

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power) Company for Approval of its Renewable Energy) Case No. 09-1871-EL-ACP Technology Program.)	
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In the Matter of the Application of Columbus) Southern Power Company for Approval of its) Case No. 09-1872-EL-ACP Renewable Energy Technology Program.)	
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INITIAL COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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A. INTRODUCTION

On November 30, 2009, Columbus Southern Power (“CSP”) and Ohio Power Company (“OP”) (collectively, American Electric Power-Ohio or “AEP-Ohio”) filed the instant Application for approval of a Renewable Energy Technology Program (hereinafter “Program”) for approval by the Public Utilities Commission of Ohio (“Commission”). AEP-Ohio filed the Application pursuant to a Stipulation and Recommendation (“Stipulation”) submitted in AEP-Ohio’s energy efficiency/peak demand reduction (“EE/PDR”) portfolio plan proceeding.¹ On September 24, 2010, the Attorney Examiner granted the Motions to Intervene of Industrial Energy Users-Ohio (“IEU-Ohio”), the Office of the Ohio Consumers’ Counsel (“OCC”), and the Vote Solar Initiative (“VSI”), and also established a procedural schedule permitting initial and reply comments on the Application. Pursuant to the September 24, 2010 Entry, IEU-Ohio hereby submits its Initial Comments regarding the instant Application.

¹ *In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration*, PUCO Case Nos. 09-1089-EL-POR, *et al.*, Stipulation and Recommendation at 5-6 (November 12, 2009). The Stipulation, as modified and approved by the Commission, only requires AEP-Ohio to propose the Program and in no way pre-determines approval of the Program. *Id.* at 5.

B. INITIAL COMMENTS

In its Application, AEP-Ohio proposes this Program to provide incentives during calendar years 2010 and 2011 for customer-sited solar photovoltaic (“PV”) and small wind renewable energy resource facilities. The Application notes the Stipulation in the EE/PDR portfolio plan case calls for prudently-incurred costs of the program to be recovered through the respective fuel adjustment clause (“FAC”) mechanisms of CSP and OP.² The total incentive budget through December 31, 2011 is \$5 million with a 50/50 split for CSP and OP. The annual caps also will be split 50/50 for CSP and OP in 2010 and 2011 (*i.e.* \$1.25 million per company per year).³ Projects must be installed within six months after approval of application or by November 30, 2011 if application is made after May 31, 2011.⁴ AEP-Ohio will retain title to the renewable energy credits (“REC”) generated by the projects funded by the Program.⁵

The Commission should deny the Application. AEP-Ohio indicated in a related filing for a REC purchase program that it does not need solar RECs from the market or elsewhere to comply with the 2010 or 2011 solar mandates.⁶ AEP-Ohio also makes no demonstration that the Program is needed to meet its non-solar renewable energy mandates in 2010 or 2011. In AEP-Ohio’s Application for a *force majeure* determination related to its 2009 solar mandate, AEP-Ohio stated that its renewable energy purchase agreement with Wyandot Solar LLC (“Wyandot”) would “enable AEP Ohio to ‘catch up’ in 2010 and even produce enough RECs to meet the 2011 solar benchmarks at a much

² Application at 3.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *In the Matter of the Application of Columbus Southern Power Company for Approval of its Renewable Energy Credit Purchase Offer Program*, PUCO Case Nos. 09-1874-EL-ACP, *et al.*, Application at 4 (November 30, 2009).

more reasonable cost than attempting to continue purchasing what few 2009 RECs are available on the market now, at high market prices.”⁷ Further, AEP-Ohio provides no information or context to evaluate the need for the Program to comply with the renewable energy resource mandates beyond the current electric security plan (“ESP”) period. Nor does AEP-Ohio provide information regarding the cost-effectiveness of the Program versus the cost per REC under the Wyandot contract or other compliance options for 2010, 2011, or after the current ESP ends.

Additionally, as the Commission is well aware, both CSP’s and OP’s rates are capped at Commission-established increase percentages for each year of the respective ESPs for CSP and OP, subject to certain exceptions specifically enumerated by the Commission.⁸ CSP’s and OP’s non-fuel costs are collected first and then the FAC charges are collected up to the caps set by the Commission.⁹ Any FAC costs above the cap are deferred, with interest, for future collection through a non-bypassable rider from 2012 through 2018.¹⁰ If the combined non-fuel and fuel charges of either CSP or OP are below the increase cap in any given year, then the approved ESP requires CSP or OP to amortize the deferrals up to the cap amount.¹¹ AEP-Ohio’s most

⁷ *In the Matter of the Application of Columbus Southern Power Company for Amendment of the 2009 Solar Energy Resource Benchmark, Pursuant to Section 4928.64(C)(4), Ohio Revised Code*, PUCO Case Nos. 09-987-EL-EEC, *et al.*, Columbus Southern Power Company’s and Ohio Power Company’s Additional Reply Comments at 4 (December 16, 2009). In its Application in the *force majeure* proceeding, AEP-Ohio noted the Wyandot agreement would “provide AEP Ohio a stream of Ohio-based solar RECs well into the future...” *In the Matter of the Application of Columbus Southern Power Company for Amendment of the 2009 Solar Energy Resource Benchmark, Pursuant to Section 4928.64(C)(4), Ohio Revised Code.*, PUCO Case Nos. 09-987-EL-EEC, *et al.*, Columbus Southern Power’s and Ohio Power’s Application and Request for Expedited Consideration at 4 (October 26, 2009).

