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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Columbus)	
Southern Power Company for Approval of an)	
Electric Security Plan; an Amendment to its)	Case No. 08-917-EL-SSO
Corporate Separation Plan; and the Sale or)	(Remand)
Transfer of Certain Generating Assets.)	

In the Matter of the Application of Ohio Power)	
Company for Approval of its Electric Security)	
Plan; and an Amendment to its Corporate)	Case No. 08-918-EL-SSO
Separation Plan.)	(Remand)

**JOINT REPLY BRIEF OF
THE OHIO MANUFACTURERS' ASSOCIATION AND
THE OHIO HOSPITAL ASSOCIATION**

I. INTRODUCTION

The Ohio Manufacturers' Association ("OMA") and the Ohio Hospital Association ("OHA") jointly filed their post hearing brief on August 5, 2011. Briefs also were filed by Columbus Southern Power Company and Ohio Power Company (collectively "AEP-Ohio" or "Companies") and the following intervenors: Ohio Energy Group ("OEG"); Ohio Partners for Affordable Energy and the Office of the Ohio Consumers' Counsel (collectively "OCC"); Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. ("Constellation"); the Staff of the Public Utilities Commission of Ohio ("PUCO" or "Commission"); and the Industrial Energy Users-Ohio ("IEU-Ohio"). FirstEnergy Solutions Corp. ("FES") requested leave to file Amicus Curiae post-hearing brief.

Pursuant to the schedule set by the Attorney Examiners assigned to this matter, the OMA and OHA now files this joint reply brief.

II. LEGAL ARGUMENT

As explained at length in the Joint Post-Hearing Brief filed by the OMA and OHA, the Ohio Supreme Court opinion simplified the Commission's task by requiring the resolution of two fundamental questions: (1) Can AEP-Ohio present any evidence that the proposed POLR charge is cost-based? and, (2) If AEP-Ohio does not (or cannot) present evidence that the proposed POLR charge is cost-based, has AEP-Ohio demonstrated that a non cost-based POLR charge is reasonable? The answer to both questions is no.

A. **AEP-Ohio did not demonstrate the reasonableness of a non cost-based POLR charge.**

On pages 2-3 of its Remand Brief, AEP-Ohio claims that: (i) it "has now supplemented the prior record with additional testimony, to clarify that the POLR charges approved by the Commission are indeed cost-based charges;" and (ii) the "POLR charges previously approved by the Commission in this case are reasonable and lawful cost-based POLR charges that should be re-affirmed by the Commission." Nowhere does AEP-Ohio claim that its proposed POLR charge is non cost-based; and nowhere does AEP-Ohio present any evidence that a non cost-based POLR charge would be reasonable. As a result, the only question left for the Commission to answer is whether AEP-Ohio presented any evidence that the proposed POLR charge is cost-based. The answer remains no for the same reasons set forth in the Joint Post Hearing Brief of the OMA and OHA, and summarized below:

- The use of the Black (or Black-Scholes) model ignores the fact that AEP-Ohio had virtually no shopping risk during the three-year ESP period (2009-2011).
- AEP-Ohio relied entirely on the Black (or Black-Scholes) model while ignoring other readily available methods of calculating the actual cost of providing POLR service.
- The use of the Black (or Black-Scholes) model is a fundamentally inappropriate method for determining the POLR risk. The Black (or

Black-Scholes) model was designed to value stock options, not to determine the cost of providing POLR service. No other utility or state regulatory body has used such a model to establish a POLR charge.

- Even assuming *arguendo* that the Black (or Black-Scholes) model actually measures the *value* of shopping to a customer, AEP-Ohio failed to provide even the slightest justification to support using the “value” to the customer as the basis for as POLR charge.

B. AEP-Ohio failed to demonstrate a cost-based POLR.

AEP-Ohio relies on the same mathematical formula in the remand proceeding to argue that its proposed POLR charge is cost-based despite the Ohio Supreme Court’s holding that the formula “does not even purport to estimate costs.”¹ The Ohio Supreme Court specifically recognized that the only evidence presented in support of AEP-Ohio’s proposed POLR charge was the “Black-Scholes model.” The Court emphasized that, rather than revealing the costs to AEP-Ohio of providing POLR service; this mathematical formula “does not even purport to estimate costs, but instead tries to quantify ‘the value of the optionality [to shop for power] that is provided to customers under Senate Bill 221.’” *In re: Application of Columbus Southern Power Company* (2011), 128 Ohio St.3d 512 at ¶26. In reality, the “[v]alue to customers (what the model shows) and cost to AEP. . . are simply not the same thing.” *Id.* at ¶26.

Apparently ignoring this clear and unambiguous statement from the Court, AEP-Ohio chose to continue using the Black-Scholes model, and based the majority of its remand brief seeking to justify the reasonableness of this approach. In fact, AEP-Ohio hopes that the testimony of three expert witnesses would transform this model into one that shows the cost to AEP-Ohio of providing POLR service. As Constellation’s Brief points out, however, “AEP

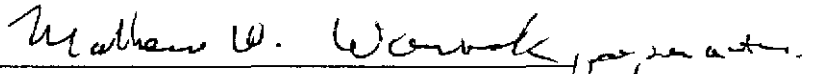
¹ This point is persuasively made by a number of intervening parties. See e.g. Initial Brief of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (“Constellation Brief”), at 7. See also Initial Remand Brief of Industrial Energy Users-Ohio (“IEU-Ohio Brief”), at 27 (stating “The majority of time in the remand hearing was spent deconstructing the Companies’ proposal urging the Commission to adopt the same result that the Supreme Court rejected.”).

Ohio has merely dressed up its prior argument by stating that the value of shopping is a benefit to customers, which corresponds to the liability and costs of the Companies,” a claim that “is not supported in law or in economics as AEP Ohio inaccurately defines the POLR risk, then improperly correlates the benefit to the customers with costs to the Companies.”² However, the result is still the same deficiency already made clear by the Court: the Black (or Black Scholes) model does not estimate costs.

III. CONCLUSION

AEP-Ohio failed to present any evidence that its POLR charge is cost-based and, has not justified the reasonableness of a non cost-based POLR charge. Accordingly, OMA and OHA request that this Commission reject AEP-Ohio’s arguments, refund to customers the POLR amounts currently being collected subject to refund, and complete any necessary accounting adjustments resulting from the customer refund.

Respectfully submitted on behalf of
THE OHIO MANUFACTURERS’ ASSOCIATION



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and

² Constellation Brief at 8.

THE OHIO HOSPITAL ASSOCIATION

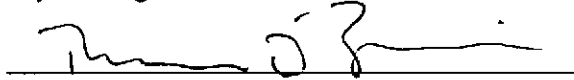


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief was served upon the following parties of record via electronic mail this 12th day of August 2011.


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