

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Fuel Adjustment) Case No. 09-872-EL-FAC
Clauses for Columbus Southern Power)
Company and Ohio Power Company.) Case No. 09-873-EL-FAC

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PUBLIC VERSION

**POST-HEARING BRIEF
BY**

THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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I. INTRODUCTION

In its application in this case, Columbus Southern Power Company and Ohio Power Company ("CSP" and "OP," respectively, and "AEP Ohio" or "Companies", collectively), are seeking to recover from their customers more fuel cost than the law allows. AEP Ohio is attempting to do so by passing on to its customers all of AEP Ohio's costs under [REDACTED] while keeping the majority of the benefits, i.e., value, received in those [REDACTED]. AEP Ohio is prohibited from such action by R.C. 4928.143(B)(2)(a), R.C. 4928.02(A) and Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii).

Under amended Senate Bill ("S.B") 221, the Public Utilities Commission of Ohio ("PUCO" or "Commission") may authorize an electric utility to recover its cost of fuel used in the generation of electricity. Specifically, Ohio Revised Code ("R.C.") 4928.143(B)(2)(a) provides that an electric utility may recover fuel cost that is prudently incurred.¹ This statutory standard, in addition to Ohio Administrative Code ("Ohio Adm. Code") 4901:1-35-03, which requires electric utilities to report any benefits acquired in

¹ R.C. 4928.143(B)(2)(a).

connection with its fuel costs, obliges the Commission to determine the actual cost of fuel incurred in the generation of electricity when authorizing the recovery of fuel costs. In addition, regulatory policy set forth in R.C. 4928.02(A) mandates that the Commission ensure electric service at reasonable rates.

Therefore, the Office of the Ohio Consumers' Counsel ("OCC") recommends that the Commission determine and only authorize for recovery the actual 2009 fuel costs of AEP Ohio in this proceeding. In seeking to determine AEP Ohio's actual cost of fuel in 2009, the Commission should assess both the [REDACTED] by AEP Ohio under its long-standing [REDACTED]

[REDACTED], which established the cost of fuel used in 2009. In so doing, the Commission should be mindful of the economic effect of AEP Ohio's [REDACTED] on its customers, and seek to ensure that customers appropriately share in the benefits of those [REDACTED].

II. BACKGROUND AND PROCEDURAL HISTORY

On March 18, 2009, the Commission issued its Opinion and Order in AEP Ohio's Electric Security Plan ("ESP") cases, Case Numbers [REDACTED], approving the establishment of a fuel adjustment clause ("FAC") mechanism.

Under the approved FAC, AEP Ohio can recover prudently incurred costs associated with fuel, including consumables related to environmental compliance, purchased power costs, emission allowances, and costs associated with carbon-based taxes and other carbon-

related regulations.² Six months later, and consistent with the Commission's Order, AEP Ohio filed its initial quarterly fuel adjustment clause filing in Case Numbers [REDACTED]

[REDACTED].³

The OCC, Industrial Energy Users-Ohio, and Ormet Primary Aluminum Company were granted intervention in [REDACTED] on January 7, 2010. That same day, the Commission approved the Companies' proposed tariff filings in the docket.⁴

Consistent with the Commission's previous March Order, AEP Ohio filed with the PUCO its [REDACTED]
[REDACTED].⁵ In addition, AEP Ohio filed a motion for protective order, claiming that certain provided information constituted confidential trade secret information under Ohio law. Subsequently, on May 17, 2010, AEP Ohio filed a letter indicating that the report inadvertently disclosed two references that should have been redacted. Another letter was sent on May 19, 2010, indicating that the Case Number [REDACTED]
[REDACTED] has been left off the cover pages of the [REDACTED]. AEP Ohio submitted that corresponding replacement pages be inserted to replace the un-redacted and incorrect pages.

² [REDACTED]

³ [REDACTED]

⁴ [REDACTED]

⁵ [REDACTED]

By Entry on June 29, 2010, the attorney examiner found all of AEP Ohio's claims and requests in connection with AEP Ohio's motion for protective order to be reasonable.⁶ Additionally, the attorney examiner set the matter for hearing on August 23-24, 2010.