⁸ *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 Generating Assets*, PUCO Case Nos. 08-917-EL-SSO, *et al.*, Opinion and Order at 22 (March 18, 2009).

⁹ *Id.*

¹⁰ *Id.* at 22-23.

¹¹ *Id.* at 22.

recent FAC filing showed the OP FAC deferral now stands at \$406 million and CSP's FAC deferral is \$9.4 million.¹²

The consequence of approving the Application for OP would be additional deferrals, with interest, to be collected through a non-bypassable rider beginning in 2012. And, for CSP customers, approval of the Application might prolong FAC deferral amortization and possibly cause the unnecessary delay of lower rates for customers of all customer classes.¹³ Neither of these outcomes is acceptable when AEP-Ohio has itself acknowledged it does not need the Program for compliance with the alternative energy mandates during the current ESP period and has not provided any cost-benefit analysis of the Program during or after the current ESP period.

Finally, approval of the Program would once again force customers to pay costs through the FAC but not have assurances that they will receive the benefits associated with those costs. In AEP-Ohio's pending audit proceeding to review its 2009 FAC charges, IEU-Ohio, as well as OCC, is objecting to customers paying for fuel costs through the FAC without receiving the benefits associated with those costs or without any guarantee they will receive the attendant benefits of those costs.¹⁴ In the instant case, there is no guarantee there will be an FAC beyond 2011 inasmuch as AEP-Ohio's

¹² *In the Matter of the Fuel Adjustment Clauses of Columbus Southern Power Company and Ohio Power Company*, Case Nos. 10-1286-EL-FAC, *et al.*, Tariff Update, Schedule 3, Page 1 of 3 (September 2, 2010). The deferral amounts for CSP and OP are found on Schedule 3, Page 1 of 3 on the respective attachments for CSP and OP.

¹³ AEP-Ohio's third quarter and fourth quarter FAC filings show CSP is currently amortizing deferred FAC costs. Compare *In the Matter of the Fuel Adjustment Clauses of Columbus Southern Power Company and Ohio Power Company*, Case Nos. 10-1286-EL-FAC, *et al.*, Tariff Update, Schedule 3, Page 1 of 3 (September 2, 2010)] with *In the Matter of the Fuel Adjustment Clauses of Columbus Southern Power Company and Ohio Power Company*, Case Nos. 10-870-EL-FAC, *et al.*, Tariff Update, Schedule 3, Page 1 of 3 (June 22, 2010).

¹⁴ *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.*, Initial Brief of Industrial Energy Users-Ohio (September 23, 2010) (hereinafter cited as "2009 FAC Audit Case"). *2009 FAC Audit Case*, Post-Hearing Brief by the Office of the Ohio Consumers' Counsel (September 23, 2010).

future standard service offer (“SSO”) beyond 2011 is unknown.¹⁵ Thus, customers will pay for the incentives upfront through the volumetric rate design of the FAC for 2010 and 2011 but, because there is no guarantee of whether the future SSO will be an ESP, or if that hypothetical ESP will even contain an FAC mechanism, or if that hypothetical ESP will recover renewable mandate compliance costs through the hypothetical future FAC, there would be no certainty that customers actually receive the benefits of pre-payment for future years’ compliance RECs through a lower prospective FAC rate.

As an alternative, the Commission should instruct AEP-Ohio to discuss the Program with interested parties in the context of its next SSO application. As noted above, there is no need for the Program before the end of the ESP, nor any information on the cost-effectiveness of utilizing Program RECs for compliance with the mandates versus other available compliance alternatives during or after the current ESP. Further, the Stipulation in the EE/PDR portfolio plan case contemplates discussions before the next SSO filing about compliance with the alternative energy benchmarks, stating “At least six months before the Companies file for a new standard service offer, a working group of interested Signatory Parties and Commission Staff will be formed to discuss whether the costs of renewable energy should be recovered in the fuel adjustment charge or in a separate bypassable surcharge.”¹⁶ This option would be well-timed, has already been contemplated by the Signatory Parties to the EE/PDR case, and would avoid needlessly increasing FAC costs during the ESP period.

¹⁵ 2009 FAC Audit Case, AEP-Ohio Initial Brief at 34-35 (September 24, 2010); 2009 FAC Audit Case, IEU-Ohio Initial Brief at 17 (September 24, 2010).

¹⁶ *In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration.*, PUCO Case Nos. 09-1089-EL-POR, *et al.*, Stipulation and Recommendation at 6 (November 12, 2009).

C. CONCLUSION

For the reasons stated herein, IEU-Ohio requests the Commission deny the Application and direct the Parties to discuss this Program in the context of AEP-Ohio's next SSO filing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Initial Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 8th day of October 2010 via electronic transmission, hand delivery, or first class mail, postage prepaid.

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