECs with AEP system power has the potential to minimize the costs of choosing green. This, in turn, will make renewables more competitive in the market, help attract capital to develop additional renewable power plants, and create a more competitive market among renewables by allowing greater access to potential customers. A green power option also satisfies the statutory requirements as interpreted by the Supreme Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", with a long horizontal stroke extending to the right.

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**On Behalf of Ohio Partners for
Affordable Energy**

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene, Memorandum in Support, and Motion to Practice *Pro Hac Vice* were served by regular U.S. Mail, postage prepaid, upon the parties of record identified below on this 22th day of January, 2007.


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