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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbus)
Southern Power Company and Ohio Power)
Company for a Temporary Partial Waiver of) Case No. 09-308-EL-WVR
Section 4901:1-10-14(G) and (I), Ohio)
Administrative Code.)

**MOTION TO INTERVENE, MEMORANDUM IN SUPPORT,
AND COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

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April 16, 2009

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MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO

Industrial Energy Users-Ohio ("IEU-Ohio") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matter with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

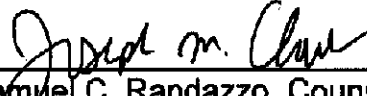
On April 8, 2009, Columbus Southern Power Company ("CSP") and Ohio Power Company ("OPCo") (collectively, "AEP" or "Companies") filed a request for a temporary partial waiver of the Commission's rules related to when a deposit can be required from a commercial or industrial customer. AEP proposes to implement a system in which if a commercial/industrial customer's credit rating falls below a "B", as rated by Value Line Financial Services, then AEP can require a deposit from a customer or continue to hold an existing deposit that would otherwise be returned under the Commission's current rules.

AEP's proposal was filed as its customers were receiving electric bills containing large rate increases which the Commission allowed to go into effect over customers'

objections. While the Commission has created expectations that it would keep rate increases close to zero in 2009 due to conditions in the general economy, the Commission has allowed AEP to implement rates that, for many customers, produce more than a 15 percent increase in their electric bill. The actual increase showing up in electric bills as AEP filed its proposal in this proceeding is significantly above the 6 to 8 percent total bill increase limit set in the Commission's rate increase order in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO and above the increase level (15 percent) that the Commission held would cause a severe economic hardship on customers.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceedings, and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay these proceedings and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in these proceedings. The interests of IEU-Ohio will not be adequately represented by other parties to the proceedings and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

Respectfully submitted,



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MEMORANDUM IN SUPPORT AND COMMENTS

A. MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

In support of this Motion to Intervene, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at http://www.ieu-ohio.org/member_list.aspx. IEU-Ohio's members purchase substantial amounts of electric and related services from AEP, which is a public utility subject to the jurisdiction of the Commission.

IEU-Ohio's members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end, IEU-Ohio has worked and will continue to work to produce legislative, regulatory, and market outcomes that are consistent with the state policy contained in Section 4928.02, Revised Code.

IEU-Ohio members have been, and continue to be, active participants in state and federal regulatory proceedings concerning Ohio's electric utilities, including AEP's electric security plan ("ESP") case.¹ Many of IEU-Ohio's member companies are served

¹ See *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain*

by AEP and may be affected by the Commission's orders in this proceeding. Additionally, the resolution of these issues may affect Ohio's larger effort to provide reliable service at reasonable rates regardless of the structure of regulation of the electric industry. IEU-Ohio has a real and substantial interest inasmuch as this proceeding may directly or indirectly impact the provision of electric service to IEU-Ohio members' manufacturing facilities.

B. COMMENTS ON AEP'S WAIVER APPLICATION

On April 8, 2009, AEP filed its request for a waiver of the Commission's credit/deposit rules, asking for permission to expand the circumstances in which it may demand a deposit.² AEP's proposal indicates that economic conditions have caused the creditworthiness of a growing number of commercial and industrial customers to deteriorate, exposing AEP to increasing and extraordinary levels of uncollectible expenses.³ AEP explains the waiver is needed to "address the increasingly common practice of commercial and industrial customers staying current on their electric bill right up until the time they go out of business, leaving the Companies with the daunting task of collecting the amount due with a complete lack of leverage."⁴

Based on a rather narrow utility perspective, AEP seeks a waiver and permission to expand its authority to demand a deposit from non-residential customers.⁵ Specifically, AEP proposes to implement a system in which AEP has the discretion to

Generating Assets, Case Nos. 08-917-EL-SSO, *et al.*, Entry at 3-4 (September 19, 2008) (hereinafter "AEP ESP Proceeding").

² Application at 5-6.

³ *Id.* at 4.

⁴ *Id.* at 7.

⁵ *Id.* at 5.

