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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Review)
of the Capacity Charges of Ohio Power) Case No. 10-2929-EL-UNC
Company and Columbus Southern Power)
Company.)

MEMORANDUM CONTRA
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") hereby submits this Memorandum Contra Columbus Southern Power Company's and Ohio Power Company's (collectively, "AEP Ohio" or "Company") Motion to Stay the Reply Comment Period and Establish a Procedural Schedule for Hearing and Expedited Ruling ("Motion") filed in the above-captioned docket on January 20, 2011.¹ OCC is filing on behalf of all the approximately 1.2 million residential utility consumers of AEP Ohio. Capacity charges represent the costs of a utility making its generation units available to provide electric service to a customer. Such charges may ultimately be collected from Ohio residential consumers.

On January 20, 2011, AEP Ohio filed its Motion under Ohio Adm. Code 4901:1-12 and included a request for an expedited ruling. On January 21, 2011, the Commission issued an Entry extended the deadline for Reply Comments in this case from January 24, 2011 to February 7, 2011. In its Entry, the Commission stated that AEP Ohio's request

¹ OCC files this Memorandum Contra in accordance with Ohio Adm. Code 4901:1-12(C).

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to establish a procedural schedule and evidentiary hearing “shall be considered after the reply comment period has concluded.”²

Ohio Adm. Code 4901:1-12 (B)(1) provides “[a]ny party may file a memorandum contra within fifteen days after the service of a motion, or such other period as the commission, the legal director, the deputy legal director, or the attorney examiner requires.” In the interest of administrative efficiency and ensuring a diversity of electricity supplies and suppliers in Ohio,³ OCC recommends that the Commission deny AEP Ohio’s Motion to establish a procedural schedule for hearing in this case.

II. MEMORANDUM CONTRA

AEP Ohio’s Motion represents a last ditch effort by the Company to change the state mechanism(s) for capacity compensation. Notably, AEP Ohio did not file this Motion until January 20, 2011, the same date that the Federal Energy Regulatory Commission (“FERC”) issued an Order rejecting AEP Ohio’s attempt to bypass the PUCO’s authority at the federal level.⁴ Further, AEP Ohio’s Motion came only days before the established deadline for Reply Comments in this case – January 24, 2011. AEP Ohio should not now be permitted to extend the scope and length of this proceeding at the last minute merely because the Company’s attempt to change its capacity compensation mechanism at FERC is now likely thwarted.

The Commission’s Entry opening this docket specifies that this “review is necessary in order to determine the *impact of the proposed change* to AEP Ohio’s

² Entry at 2.

³ R.C. 4928.02(C).

⁴ Order Rejecting Formula Rate Proposal, FERC Docket No. ER11-2183 (January 20, 2011).

capacity charges,” and refers to AEP Ohio’s proposal at FERC to change its capacity compensation methodology.⁵ Accordingly, this investigation was primarily necessitated by AEP Ohio’s request at FERC, which FERC has now denied. Although AEP Ohio may file a Request for Rehearing at FERC on the issue, the need for this investigation is no longer pressing. Thus, because this proceeding is based on the impact of the FERC case, which is likely decided at this point, there is no need to prolong this investigation by establishing a procedural schedule in this docket at the last minute.

Further, Comments in this case suggest that even AEP Ohio’s filing of its FERC request has had a “chilling” effect on retail competition in the AEP Ohio service territory.⁶ Prolonging the uncertainty over AEP Ohio’s level of capacity compensation may only extend this chilling effect and will likely continue to deter any retail shopping that would otherwise have occurred during the prolonged proceeding.⁷ Thus, it is in the interest of retail competition, and in accordance with the state policy of giving consumers effective choice of electric suppliers as reflected in R.C. 4928.02(C), for the Commission to deny AEP Ohio’s request for the establishment of a procedural schedule and evidentiary hearing in this case.

III. CONCLUSION

The Commission should deny AEP Ohio’s Motion to establish a procedural schedule for hearing for the benefit of Ohio residential customers and the public interest.

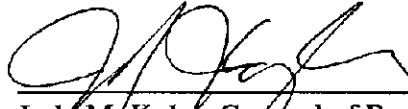
⁵ PUCO Entry, Case No. 10-2929-EL-UNC (December 8, 2010) at 2 (emphasis added).

⁶ Comments of Industrial Energy Users-Ohio at 12.

⁷ Additionally, there are pending proceedings, including the Columbus Southern Power Co. and Ohio Power Company merger case, PUCO Case No. 10-2376-EL-UNC, which could impact the capacity charges that AEP Ohio needs to compensate it for the risk of retail shopping.

Respectfully submitted,

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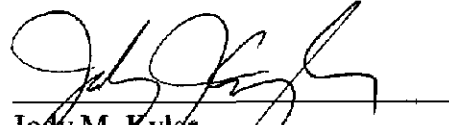
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CERTIFICATE OF SERVICE

I hereby certify that a copy of OCC's Memorandum Contra was served on the persons stated below via regular U.S. Mail Service, postage prepaid, this 27th day of January, 2011.


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