A Stipulation and Recommendation ("Stipulation") was filed by all parties to the docket on August 23, 2010.⁷ In the Stipulation, the parties stipulated that the collection of deferrals and carrying charges associated with the Ormet Interim Agreement in [REDACTED] are the subject of a pending case before the Commission.⁸ The parties also stipulated that a determination on the collection of deferrals and carrying charges that are associated with the Ormet Interim Agreement will be addressed in the context of Case No. [REDACTED] and any other cases affecting collection under the Ormet interim agreement. The Parties further stipulated pursuant to Ohio Adm. Code 4901-1-30 that no party to the proceedings in the instant case shall be prejudiced regarding their positions on the Ormet Interim Agreement and associated deferrals by the absence of developing a record or by not arguing these issues in Case Nos. [REDACTED].

III. STANDARD OF REVIEW AND BURDEN OF PROOF

The Standard of Review in this case is set forth in R. C. 4928.143(B)(2)(a), which provides that the Commission may authorize an electric distribution utility to recover from customers the utility's prudently incurred cost of fuel used in the generation of

⁶ [REDACTED]

⁷ [REDACTED]

⁸ [REDACTED]

electricity.⁹ In addition, R.C. 4928.02 mandates that the Commission should ensure that the cost of electric service for AEP Ohio's customers is reasonable. Within the environment of competitive retail electric service, the Commission's authorization of the recovery of AEP Ohio's prudently incurred and actual fuel cost must be consistent with the state policy enumerated in R.C. 4928.02.

The burden of proof in this case is set forth in R.C. 4928.143(C)(1), which provides that the burden of proof in an ESP proceeding shall be on the electric utility.¹⁰ Because the origin of this case is AEP Ohio's ESP case, the burden of proof remains with the electric utility. Thus, AEP Ohio bears the burden of proving that the fuel costs it seeks in its application are prudently incurred and reasonable.

IV. ARGUMENT

A. AEP Ohio Is Seeking To Collect More Fuel Cost From Its Customers Than AEP Ohio Is Allowed By Law.

In its Application, AEP Ohio is attempting to pass on to its customers all of AEP Ohio's costs under [REDACTED], while keeping the majority of the benefits [REDACTED], thereby causing its customers to pay more fuel cost than allowed under the law. AEP Ohio is prohibited from such action by R.C. 4928.143(B)(2)(a), R.C. 4928.20(A) and Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii).

⁹ R.C. 4928.143(B)(2)(a).

¹⁰ R.C. 4928.143(C)(1).

1. Under R.C. 4928.143(B)(2)(a), AEP Ohio may recover only its actual fuel cost.

R.C. 4928.143(B)(2)(a) provides that an electric utility may recover through the FAC the cost of fuel that is prudently incurred in the generation of electricity.¹¹ To authorize the recovery of the fuel cost, the Commission must determine (1) the actual cost of fuel incurred, and (2) that the cost was prudently incurred. Both determinations are appropriate and in accordance with reasonable regulatory policy, but a determination of the actual cost of fuel incurred by AEP Ohio is crucial to a just result for AEP Ohio's customers and a proper disposition of this case.

A determination of AEP Ohio's actual fuel cost is also in keeping with the Commission's Opinion and Order authorizing AEP Ohio's ESP, which states, "As proposed by the Companies and supported by others, the FAC mechanism includes a quarterly reconciliation to *actual* FAC costs incurred, which will establish the new charge for the subsequent quarter."¹² (Emphasis added.) Further, such a determination is consistent with how the Electric Fuel Component Rate ("EFC") functioned in the pre-S.B. 3 era, when actual acquisition and delivery costs of fuel consumed and used to generate electricity were determined and permitted to be recovered in the fuel clause.¹³

In this case, only the accrual cost of fuel prudently “incurred,” in addition to the cost of purchased power and other specific miscellaneous expenses as approved in the AEP Ohio ESP order, can be collected from customers through the FAC. And any value

acquired by AEP Ohio as a result of

¹¹ R.C. 4928.143(B)(2)(a).

¹² PUCU Case Nos. [REDACTED], Opinion and Order (March 18, 2008) at 15.

¹³ Chapter 4901:1-11 established the enabling rules for the EFC. Specifically, Rule 4901:1-11-1(O) defined fuel costs as “actual acquisition and delivery costs of fuel consumed, including the amortized costs of nuclear fuel expended, to generate electricity...” (rescinded).

