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**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals. | ) ) ) ) | Case No. 10-2376-EL-UNC |

# COMMENTS OF OHIO PARTNERS FOR AFFORDABLE ENERGY'S

Pursuant to the Entry issued on February 9, 2011, Ohio Partners for Affordable Energy ("OPAE") hereby submits its comments regarding the above-referenced application filed by Ohio Power Company and Columbus Southern Power Company ("OPCo" and "CSP" or "Companies," and collectively "AEP").

## I. Reasonable Rate, Rental, Toll, or Charge.

Title 49 requires utilities to provide for "adequate service for a reasonable rate, rental, toll, or charge'. The AEP application contends it meets this requirement and that the Public Utilities Commission of Ohio ("PUCO" or "the Commission") should approved the merger pursuant to its supervisory authority under Secs. 4905.04 and 4905.06 O.R.C. OPAE submits that AEP has failed to make an adequate showing that a reasonable rate will result from the proposed merger.

OPCo and CSP are companies with distinct differences. The companies' generation holdings vary greatly in value with OPCo holding surplus generation capacity while CSP is capacity short, a critical aspect when determining an appropriate rate under an Electric Security Plan ("ESP"), and determining whether an ESP is superior to an MRO. The customer bases are different with OPCo having a much larger number of industrial

customers, although CSP's industrial customers have increased since its acquisition of Monongahela Power Company. The service territories have different characteristics. OPCo has large sections of rural territory while CSP is more urban. The utilities have different depreciation rates, which AEP proposes to blend as a part of the merger.

Because of these differences, OPCo has significantly lower rates than CSP. The Application contends that, in the context of this proceeding, the variation in rates will not be addressed. OPAE believes this is the appropriate docket to address this issue. OPCo customers have paid for the equity which is the basis of its lower rates. This investment by OPCo customers, and the lower rates that result, should be protected in this service territory. This is certainly critical to the continued existence of large industrial customers in the State economy and the affordability of rates to other customers. The Commission should require as a condition of the merger a continuation of the rate differentials for a length of time that reflects customer investments in service.

The Commission also must be mindful of the differing obligations of the customers of each utility. CSP customers, as a result of the recent significantly excessive earnings test ("SEET") decision, are not faced with paying significant Fuel Adjustment Clause ("FAC") deferrals, while OPCo customers potentially face millions of dollars in future billings. At this point, the Commission has not made a final determination of what level of this debt, in the form of a deferral, customers will ultimately be responsible for. In addition, if AEP opts to file an MRO at some point in the future, what is the appropriate basis for the blending of rates required by statute? This issue is not referred to in the Application. The

blending of depreciation rates is mentioned, but does this advantage OPCo or CSP customers? The Application is silent on these issues.

This is the first merger proposed since SB 221 was enacted. What constitutes a 'reasonable rate' has not yet been the subject of litigation which would provide a definition. Certainly, the Commission has moved away from cost-based rates and, in the case of the two AEP affiliates, has increased rates without regard to costs. However, while the market may be used as a justification for rates, there is little competition in the AEP service territories and none whatsoever for residential customers. There is no retail market and yet also no basis for determining a cost-based rate. What we do know is that CSP's rates currently yield excessive profits. Merging OPCo and CSP to obscure the fact that CSP customer rates are significantly excessive cannot result in the reasonable rates required by statute. Rates that give rise to a SEET refund are by definition not reasonable. Permitting a merger to obscure this fact is not lawful under Title 49 as currently written.

The Application fails to demonstrate that reasonable rates will result from the merger. In order to meet this standard, the Commission should retain lower OPCo rates for customers of that Company and should lower CSP rates to prevent excessive profits. These decisions should be made in a merger proceeding and applied to rates going forward once the pending rate cases are completed.

**II. Savings Associated with Merger are Minimal.**

AEP notes in the Application that the two companies are already jointly managed and operated. Application at 3. So, where are the savings? AEP indicates the following

areas where savings are possible: elimination of duplicate sets of records; reduction in auditor fees; reduction of regulatory filings; and, miscellaneous savings. The savings are not quantified anywhere in the pleading. There is no provision made to return the savings, whatever they are, to customers.

The savings are likely very small. Most pleadings from OPCo and CSP are combined. It is unclear how the Companies profit by one fewer docket on the Commission website. While there will no longer be two sets of records, the same amount of information will have to be collected whether it is in one report or two reports. OPAE would be surprised if AEP bids audits for the two operating utilities separately.

The Application fails to quantify savings or provide a mechanism to funnel those savings to customers in the form of reduced rates.

## III. New Technology Deployment.

AEP alleges its ability to deploy new technologies required to meet the alternative energy and energy efficiency requirements on Secs. 4928.64 and 4928.66 will be enhanced by the merger. The Application again fails to place a value on the 'reduced barriers' to deployment, and research and development. The jointly managed companies already share research and development. Opening up additional territory for the deployment of technologies now being piloted is advantageous only if the technologies such as those that make up gridSMART™ are of benefit to customers.

At this time, the benefits of the merger on alternative energy and energy efficiency deployment are illusory at best because they have not been quantified. This is a dubious justification for a merger that will impact the rates of all AEP customers.

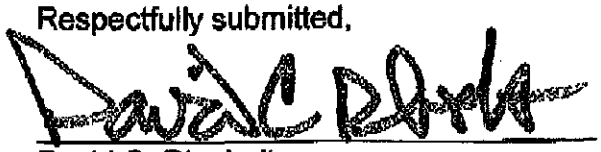
## IV. Conclusion

The Commission should delay consideration of the merger Application until after the completion of the rate cases filed by OPCo and CSP. It has been two decades since OPCo rates were considered and seventeen years for CSP. In order for the impact of the merger to be accurately measured, the Commission needs to have an adequate picture of the cost and capital structures of the current companies individually. This information is also important to the decisions to be made by the Federal Energy Regulatory Commission ("FERC") when it considers the merger in various dockets. There has recently been litigation regarding transmission rates. AEP wants these rates to be cost-based under a formula it has proposed. Determining the proper inputs for those formulas makes a difference in the price of the service. The rate case will provide the opportunity to make these decisions. It will determine the relative values of the Companies which can guide the allocation of the benefits from the merger and can help the Commission set appropriate rates so that CSP customers are no longer paying rates that result in excess profits and OPCo customers continue to reap the benefits of the investments they have made over many years.

AEP has the burden of proof to demonstrate the plan produces reasonable rates. It has failed to meet that burden. The savings from the merger and the benefits related to the deployment of advanced technologies have not been quantified. AEP must meet the burden of proof imposed by the statute. There is more at issue in this case than blending profits to prevent a second payback to customers for excess earnings. OPAE urges the Commission to thoroughly scrutinize the proposed transaction. The Commission needs

apply the original principle behind regulation -- serving as a regulatory check on the power of monopoly providers.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments were served by regular U.S. Mail upon the following parties identified below in this case on this 25th day of February, 2011.

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