

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
Columbus Southern Power Company )  
and Ohio Power Company to Update ) Case No. 10-477-EL-RDR  
Each Company's Transmission Cost )  
Recovery Rider. )

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**APPLICATION FOR REHEARING AND  
MEMORANDUM IN SUPPORT OF  
INDUSTRIAL ENERGY USERS-OHIO**

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July 22, 2010

**Attorneys for Industrial Energy Users-Ohio**

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INDUSTRIAL ENERGY USERS-OHIO**

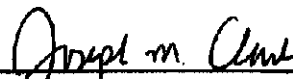
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Pursuant to Section 4903.10, Revised Code, and Rule 4901-1-35, Ohio Administrative Code ("O.A.C."), Industrial Energy Users-Ohio ("IEU-Ohio") respectfully submits this Application for Rehearing from the June 23, 2010 Finding and Order of the Public Utilities Commission of Ohio ("Commission") in the above-captioned proceeding. As explained in more detail in the attached Memorandum in Support, the Finding and Order approving adjustments for the transmission cost recovery riders ("TCRR") of Columbus Southern Power Company ("CSP") and Ohio Power Company ("OP") (collectively, "AEP-Ohio" or "Companies") is unlawful and unreasonable for the following reasons:

1. The Finding and Order is unlawful and unreasonable inasmuch as the Commission has no subject matter jurisdiction over the TCRR Application. The Commission lost jurisdiction over AEP-Ohio's Electric Security Plan ("ESP") and all proceedings stemming from the ESP, including this proceeding, when the Commission failed to issue an Order within 150 days of the filing of AEP-Ohio's ESP Application.
2. The Finding and Order is unlawful and unreasonable inasmuch as the Commission continues to permit AEP-Ohio to take the benefits of the higher rates contained in the ESP, including the TCRR, while AEP-Ohio simultaneously challenges the ESP Orders as well as reserves the right to withdraw and terminate its ESP.

IEU-Ohio respectfully requests that the Commission grant this Application for Rehearing and grant the relief requested herein.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT**

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On April 14, 2010, AEP-Ohio filed an Application in this docket to adjust the respective TCRRs of OP and CSP. On May 21, 2010, IEU-Ohio filed a Motion to Intervene and Comments regarding AEP-Ohio's Application and, on June 23, 2010, the Commission approved AEP-Ohio's Application over IEU-Ohio's objections. The Commission's Finding and Order is unlawful and unreasonable for the reasons described below.

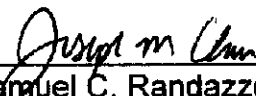
IEU-Ohio has repeatedly demonstrated, in this case as well as other proceedings stemming from AEP-Ohio's ESP case, that the Commission lost jurisdiction over AEP-Ohio's ESP case as well as all subsequent proceedings stemming from the ESP proceeding when it failed to issue an Order within the 150-day time period required by Section 4928.143, Revised Code.<sup>1</sup> IEU-Ohio also demonstrated in these cases that the

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<sup>1</sup> See *In the Matter of the Fuel Adjustment Clauses of Columbus Southern Power Company and Ohio Power Company*, PUCO Case Nos. 09-872-EL-FAC, *et al.*, Application for Rehearing and Memorandum in Support of Industrial Energy Users-Ohio (February 5, 2010); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No.10-154-EL-RDR, Application for Rehearing (April 23, 2010); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Establish Environmental Carrying Cost Riders*, PUCO Case No. 10-155-EL-RDR, Motion to Intervene and Memorandum in Support and Comments of Industrial Energy Users-Ohio (March 26, 2010); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Update Their Enhanced Service Reliability Riders*, PUCO Case No. 10-163-EL-RDR, Motion to Intervene and Memorandum in Support and Comments of Industrial Energy Users-Ohio (March 26, 2010); *In the Matter of the Application of*

Commission cannot permit AEP-Ohio to take the benefits of the higher rates contained in its ESP, including the TCRR, while AEP-Ohio simultaneously challenges the ESP Orders as well as reserves the right to withdraw and terminate its ESP.<sup>2</sup> However, the Commission, consistent with its previous orders, again rejected the arguments raised by IEU-Ohio.<sup>3</sup> IEU-Ohio hereby again incorporates by reference its May 21, 2010 comments filed in this case as well as its previous pleadings (as delineated in footnote 1) regarding these issues for the purposes of once again asserting that the Commission's approval of the instant Application is illegal and unreasonable under Sections 4928.141 and 4928.143, Revised Code, and for purposes of preserving any rights the Ohio Revised Code or the O.A.C. affords IEU-Ohio related to the Commission's Orders in this proceeding.

Respectfully submitted,

  
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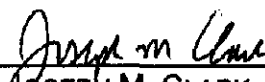
*Columbus Southern Power Company to Update its gridSMART Rider, PUCO Case No. 10-164-EL-RDR, Motion to Intervene and Memorandum in Support and Comments of Industrial Energy Users-Ohio (March 26, 2010).*

<sup>2</sup> *Id.*

<sup>3</sup> Finding and Order at 2 (June 23, 2010). See also, for example, *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code, Case No. 10-154-EL-RDR, Entry on Rehearing at 3-4 (May 19, 2010); In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company, Case Nos. 09-872-EL-FAC, et al., Entry on Rehearing at 5-6 (March 24, 2010).*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Application for Rehearing and Memorandum in Support of Industrial Energy Users-Ohio* was served upon the following parties of record this 22<sup>nd</sup> day of July, 2010, via first class mail, postage prepaid.

  
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