[REDACTED] must be included and properly accounted for in calculating the actual cost of fuel incurred by AEP Ohio. Otherwise, customers will be required to pay a fuel cost that has little relation to the actual cost of fuel incurred by the utility under those contracts.

2. Under Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii), the value AEP Ohio [REDACTED] must be balanced against the purchase price of the fuel.

To assist the Commission in determining the actual cost of an electric utility's fuel, Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii) provides that an application by an electric utility seeking to recover its fuel costs must include "any benefits available to the electric utility as a result of or in connection with such costs including but not limited to profits from emission allowance sales and profits from resold coal contracts."¹⁴ This practice was common before S.B. 3 in the context of EFC cases and generation rate cases.¹⁵ Thus, in authorizing an electric utility's recovery of its cost of fuel, the Commission must balance for customers any benefits available to the electric utility as a result of, or in connection with, such cost, and thereby determine the actual fuel cost incurred by the utility.

In the instant case, AEP Ohio's actual fuel cost incurred for the 2009 FAC period was established by its [REDACTED]

[REDACTED]

[REDACTED]

¹⁴ Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii).

¹⁵ See *In the Matter of the Regulation of The Electric Fuel Component Contained Within the Rate Schedules of Cincinnati Gas & Electric Company and Related Matters*, PUCO Case No. 98-103-EL-EFC, Entry (December 22, 1998) at 3; See also *In the Matter of the Regulation of The Electric Fuel Component Contained Within the Rate Schedules of Columbus Southern Power Company and Related Matters*, PUCO Case No. 98-102-EL-EFC, Order (November 24, 1998) at 3 (In these EFC cases, customers were credited benefits obtained as a result of assets paid for by customers.).

[REDACTED].¹⁶ These [REDACTED]
[REDACTED] value in the form of [REDACTED]
[REDACTED]. The [REDACTED] must be fully weighed against AEP Ohio's
coal expenditure for 2009 to determine the true, or actual, fuel cost incurred by AEP Ohio
for that year.

- a. **Ohio Power Company's** [REDACTED]
[REDACTED]
**produced added costs for customers while not
allowing customers to share the financial
benefits.**

In the instance of OP's [REDACTED]
[REDACTED] with the supplier
in [REDACTED],¹⁷ ultimately signing the [REDACTED] in January of [REDACTED]. This [REDACTED]
[REDACTED].

Prior to the [REDACTED], a price [REDACTED]
[REDACTED] in the [REDACTED].¹⁸ As a result of the [REDACTED], OP,
and ultimately OP's customers, paid significantly more for coal.¹⁹ Energy Ventures
Analysis ("EVA"), the management auditor in this case, noted that the [REDACTED]
[REDACTED] during 2009 resulted in [REDACTED]

¹⁶ [REDACTED]
[REDACTED]

¹⁷ [REDACTED]
[REDACTED]

¹⁸ [REDACTED]
[REDACTED]

¹⁹ Id. at 2-21.

██████████ if OP had continued to receive coal at the price previously agreed to by ██████████.²⁰

In exchange for AEP Ohio's ██████████ ██████████, which AEP Ohio was able to collect from its customers through the FAC, AEP Ohio received ██████████.²¹ In addition, ██████████ AEP Ohio ██████████ with ██████████

██████████²² that AEP Ohio's Service Company ("AEPSC") ██████████ as ██████████ in ██████████,²³ but is likely ██████████.²⁴

Under the ██████████ agreed to by AEP Ohio and ██████████ represents only one element of the actual cost of the coal incurred ██████████. The actual cost of fuel incurred by AEP Ohio is determined by calculating the amount AEP Ohio spent on coal under the contract, less the value ██████████. Thus, in determining the actual fuel cost incurred by AEP Ohio in its ██████████ ██████████, the Commission must include in its calculation the value of ██████████ and ██████████ by AEP Ohio.

Of the ██████████ to AEP Ohio by ██████████, AEP Ohio ██████████

²⁰ Id. at 1-5; IEU Exhibit 1 (Pre-filed Testimony of Hess) at 4.

