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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Columbus Southern Power Company to Update its gridSmart® Rider	))	Case No. 11-1353-EL-RDR

MOTION TO INTERVENE, MEMORANDUM IN SUPPORT, AND REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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May 31, 2011

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MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO

Industrial Energy Users-Ohio ("IEU-Ohio") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matter with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

On March 18, 2009, the Commission issued an Opinion and Order in Case No. 08-917-EL-SSO[1] authorizing Columbus Southern Power Company ("CSP") to establish a gridSmart Rider that would be subject to annual reconciliation. On February 11, 2010, CSP filed its initial Application to update its gridSmart Rider in Case No. 10-164-EL-RDR,[2] which was amended on July 21, 2010. On March 18, 2011, CSP filed an Application to update its gridSmart Rider in the above referenced case.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues

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[1] *In the Matter of the Application of Columbus Southern Power Company for Approval of its Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO, Opinion and Order (March 18, 2009).

[2] *In the matter of the Application of Columbus Southern Power Company to Update its gridSMART Rider*, Case No. 10-164-EL-RDR, Application (February 11, 2010).

and matters involved in the above-captioned proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay this proceeding and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in the proceeding. The interests of IEU-Ohio will not be adequately represented by other parties to the proceeding and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

Respectfully submitted,

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MEMORANDUM IN SUPPORT AND REPLY COMMENTS

A. MEMORANDUM IN SUPPORT

In support of this Motion to Intervene, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at http://www.ieu-ohio.org/member_list.aspx. IEU-Ohio's members purchase substantial amounts of electric and related services from Ohio's Electric Distribution Utilities ("EDU").

IEU-Ohio's members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end, IEU-Ohio has worked, including actively participating in the legislative process related to SB 221, and will continue to work to produce legislative, regulatory, and market outcomes that are consistent with the state policy contained in Section 4928.02, Revised Code.

IEU-Ohio has a real and substantial interest inasmuch as this proceeding may directly or indirectly impact the provision of electric service to IEU-Ohio members' manufacturing facilities. Specifically, IEU-Ohio's direct interest in this proceeding is the

result of the effect that this proceeding shall have upon the price, adequacy, and reliability of the electric supply and related services within Ohio.

B. REPLY COMMENTS: THE STAFF RECOMMENDATION TO EXTEND THE GRIDSMART RIDER SHOULD BE REJECTED

Commission Staff's ("Staff") Comments regarding Columbus Southern Power Company's ("CSP") Application to update the gridSmart rider has raised an issue regarding whether the rider should be extended beyond the term of the current electric security plan ("ESP"). At one point, Staff appears to be advancing an argument to extend the gridSmart Rider, stating that "[g]ranting an extension to the Rider would provide greater certainty and continuity while avoiding a suspension of the rate being billed under the Rider."[3] While the Staff recognizes that CSP's request for an extension of the rider is in the pending ESP Application, there is nonetheless a broad endorsement for the continuation of the rider through December 31, 2013.[4] Because the propriety of the extension of the current rider is not properly before the Commission, the Commission should not address the Staff's arguments regarding an extension of the rider.

Initially, CSP is not seeking to extend the rider through this Application.[5] Thus, the issue is not before the Commission.

Additionally, whether extending the rider would assure certainty and continuity is not for the Commission to decide in this case. The rates in effect after December 31, 2011, the date the current ESP is scheduled to end, will be a function of several factors:

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[3] Comments and Recommendations Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio at 5 (May 20, 2011) ("Staff Comments").

[4] Id. at 5-6.

[5] Application (March18, 2011).

whether CSP's and Ohio Power Company's (collectively, "Companies") combined application to establish a standard service offer[6] survives a motion to dismiss currently pending before the Commission, whether the Companies continue to pursue the current ESP Applications if the motion to dismiss is denied, the Commission's decision on those ESP Applications, and whether the Companies' decide to operate under the ESPs resulting from that decision (and all of the preceding qualifications assume that the Commission reaches a decision on the current ESP Applications before January 1, 2012). Thus, to suggest that it may be appropriate to extend the current rider to December 31, 2013, is noticeably premature.

Moreover, Staff's Comments on the extension appear completely outside the context that would be necessary to properly address an extension of the current gridSmart Rider. The rider is part of a standard service offer and could only be recovered as part of an ESP.[7] The statutory test set out in Section 4928.143(C), Revised Code, provides in relevant part that "the commission by order shall approve or modify and approve an application . . . if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of

[6] *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Application (January 27, 2011) (hereinafter "ESP Applications")

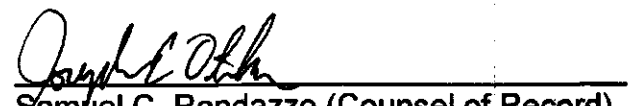
[7] Pursuant to Section 4928.141, Revised Code, the Companies must provide default service through a standard service offer as defined by either Section 4928.142 or 4928.143, Revised Code. There is no provision for a gridSmart Rider under Section 4928.142, Revised Code, leaving only an ESP as a vehicle for recovery through a rider. Section 4928.143(B)(2)(h), Revised Code. Alternatively, the Companies could seek recovery for additions to plant used for distribution through a distribution rate case. Section 4928.05(A)(2), Revised Code. However, the Companies would be limited to the rate case procedures as provided in Chapter 4909, Revised Code, if they chose that path.

the Revised Code." Before the Commission can begin to consider whether the rider should be extended beyond 2011, the Commission must have before it CSP's justification and determine that the resulting ESP, in the aggregate and including CSP's proposed gridSmart rider, is more favorable than the alternative market rate offer.

The decision to extend the rider should also address whether the state policies are being advanced by allowing CSP to continue to collect revenue for the gridSmart project. State policy encourages "cost-effective" supply and demand side management.[8] The Staff's premature assertion that extension of the rider would allow certainty and continuity simply does not address the State policy of cost-effectiveness of the program, nor should the Staff's claim be considered as a basis of the upcoming ESP hearings in which it is the Companies' responsibility to satisfy the burden of proof that the ESP in the aggregate is more favorable than the alternative available under Section 4928.142, Revised Code.[9]

For the reasons outlined above, the Staff's Comments regarding the extension of the gridSmart rider go well beyond what is necessary to review the current Application. IEU-Ohio encourages the Commission to address whether CSP should continue to collect revenues for gridSmart in the appropriate proceeding, the pending ESP Applications. This Application is not the place to begin that determination.

Respectfully submitted,



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[8] Section 4928.02(D), Revised Code.

[9] Section 4928.143(C)(1), Revised Code.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene and Memorandum in Support and Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 31st day of May, 2011 via first class mail, postage prepaid.

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