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**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 to Adjust the)
Transmission Component of Each) Case No. 06-273-EL-UNC
Company's Standard Service Tariff and to)
Combine that Component with its)
Transmission Cost Recovery Rider.)

**REPLY TO AEP'S MEMORANDUM CONTRA
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") hereby files this Reply with the Public Utilities Commission of Ohio ("Commission") in response to Columbus Southern Power Company's and Ohio Power Company's ("AEP" or "Companies") Memorandum Contra ("Memo Contra") OCC's Motion to Intervene and Motion to Adjust transmission Cost Recovery Rider. OCC is filing pursuant to Ohio Adm. Code 4901-1-12(B)(2) and 4901-1-07. OCC filed its Motions in this case under its legislative authority to represent the interests of the residential utility consumers of Ohio.¹ The Memo Contra

¹ For example, R.C.4911.15 provides:
The consumers' counsel * * * may represent those [residential] customers or [municipal] corporations whenever an application is made to the public utilities commission by any public utility desiring to establish, modify, amend, charge, increase, or reduce any rate, joint rate, toll, fare, classification, charge, or rental.

As described herein, the Application proposes to recover transmission costs through an updated rider that modifies charges to residential customers.

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lacks merit and is contrary to law and rule. OCC may be adversely affected by this proceeding and it has a real and substantial interest that it seeks to protect.

OCC also requested that the Commission require AEP to adjust its rates to eliminate any double-recovery of transmission or transmission-related costs in its next filing. The Commission should grant OCC's Motions.

II. ARGUMENT

A. OCC's Motion to Intervene should be granted.

AEP's Memo Contra does not identify any basis for denying OCC's intervention in the case. R.C. 4903.221(B) sets forth the criteria for the Commission's consideration in deciding requests for intervention. AEP did not dispute that OCC's request for intervention satisfied these statutory criteria.

OCC stated in its request for intervention that it has a substantial interest in protecting the residential consumers of the Companies from the potential harm that could arise from the recovery of certain costs from residential customers through the TCRR. AEP did not dispute that OCC has a substantial interest in this case.

OCC stated that its participation in this case is consistent with OCC's legislative authority to represent the interests of the residential utility consumers of Ohio. AEP does not dispute this.

OCC stated it met the intervention criteria in the Administrative Code.² AEP did not dispute this.

² Ohio Adm. Code 4901-1-11(B)(1)-(4).

OCC discussed the recent decision of the Ohio Supreme Court supporting its argument that intervention should be granted.³ AEP did not dispute OCC's assertion.

OCC was recently granted intervention in a transmission rider case after the PUCO previously denied intervention – exactly what OCC requests here.⁴ AEP did not dispute the applicability of that Commission decision to this case.

In fact, the only statement made by AEP regarding OCC's request for intervention is this: "Therefore, the Companies request that OCC's motions both be denied."

Accordingly, OCC's motion to intervene should be granted.

B. OCC's Motion to Adjust TCRR should be granted.

OCC is encouraged that AEP will review whether there is a double-recovery of transmission or transmission-related costs, as OCC suggested: "...the Companies will certainly review the matter with OCC and, if appropriate, reflect the issue in their TCRR filing."⁵ Commonly, issues identified with transmission cost recovery riders are required to be included in the next filing after the issue is identified, particularly when the Commission permits the tariffs to be implemented subject to reconciliation. If there is a refund due customers, OCC would like that refund and carrying costs to be credited to consumers at the earliest opportunity.

While AEP chastises OCC: "Unfortunately, OCC does not share with the Companies or the Commission what the nature of the over-collection is,"⁶ OCC would remind AEP that the telephone lines work both ways. After OCC identified this issue to

³ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20 (2006).

⁴ *In re Transmission Rates of Duke Energy Ohio*, Case No. 05-727, Order (May 30, 2007).

⁵ AEP's *Memorandum Contra* at 3.

⁶ *Id* at 2.

AEP, it could have easily picked-up the phone and requested clarification. This it declined to do. Accordingly, the Commission should require AEP to credit any double-recovery of transmission or transmission-related costs to customers in its next TCRR filing.

III. CONCLUSION

AEP's Memo Contra OCC's Motions to Intervene and Adjust the Next TCRR should be rejected. OCC's intervention should be granted under law and rule inasmuch as OCC is representing the 1.3 million residential customers who pay for AEP's transmission costs. The Commission should consider the criteria for granting intervention contained within R.C. 4903.221, all of which OCC has met, and AEP has not refuted. Also, AEP should be required to credit any over-collections of costs to consumers at the earliest possible opportunity – in AEP's next TCRR filing.

In order to enable OCC to protect AEP's 1.3 million residential customers, the OCC respectfully requests that the Commission grant its Motions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Reply to AEP's Memorandum Contra Motion to Intervene and Motion to Adjust Transmission Cost Recovery Rider* was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 2nd day of July 2007.



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