²¹ ██████████

²² OCC Exhibit 1A (Pre-filed Testimony of Duann) at 11.

²³ ██████████

²⁴ ██████████

██████████²⁵ ██████████²⁶ AEP Ohio has not allowed its customers to share any of the value of ██████████, which was ██████████ to be worth between ██████████²⁷ ██████████.

In determining and authorizing actual fuel cost incurred by AEP Ohio, the Commission should subtract the value of ██████████. Just as the actual cost of an automobile is less than the sales price when the purchaser receives a manufacturer's rebate, the actual cost incurred by AEP Ohio for the coal delivered ██████████ is considerably less than the contract price for the coal. Rather, the actual fuel cost is the ██████████ coal ██████████ ██████████.

Thus, AEP Ohio is seeking to collect from its customers more than it is allowed under law. And the PUCO should act to provide AEP Ohio's customers their proper benefits and protections under the law.

- b. AEP Ohio's ██████████ with ██████████ produces added costs for customers while not allowing customers to share the ██████████ ██████████**

In the instance of AEP Ohio's coal procurement ██████████ with the ██████████ ██████████ AEPSC ██████████

²⁵ Company Exhibit 1 (Pre-filed Testimony of Dooley) at 3.

²⁶ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 10-11.

²⁷ Tr. Vol. I at 37-38 (Medine); See also, IEU Exhibit 1 (Pre-filed Testimony of Hess) at 5; ██████████ ██████████

[REDACTED]²⁸ Under the [REDACTED] effective [REDACTED] AEPSC also [REDACTED]

[REDACTED] Additionally, the [REDACTED] AEPSC with [REDACTED]

[REDACTED]²⁹

The [REDACTED] was designed to provide a benefit to AEP Ohio for its [REDACTED] AEP Ohio has [REDACTED]

through the FAC. The [REDACTED]

As a result of AEP Ohio's [REDACTED], customers are paying the added cost of the [REDACTED]

[REDACTED] the current FAC period. Thus, AEP Ohio's customers will have paid more for coal [REDACTED]

[REDACTED]. This is contrary to

²⁸ IEU Exhibit 1 (Pre-filed Testimony of Hess) at 10.

²⁹ [REDACTED]

Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii). In addition, because this [REDACTED] and the associated accounting treatment does not allow AEP Ohio's customers to share in the [REDACTED], it causes customers to pay more than the actual fuel cost incurred by AEP Ohio under the contract, in violation of R.C. 4928.143(B)(2)(a). Further, the result is inherently unreasonable as customers of [REDACTED] are being made to pay a higher price of retail service than justified.

3. Reasonably priced electric service mandated under R.C. 4928.02(A) further requires that the Commission balance [REDACTED] with the costs imposed on customers under [REDACTED].

R.C. 4928.02(A) provides that consumers shall be ensured of reasonably priced electric service.³⁰ Reasonably priced electric service does not result when an electric utility is allowed to recover from customers more than its actual fuel cost incurred in the generation of electricity.³¹ Thus, in authorizing the recovery of AEP Ohio's fuel cost incurred in 2009, R.C. 4928.02(A), as well R.C. 4928.143(B)(2)(a), requires that the Commission authorize only the actual fuel cost of AEP Ohio.

To ensure that AEP Ohio's customers pay only the actual fuel cost incurred by AEP Ohio and therefore, receive reasonably priced electric service, the Commission should thoroughly assess the effects of AEP [REDACTED] which established AEP Ohio's fuel cost for the 2009 FAC period. In particular, the Commission should consider the [REDACTED]

³⁰ R.C. 4928.02(A).

³¹ R.C. 4928.02(A).

