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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 to Establish Environmental Investment Carrying Cost Riders.	)))))	**Case No. 10-155-EL-RDR**

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S MOTION TO FILE ADDITIONAL RESPONSE TO OCC'S REPLY COMMENTS AND ADDITIONAL REPLY COMMENTS

Columbus Southern Power Company and Ohio Power Company (AEP Ohio or Companies) file this motion requesting authority to respond to a portion of the Ohio Consumers' Counsel's (OCC's) Reply Comments. As explained in the following Memorandum in Support, OCC has presented arguments in its Reply Comments that should have been made in its Initial Comments, but were not made because OCC did not pursue discovery on a timely basis.

Memorandum in Support

AEP Ohio filed this application on February 8, 2010. On February 23, 2010 the Ohio Consumers' Counsel (OCC) filed a motion in this docket seeking, among other things, a ten-day turn-around for responses to discovery. This request was made even though OCC had not yet served any discovery and did not serve its first set of discovery until March 2, 2010 (at 5:17 p.m.).

On April 8, 2010, the Attorney Examiner issued an Entry shortening the discovery response time to ten calendar days and setting April 30, and May 10, 2010 as the respective dates for filing initial and reply comments. Clearly, if parties wanted discovery responses in time for complete analysis, they would not wait until April 20th to serve discovery -- or so one would think.

At 4:52 p.m. on April 20, 2010 OCC served its second set of discovery on AEP Ohio. That set of discovery included the two questions referred to by OCC in its Initial Comments and referred to, and attached to AEP Ohio's Reply Comments filed on May 10, 2010. As can be seen from those two questions (Interrogatory Nos. 23 and 35) they were questions that could have been asked as soon after February 8th that OCC turned its attention to this application. Nonetheless, OCC waited until April 20th to ask these questions, the responses to which seem to form the cornerstone of its opposition to AEP Ohio's application.

In its Reply Comments, OCC now states that since it received AEP Ohio's "timely responses" on April 30, 2010 it was only able "to generally refer to the discovery responses." (OCC Reply Comments, p. 3). Having waited until, at best, the last moment to serve these discovery requests in time for review prior to filing initial comments, OCC now asserts that because of "time restraint and the unavailability of OCC personnel who were on travel, a complete analysis of the responses was not possible in the [Initial] Comments." (*Id.*)

It is clear from the procedural history set out above that OCC's "time restraints" and "unavailability of OCC personnel" was a problem of OCC's own making. It

received the expedited discovery response schedule it wanted and yet waited until April 20th to serve the discovery it only now fully has analyzed.

OCC uses its own tardiness as an excuse to submit its complete analysis in its Reply Comments. This procedure violates the notion that parties are not permitted to hold back for reply comments the main thrust of their positions. The "cat and mouse" game employed by OCC is inappropriate. If AEP Ohio is not permitted to respond to OCC now that OCC has completed its untimely analysis, OCC's casual approach to this case will be rewarded and AEP Ohio will be prejudiced. Therefore, AEP Ohio submits the following response to OCC's Reply Comments and requests that the Commission consider this response. Alternatively, OCC's comments from pages 4-8 (down to Part C), as well as Attachments 1-3 should be stricken from the record in this docket.

AEP Ohio's Response to OCC's Reply Comments

OCC's Reply Comments reprise its claim that the carrying costs on investments in environmental projects referred to in the NSR Consent Decree should not be recoverable. OCC's arguments mischaracterize these investments as a "penalty" established by the Consent Decree. OCC cites nothing in support of this mischaracterization.

The provisions of the Consent Decree, however, are clear. By its own terms, the Consent Decree identifies only one portion of the terms of the settlement as a civil penalty. Not one dollar associated with the payment of that portion of the settlement has been included in any application for rates to be recovered from customers, and OCC cites no evidence to the contrary.

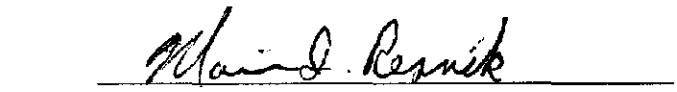
OCC instead claims that OPCo and CSP should not recover carrying costs on the investments in environmental projects that are mentioned in the Consent Decree, because

OCC claims that these projects were necessary to remedy violations of the Clean Air Act's NSR requirements. However, as AEP stated in its previous comments, the Consent Decree contains no admission of liability for any of the claims advanced in the litigation, and merely reflects the agreement of the parties to end over 8 years of litigation in an uncertain area of the law.

Morever, OCC's claims ignore other, independent requirements of the Clean Air Act that would have required these investments even if the Consent Decree never had been entered. For example, OCC alleges that the SCR systems at Amos 1, Amos 3, Cardinal 1, Gavin 1 and 2, Mitchell 1 and 2, and Muskingum River 5 are all identified in Paragraph 68 of the Consent Decree. However, all of these SCR systems were installed and operated on a seasonal basis prior to the entry of the Consent Decree. This equipment was originally installed to satisfy the Companies' obligations under the NOx SIP Call, a program that required steep NOx emission reductions during the five-month ozone season (May through September) beginning in 2003. Subsequently, EPA adopted the Clean Air Interstate Rule (CAIR) that requires additional NOx reductions during the ozone season and on an annual basis beginning in 2009.

CAIR also includes SO2 emission reduction requirements beginning in 2010, and the Companies began well in advance of the 2010 deadline to engineer, design, and install these systems on multiple units. Consequently, installation of Flue Gas Desulfurization systems was also part of the Companies' pre-existing compliance plans for CAIR, and the schedule in the Consent Decree was tailored to be consistent with these pre-existing plans. Contrary to OCC's contention, none of these environmental compliance projects are solely required by the Consent Decree.

Respectfully submitted,



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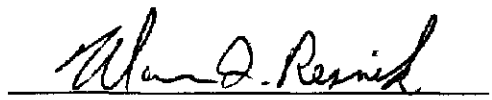
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Columbus Southern Power Company's and Ohio Power Company's Motion to File Additional Response to OCC's Reply Comments and Additional Reply Comments has been served upon the below-named counsel via First Class mail, postage prepaid, this 14th day of May 2010



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