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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO PUCO

In the Matter of the Application of Columbus)
Southern Power Company and Ohio Power)
Company for Approval of a Plan to Provide) Case No. 06-1153-EL-UNC
Additional Options for Customer Participation)
In the Electric Market)

REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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January 22, 2007

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I. INTRODUCTION AND BACKGROUND

On January 26, 2005 the Public Utilities Commission of Ohio ("PUCO" or "Commission") approved a rate stabilization plan ("RSP") for Columbus Southern Power Company and Ohio Power Company (collectively "AEP" or "Companies").¹ The Office of the Ohio Consumers' Counsel ("OCC") appealed the Commission's decision to the Ohio Supreme Court and the Court remanded the RSP, consistent with precedent set in its decision regarding FirstEnergy's RSP, because it failed to provide an option for customer participation in the electric market through competitive bids or other reasonable means, as required by Section 4928.14(B), Revised Code.² The Commission, in response to the Court's remand, required AEP to file a proposal for a competitive bid process ("CBP"), which AEP submitted to the Commission on

¹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan*, Case No. 04-169-EL-UNC, Opinion and Order (January 26, 2005).

² *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St.3d 511, 2006-Ohio-3054, at ¶1. See also *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St.3d 328, 2006-Ohio-2110, at ¶38.

September 22, 2006.³ By Entry dated December 13, 2006, the Commission allowed interested persons and entities to file initial and/or reply comments by January 12, 2007 and January 22, 2007, respectively.⁴ Pursuant to the Commission's December 13, 2006 Entry, Industrial Energy Users-Ohio ("IEU-Ohio") hereby submits its Reply Comments to the comments submitted by the Office of Consumers' Counsel ("OCC"), any other parties supporting OCC's recommendation or any other parties who have offered a recommendation similar to OCC's recommendation. The failure of IEU-Ohio to specifically address every issue raised within the proposed CBP should not be construed as endorsement or agreement with that specific issue.

II. COMMENTS

IEU-Ohio applauds OCC for its recognition that it may not be prudent (beneficial to customers) to establish a price for a generation supply service option for customers based on a competitive bidding process and that the Commission should not undertake a competitive bid "...merely for the sake of conducting one." OCC Comments at 3. It probably would have been better had OCC's recognition arrived many months ago -- prior to its comprehensive assault on the Commission and other parties for their efforts to manage rate shock risks. But, it is nonetheless a positive step in the larger effort to turn Ohio's attention to the energy challenges that Ohio must address soon in the days

³ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan*, PUCO Case No. 04-169-EL-UNC, Entry at 2 (August 9, 2006). *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Their Plan to Provide Additional Options for Customer Participation in the Electric Market*, PUCO Case No. 06-1153-EL-UNC, Columbus Southern Power Company's and Ohio Power Company's Plan to Provide Additional Options for Customer Participation in the Electric Market (September 22, 2006). (Hereinafter referred to as "AEP CBP Application.")

⁴ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Their Plan to Provide Additional Options for Customer Participation in the Electric Market*, Entry at 1 (December 13, 2006).

ahead. As OCC has acknowledged in other places⁵, the wholesale market and its many working parts orchestrated by regional transmission owners or the Federal Energy Regulatory Commission ("FERC") are decidedly dysfunctional. Any competitive bidding process laid on top of this dysfunction will do nothing to help Ohio electricity customers secure better service or better prices.

IEU-Ohio is, nevertheless, concerned with the recommendation that OCC has advanced in its January 12, 2007 Comments. Having prevailed on appeal because of its demand for the competitive bidding option described in Section 4918.15, Revised Code, OCC now wishes to transform the scope of the proceeding on remand to one in which it is free to seek implementation of a "Green Pricing Competitive Bidding Option" (which OCC otherwise calls the "Green Pricing Option"). OCC states that if the Commission finds that a competitive bidding process is necessary, it should adopt the Green Pricing Option in lieu of the options proposed by the affected electric distribution utilities.

The Commission has an affirmative obligation to follow the directions of the Ohio Supreme Court as a result of OCC's Appeal. There is nothing in Ohio's current electric restructuring legislation that comes close to providing the Commission with jurisdiction to adopt OCC's Green Pricing Option. Rather than inviting further chaos or wasting more time and money by entertaining OCC's Green Pricing Option, IEU-Ohio urges the Commission and OCC to jointly request the Court to stay any obligation the Commission may have to comply with the remand order until December 31, 2008 because it makes no good sense for the Commission to establish a competitive bidding

⁵ See OCC's June 1, 2006 presentation to the Harvard Electricity Policy Group at [http://www.ksg.harvard.edu/hepg/Papers/Migden-Ostrander Wholesale Retail 0606.pdf](http://www.ksg.harvard.edu/hepg/Papers/Migden-Ostrander_Wholesale_Retail_0606.pdf)

option. This will leave more time for the Commission, OCC and other stakeholders to work on the larger issues that must be addressed by Ohio to ensure reliable service and reasonable electric rates.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel C. Randazzo", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 22nd day of January 2007, via electronic transmission, hand-delivery or ordinary U.S. mail, postage prepaid.



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