In the [REDACTED] AEP Ohio passed on to customers a sharply increased [REDACTED] little of the benefits under the [REDACTED]. AEP Ohio claimed as [REDACTED] the lion's share [REDACTED] of [REDACTED] [REDACTED], and all of the [REDACTED] AEP Ohio in the deal, as customers of OP have not received any part of the value of the [REDACTED] to date.³²

As addressed in both the [REDACTED]³³ and the hearing testimony of the management auditor, Emily Medine,³⁴ the adverse affect of the [REDACTED] on AEP Ohio's customers, especially the lack of [REDACTED] for customers, creates a concern about equitable treatment for customers.³⁵ First, as Ms. Medine noted at hearing, the [REDACTED] [REDACTED] ratepayers through the ESP period had there not been [REDACTED] [REDACTED]³⁶

When AEP Ohio [REDACTED], customers lost the benefit of [REDACTED] [REDACTED] and did not receive the realized value of [REDACTED].³⁷ Not coincidentally, the [REDACTED], when AEP Ohio could [REDACTED]

³² OCC Exhibit 1A (Pre-filed Testimony of Duann) at 11-12; AEP Ohio Exhibit 1A (Pre-filed Testimony of Dooley) at 3-4.

³³ [REDACTED]

³⁴ Tr. Vol. I at 28-31 (Medine).

³⁵ Tr. Vol. I at 30 (Medine).

³⁶ Tr. Vol. I at 30-32 (Medine); Note: the Ms. Medine does not believe that [REDACTED]

³⁷ Tr. Vol. I at 31 (Medine).

██████████ to customers.³⁸ As Ms. Medine observed, the difference between the ██████████
██████████ contributed to the large OP FAC under-
recovery (that AEP Ohio then proceeded to collect from customers) and constitutes an
equity concern.³⁹ OCC witness, Dr. Duann, established that OP will likely have a deferral
balance of ██████████ million by the end of ██████████, meaning there will be a balance of nearly
██████████ dollars that AEP Ohio will seek to collect from customers.⁴⁰

The most evident inequities resulting from AEP Ohio's ██████████
██████████ are AEP Ohio's ██████████
██████████
██████████⁴¹ The adverse effect on customers of the ██████████
combined with the substantial benefits AEP Ohio realized from its ██████████
██████████ prompted the auditor to suggest, "In
order to match revenues and costs, EVA believes the PUCO should consider whether it
would be appropriate to ██████████
against OPCO's FAC under-recovery."⁴²

OCC witness Dr. Duann similarly testified that "there was a clear ██████████
██████████ by AEP in
██████████."⁴³ He further noted that "the customers of Ohio Power are paying the
██████████. As a matter of fairness, the

³⁸ Tr. Vol. I at 29 (Medine).

³⁹ Tr. Vol. I at 31 (Medine).

⁴⁰ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 16.

⁴¹ Id. at 2-21.

⁴² Id. at 2-21, 1-6; Tr. Vol. I at 29 (Medine); Tr. Vol. I at 30 (Medine).

⁴³ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 7.

customers of OPC should also receive all the proceeds from the [REDACTED]
[REDACTED] the [REDACTED] by [REDACTED]
[REDACTED]⁴⁴ Ms. Medine observed that most of the [REDACTED]
[REDACTED] did not flow through to the customers and certainly did not offset the fact that
there would be [REDACTED] during the ESP period.⁴⁵

The auditor was further concerned about AEP Ohio's use of a "[REDACTED]
[REDACTED]"⁴⁶ in valuing [REDACTED], which produced a [REDACTED]
[REDACTED].⁴⁷ By design or effect, AEP Ohio's very [REDACTED]
[REDACTED] would limit the [REDACTED] to be shared with Ohio
consumers.

In 2008, OP booked the value of the [REDACTED] at [REDACTED]
[REDACTED],⁴⁸ but customers received no value from the [REDACTED], whatsoever.
The [REDACTED] is a valuable asset with an [REDACTED]
[REDACTED]⁴⁹ The [REDACTED] indicates that [REDACTED]
[REDACTED]
[REDACTED]⁵⁰ According to the [REDACTED]
[REDACTED], a [REDACTED] the [REDACTED]

⁴⁴ Id. At 12.

⁴⁵ Tr. Vol. I at 33-34 (Medine).

⁴⁶ Id. at footnote 8 on p. 2-21.

⁴⁷ Tr. Vol. I at 36 (Medine).