(in addition to the current options) demand a deposit from a customer or continue to hold an existing deposit that would otherwise be returned under the Commission's current rules when that non-residential customer's credit rating falls below a "B" by Value Line Financial Services ("Value Line").⁶ The temporary waiver would remain in effect for a two-year period unless circumstances warrant an extension or early termination of the waiver.⁷ AEP asks for a ruling "as soon as possible" inasmuch as the economic conditions in the Companies' respective service areas continue to deteriorate.⁸

AEP's proposal suggests that AEP has suddenly become aware of the economic collapse that has hard hit Ohio, its citizens, the nation and the global economy. At the same time AEP appears before the Commission to ask for more tools to manage its collection risk, AEP is implementing the Commission's rate increase order in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO in ways that result in rate increases that are well in excess of the limits established by the Commission and above the percentage that the Commission said would impose a severe economic hardship on customers. AEP appears to be blind to the fact that the actions it has taken under the supervision of the Commission have ratcheted up collection risks and put Ohio's hard-hit economy even further into that undesirable space between a rock and a hard place. And when it was seeking even higher increases in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, AEP expressed no concern about deposits or "increasing and extraordinary" levels of uncollectible expenses in its ESP case.

⁶ *Id.* at 5-6.

⁷ *Id.* at 7.

⁸ *Id.*

AEP's Application is basically a no give, all take proposition. There is no indication that AEP talked to customers prior to making this filing or that it even might consider doing so if only to avoid dumping the problem completely in the Commission's lap. AEP's Application omits any discussion of the steps it might and should proactively take to work with non-residential customers and manage the risks described in its proposal. For example, because of the economic downturn IEU-Ohio members and other non-residential customers are individually paying AEP hundreds of thousands of dollars each month as a result of minimum billing demand provisions in rate schedules. With the Commission's encouragement or on AEP's own initiative, AEP could work to reduce its collection risks in conjunction with mechanisms that provide interim relief from the minimum billing demand provisions. Instead, AEP is working hard to maximize the negative effects of its rates, including the imposition of larger than authorized or expected rate increases while making it harder for customers to manage the risks that are landing on their side of the meter. AEP should not be permitted to obtain assistance from the Commission on collection risks until it has demonstrated that it is doing all it can to help customers manage their way through an economic cycle that has imposed severe hardship on AEP's customers. And just in case it may be unclear to the Commission, doing things like cramming 12 months of revenue into 9 months of time as the Commission did in the recent order in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO to maximize near term negative effect of rate increases is not the kind of help customers want or need.

AEP's Application also suffers from a lack of details, both as it relates to need for the waiver as well as parameters around how it will administer the proposed deposit

requirement. The Application makes several bald assertions that are not accompanied by any supporting documentation or testimony. For example, AEP does not describe how it suddenly came to the conclusion that the creditworthiness of a growing number of commercial and industrial customers is in question or how often it “regularly review[s]”⁹ the creditworthiness of commercial and industrial accounts. Nor does the Application place any constraints on the deposit amount that AEP may require, describe how or why it chose a “B” rating (that according to Value Line requires a “good overall relative financial position”)¹⁰ as the triggering condition, or attempt to identify how many commercial and industrial customers would immediately be required to give AEP more of their available cash to satisfy AEP’s unquantified concerns.

Finally, AEP does not have a rider to recover uncollectible expenses; this expense appears to be embedded in AEP’s distribution rates. In its Opinion and Order in AEP’s ESP proceeding, the Commission declined to accept several of AEP’s distribution-related rate increase proposals and it directed AEP to pursue the items in a distribution rate case so that all expense and revenue items could be considered.¹¹

AEP’s proposal and its stated rationale for the waiver are effectively asking the Commission to put its authority behind what in current circumstances must be classified as an unbelievably self-centered utility initiative. AEP would have the Commission approve the proposal and in effect tell customers that unprecedented hard times have no bearing on whether customers might be able to pay electric bills that contain double digit percentage increases and that the State of Ohio must act to provide AEP with extra

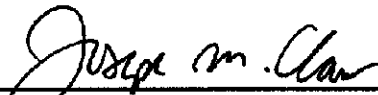
⁹ *Id.* at 5.

¹⁰ *Id.* at 6.

¹¹ *AEP ESP Proceeding, Opinion and Order* at 32, 34, 41, 49, 60 (March 18, 2009).

tools to demand payment for electric bills that were substantially increased within the last 30 days. The Commission should deny AEP's Application and direct AEP to include its proposal as part of the distribution rate case the Commission invited AEP to file in its ESP Opinion and Order. If the Commission is unwilling to deny AEP's Application on its face, then it must find that the proposal contained in the Application may be unjust or unreasonable and subject the Application to the process required by Section 4909.18, Revised Code.

Respectfully submitted,



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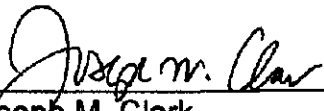
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene, Memorandum in Support and Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 16th day of April 2009, via electronic transmission, hand-delivery or first class mail, postage prepaid.



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