⁴⁸ [REDACTED]

⁴⁹ [REDACTED]

⁵⁰ [REDACTED]

[REDACTED], the value of the [REDACTED]
[REDACTED]⁵¹ The auditor testified that “obviously, [REDACTED] felt strongly enough about the fact that [REDACTED] was more reasonable than AEP’s because it actually had [REDACTED] are using AEP’s [REDACTED].”⁵²

Under R.C. 4928.02(A), which provides that the cost of electric service must be reasonable for Ohio consumers, the Commission is obligated to ensure that AEP Ohio does not benefit, at the expense of its customers, from [REDACTED]
[REDACTED]. AEP Ohio recognizes and agrees to the need for [REDACTED]
[REDACTED]⁵³ but AEP Ohio [REDACTED]
[REDACTED] to the customers of OP, instead seeking to [REDACTED]
[REDACTED]. This violates the basic regulatory principle of matching costs and proceeds.⁵⁴

Under AEP Ohio’s [REDACTED], customers will pay the [REDACTED]
[REDACTED] on the [REDACTED] of coal [REDACTED] in the
[REDACTED] and AEPSC will receive a [REDACTED]
[REDACTED] the current FAC period. Thus, AEP Ohio’s customers will
[REDACTED] during the FAC period, but will not share in [REDACTED] under
the [REDACTED]

Because the [REDACTED] affected AEP Ohio’s cost of fuel that it is seeking to collect from customers, the Commission’s determination and

⁵¹ Tr. Vol. I at 36-37 (Medine).

⁵² Tr. Vol. I at 37 (Medine).

⁵³ AEP Ohio Exhibit 1A (Pre-filed Testimony of Dooley) at 3-4.

⁵⁴ [REDACTED]
[REDACTED]

authorization of AEP Ohio's fuel cost must follow a thorough analysis of these matters so that customers are made to bear only AEP Ohio's actual fuel cost incurred in the generation of electricity. The Commission must not allow AEP Ohio, through [REDACTED] [REDACTED]⁵⁵ to realize an unreasonable and inequitable share of [REDACTED], while AEP Ohio's customers are made to bear the entire financial burden under the [REDACTED] and receive little or no benefit.

B. To Prevent AEP Ohio From Recovering More Fuel Cost From Its Customers Than AEP Ohio Should Under Law, The Commission Should Order That AEP Ohio's Customers Receive [REDACTED] From AEP Ohio's [REDACTED]

As demonstrated by the record in this case, AEP Ohio's customers have not shared the benefits of AEP Ohio's [REDACTED], and therefore, risk paying more than they should under law for AEP Ohio's fuel. To prevent this unjust result, the Commission should order AEP Ohio to immediately share with customers the benefits from AEP Ohio's [REDACTED]. The benefits should be shared through immediate credits to AEP Ohio's enormous FAC deferral balance. This course of action would be consistent Ohio Supreme Court instructions in a 2007 FirstEnergy Corporation case where a fuel-recovery mechanism collected revenues in excess of actual fuel costs.⁵⁶ In that case, the Court stated, "If actual increased fuel costs are less than the revenues

⁵⁵ [REDACTED]

⁵⁶ *Elyria Foundry Company et al., v. Pub. Util. Comm.* (2007), 114 Ohio St.3d 305, 314, 2007 Ohio 4164, 871 N.E.2d 1176.

generated through the fuel-recovery mechanism, the excess revenues will be applied to reduce the distribution-expense deferrals”⁵⁷

1. The Commission should immediately credit to the FAC deferral balance the [REDACTED] of the [REDACTED] that AEP Ohio received in [REDACTED] under its [REDACTED] that AEP Ohio [REDACTED] to pass through to customers.

Subsequent to the establishment of AEP Ohio’s [REDACTED] with [REDACTED] AEP Ohio [REDACTED] FAC only [REDACTED] AEP Ohio to [REDACTED] their [REDACTED]. As a result, AEP Ohio kept [REDACTED].⁵⁸ This result was an injustice to customers. To rectify this unreasonable result, the Commission should order AEP Ohio to immediately credit the [REDACTED] [REDACTED]. This position is supported by the testimony of OCC witnesses Dr. Duann⁵⁹ and IEU witness Edward Hess.⁶⁰ Importantly, it is also [REDACTED] for the Commission’s consideration as [REDACTED].⁶¹

⁵⁷ Id.

⁵⁸ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 10-11; IEU Exhibit 1 (Pre-filed Testimony of Hess) at 6.

⁵⁹ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 5, 12.

⁶⁰ IEU Exhibit 1 (Pre-filed Testimony of Hess) at 8-9.

⁶¹ [REDACTED]

2. The Commission should credit to AEP Ohio's fuel cost deferral balance the [REDACTED] of the [REDACTED] AEP Ohio [REDACTED]

As recommended in the testimony of Dr. Duann, the Commission should direct AEP Ohio to immediately credit the [REDACTED] against the OP FAC under-recovery⁶² in order to [REDACTED] the benefits of the [REDACTED] against the cost. To date, OP's customers have not received any of the value of the [REDACTED] [REDACTED] although it was [REDACTED] for AEP Ohio's [REDACTED] of [REDACTED] in [REDACTED] that consumers have been asked to pay.⁶³

Before the Commission can credit AEP Ohio's customers for the [REDACTED] [REDACTED], a reasonable [REDACTED] of the [REDACTED] must be established. AEP Ohio originally [REDACTED] its value in [REDACTED] as [REDACTED]⁶⁴ but [REDACTED] [REDACTED] that is very [REDACTED]⁶⁵ In addition, the auditor testified at hearing that AEP Ohio [REDACTED] [REDACTED] [REDACTED] [REDACTED]⁶⁶

Using its own price forecast, the [REDACTED], [REDACTED] AEP Ohio that determined in [REDACTED] the value of the reserve on a [REDACTED] and

⁶² OCC Exhibit 1A (Pre-filed Testimony of Duann) at 7, 13.

⁶³ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 10; [REDACTED]

⁶⁴ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 11.

⁶⁵ [REDACTED]

⁶⁶ Tr. Vol. I at 35 (Medine).

using [REDACTED], the value of the [REDACTED] was [REDACTED] million.⁶⁷

Using a [REDACTED], the [REDACTED] the value as high as [REDACTED]

[REDACTED]⁶⁸ At hearing, Dr. Duann established that based on the previous per ton profit from coal sold by [REDACTED], plus the [REDACTED] million [REDACTED] [REDACTED], the value of the [REDACTED] could be estimated at approximately [REDACTED] million to [REDACTED] million.⁶⁹ Therefore, the Commission must first seek to determine a fair value of the [REDACTED] before it can properly credit the FAC deferral balance. However, to be fair to AEP Ohio's customers, the credit to the FAC deferral balance should be at least in the range of [REDACTED] million to [REDACTED] million, and [REDACTED]

Notwithstanding the issue of its value, it is in the interests of AEP Ohio's customers to [REDACTED] the [REDACTED] and [REDACTED] to reduce the fuel cost deferral balance.⁷⁰ The extremely large fuel cost deferral balance is an issue the Commission should address as soon as possible.⁷¹

According to the most recent FAC quarterly filing made by OPC, the fuel cost deferral balance at the end of March 2010 was [REDACTED] million. In its more recent quarterly FAC filing, [REDACTED] that it is probable that [REDACTED] [REDACTED] to be [REDACTED] subsequent to the ESP. Assuming the fuel cost being currently [REDACTED] is representative of [REDACTED] over the remainder of the ESP term (i.e. [REDACTED] for OP), OP [REDACTED]

⁶⁷ [REDACTED]

⁶⁸ Tr. Vol. I at 37 (Medine); IEU Exhibit 1 (Pre-filed Testimony of Hess) at 5.

⁶⁹ Tr. Vol. II at 220-221 (Duann).

⁷⁰ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 14.

⁷¹ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 16.

million at the .⁷² AEP Ohio can be expected to seek the collection of the deferrals from customers.

It is contrary to reasonable regulatory policy to allow AEP to hold onto a that provides no benefits to AEP Ohio's customers, and at the same time, allow the fuel cost deferral balance at a rapid rate. Further, by not requiring the , the Commission will allow OP to essentially equivalent to the difference between the and the actual cost of financing the fuel cost deferral.⁷³ Further, AEP Ohio's customers should not be required to incur and ultimately pay a FAC deferral balance any greater than absolutely necessary. Accordingly, to remove the disincentive for AEP Ohio to in a timely manner, a for the accrual of carrying charges should be imposed, as set forth in Dr. Duann's testimony.⁷⁴

The credit to customers of the value of the would be a one-time credit that would only reduce the balance of the fuel cost deferral.⁷⁵ Thus, it would not affect the rate paid by OP customers, OP's current income, or its cash flow.⁷⁶ It would not require any new borrowing or internal funding needs by OP, as the existing fuel cost deferral balance has already reflected the absence of any proceeds from the possible .⁷⁷ Therefore, the implementation of the regulatory

⁷² Id.

⁷³ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 15.

⁷⁴ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 19.

⁷⁵ OCC Exhibit 1A (Pre-filed Testimony of Duann) at 17.

⁷⁶ Id.

⁷⁷ Id.

remedies proposed by OCC will not adversely affect the cash flow and the financial health of AEP Ohio, and the proposal will serve the financial health of Ohio consumers who otherwise will be asked by AEP Ohio to pay the deferrals. These regulatory remedies will significantly reduce the fuel cost deferral balance and provide immediate relief to the customers of Ohio Power.

3. The Commission should credit the [REDACTED] of the [REDACTED] by AEP Ohio in [REDACTED] beyond the current FAC period.

As discussed above, AEP Ohio in [REDACTED]

[REDACTED]⁷⁸ Under that [REDACTED] AEP Ohio also [REDACTED] of approximately [REDACTED] on the [REDACTED] after [REDACTED]. [REDACTED] agreed to [REDACTED].

Additionally, the [REDACTED] provided AEP Ohio with [REDACTED]

[REDACTED] Also, the [REDACTED] during the [REDACTED] would be [REDACTED]

[REDACTED]⁷⁹

As a result of AEP Ohio's [REDACTED], customers are paying the added cost of the [REDACTED] in the

⁷⁸ [REDACTED]

⁷⁹ [REDACTED]

2009 FAC, but AEP Ohio will [REDACTED]
[REDACTED] a [REDACTED] the current FAC period. Thus, AEP Ohio's customers will have [REDACTED] during the FAC period, but will not [REDACTED] under the [REDACTED].

This [REDACTED] is a clear mismatch of costs and benefits for customers. Accordingly, as recommended in the testimony of IEU witness, Edward Hess, the Commission should order a [REDACTED]
[REDACTED] in [REDACTED].⁸⁰ To account for the [REDACTED] million can be recorded as a [REDACTED]. The [REDACTED] then should be amortized during the period of the [REDACTED]

[REDACTED]⁸¹ The share of the total cost [REDACTED] for CSP in [REDACTED] was [REDACTED].⁸²

V. CONCLUSION

As demonstrated above, Ohio law mandates that Ohio's electric utility customers shall receive electric service at a reasonable price and pay only the actual fuel cost incurred by AEP Ohio. The Commission must not allow AEP Ohio, through its [REDACTED], to unlawfully and unreasonably enjoy the [REDACTED], while relegating its customers, who bear the entire financial burden under [REDACTED], to have little or no benefit.

⁸⁰ IEU Exhibit 1 (Pre-filed Testimony of Hess) at 9-11.

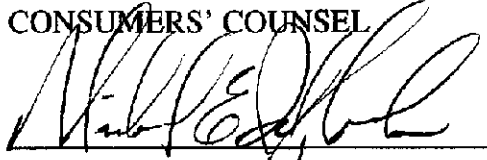
⁸¹ IEU Exhibit 1 (Pre-filed Testimony of Hess) at 9-11.

⁸² Id. at 10.

Accordingly, the Commission should thoroughly review the effects of AEP Ohio's [REDACTED], which established AEP Ohio's 2009 fuel costs. Further, the Commission should order a credit to the FAC deferral balance in the full amount of the [REDACTED] in its [REDACTED], specifically the [REDACTED], and the [REDACTED] of the [REDACTED]. Reasonable regulatory policy requires no less for AEP Ohio's customers.

Respectfully submitted,

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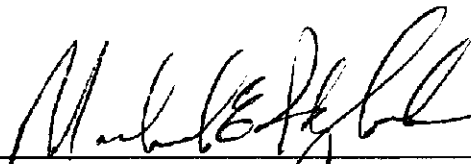


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief of the Office of the Ohio Consumers' Counsel, Public Version, was served by regular U.S. Mail Service, postage prepaid, and a courtesy copy via electronic transmission to the persons listed below on this 23rd day of September 2010.



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