Before
The Public Utilities Commission of Ohio

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
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 Case No. 11-348-EL-SSO
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority.	)	Case No. 11-349-EL-AAM Case No. 11-350-EL-AAM
In the Matter of the Application of Columbus Southern Power Company to Amend its Emergency Curtailment Service Riders.	)	Case No. 10-343-EL-ATA
In the Matter of the Application of Ohio Power Company to Amend its Emergency Curtailment Service Riders.	)	Case No. 10-344-EL-ATA
In the Matter of the Commission Review Of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company.	)	Case No. 10-2929-EL-UNC
In the Matter of the Application of Columbus Southern Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Ohio Revised Code 4928.144.	)	Case No. 11-4920-EL-RDR
In the Matter of the Application of Ohio Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Ohio Revised Code 4928.144.	)	Case No. 11-4921-EL-RDR

REVISED DIRECT TESTIMONY OF JOSEPH G. BOWSER
ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

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October 13, 2011

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INDEX

Page No.

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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
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I. INTRODUCTION

Q1. Please state your name and business address.

A1. Joseph G. Bowser, 21 East State Street, 17^{th} Floor, Columbus, Ohio 43215.

Q2. By whom are you employed and in what position?

A2. I am a Technical Specialist for McNees Wallace & Nurick LLC ("McNees") providing testimony on behalf of the Industrial Energy Users-Ohio ("IEU-Ohio").

Q3. Please describe your educational background.

A3. In 1976, I graduated from Clarion State College with a Bachelor of Science degree in Accounting. In 1988, I graduated from Rensselaer Polytechnic Institute with a Master of Science degree in Finance.

Q4. Please describe your professional experience.

A4. I have been employed by McNees for over five years where I focus on assisting IEU-Ohio members address issues that affect the price and availability of utility services. Prior to joining McNees, I worked with the Office of the Ohio Consumers' Counsel ("OCC") as Director of Analytical Services. There I managed the analysis of financial, accounting, and ratemaking issues associated with utility regulatory filings. I also spent ten years at Northeast Utilities, where I held positions in the Regulatory Planning and Accounting departments of the company, provided litigation support in regulatory hearings and assisted in the preparation of the financial/technical documents filed with state and federal regulatory commissions. I began my career with the Federal Energy Regulatory Commission ("FERC"), where I led and conducted audits of gas and electric utilities in the Eastern and Midwestern regions of the United States.

Q5. Have you previously submitted expert testimony before the Public Utilities Commission of Ohio ("Commission")?

A5. Yes, since 1996, I have submitted testimony as an expert on numerous regulatory accounting issues and how those issues should be resolved for purposes of establishing rates and charges of public utilities. More specifically, I have submitted expert testimony in the following cases: *In the Matter of the Application of The East Ohio Gas Company for Authority to Implement Two New Transportation Services, for Approval of a New Pooling Agreement, and for Approval of a Revised Transportation Migration Rider*, Case No. 96-1019-GA-ATA; *In the Matter of the Applications of Columbus Southern Power Company and Ohio Power Company for Approval of Their Electric Transition Plans and for Receipt of Transition Revenues*, Case Nos. 99-1729-EL-ETP, *et al*.; *In the Matter of the Commission's Investigation Into the Policies and Procedures of Ohio Power Company, Columbus Southern Power Company, The Cleveland Electric Illuminating Company, Ohio Edison Company, The Toledo Edison Company and Monongahela Power Company Regarding the Installation of New Line Extensions*, Case Nos. 01-2708-EL-COI, *et al*.; *In the Matter of the Application of Columbus Southern Power Company to Adjust its Power*

Acquisition Rider Pursuant to Its Post-Market Development Period Rate Stabilization Plan, Case No. 07-333-EL-UNC; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and for Tariff Approvals*, Case Nos. 07-551-EL-AIR, *et al*.; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 08-935-EL-SSO; *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 Nos. 08-917-EL-SSO, *et al.; In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan,* Case Nos. 08-1094-EL-SSO*, et al.; 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 Nos. 11-346-EL-SSO, *et al.*; and the remand phase of Case Nos. 08-917-EL-SSO*, et al.* already listed above.

Q6. What is the purpose of your testimony in this proceeding?

A6. My testimony addresses certain aspects of the Stipulation and Recommendation filed in these proceedings on September 7, 2011 ("Stipulation") and explains why the Stipulation fails to meet the three-prong test that the Commission uses to evaluate the reasonableness of settlements for purposes of resolving contested issues.

Q7. What did you review for purposes of preparing your testimony in opposition to the Stipulation?

A7. For the purpose of preparing my testimony, I reviewed the Stipulation, the direct testimony submitted by parties including the Commission Staff ("Staff"), the testimony filed in support of the Stipulation, discovery responses and Commission entries filed in this case. My opinions and recommendations also reflect the knowledge I have accumulated throughout my career.

Q8. What is your understanding of the three-prong test that you mentioned earlier in your testimony?

A8. Based on the advice of counsel, it is my understanding that the Commission applies a three-prong test for purposes of determining the lawfulness and reasonableness of settlements as such settlements apply to the resolution of contested issues. The three prongs of the test are:

1) The stipulation must be a product of serious bargaining among capable, knowledgeable parties;
2) The stipulation must, as a package, benefit ratepayers and the public interest; and,
3) The stipulation must not violate any important regulatory principle or practice.

It is my understanding that a settlement cannot operate to delegate authority to the Commission or disrespect procedural or substantive requirements established by the General Assembly or the Commission's own rules.

II. DISTRIBUTION INVESTMENT RIDER ("DIR")

Q9. Please describe the DIR included in the Stipulation.

A9. The Stipulation, in Section IV.1.n beginning at page 8, recommends that the Commission approve a non-bypassable DIR to be effective January 1, 2012. The recommended DIR would permit significant rate increases and reach back to post-2000 investment for purposes of computing the amount of the rate increases. The recommended carrying charge rate component of the DIR includes elements for property taxes, commercial activity taxes, associated income taxes and a return "on" and "of" plant in-service associated with distribution net investment associated with distribution plant recorded in FERC Accounts 360 - 374. The post-2000 net capital additions that drive the DIR rate increases reflect gross plant in-service amounts adjusted for growth in accumulated depreciation. The DIR rate increases included a rate of return earned on such plant that is based on a cost of debt of 5.34%, a cost of preferred stock of 4.40%, and a return on equity of 10.5%, utilizing a capital structure consisting of 47.06% debt, 0.19% preferred stock, and 52.75% common equity. The DIR rate increases are capped at $86 million in 2012, $104 million in 2013, and $124 million in 2014; and the rider will terminate on May 31, 2015. Based on information provided by Columbus Southern Power Company ("CSP") and Ohio

Power Company ("OPCo") (collectively the "Companies"), it is my understanding that the Companies expect the DIR increase for 2012 to reach the $86 million cap amount.

Q10. In your opinion, is the DIR recommended in the Stipulation reasonable?

A10. No. Based on advice of counsel, it is my understanding that the Ohio Supreme Court has held that the Commission is without authority to authorize such mechanisms like DIR, unless there is clear and specific statutory authority to do so. It is my understanding that the parties advancing the Stipulation ESP have the burden of demonstrating that the Stipulation ESP is lawful and reasonable. My review of the Stipulation and the testimony that has been filed in support of the Stipulation indicates that none of the Signatory Parties have identified the portions of Section 4928.143, Revised Code, that the settlement parties believe authorize the Commission to enable the DIR recommended by the Stipulation. By failing to provide support for the authority for establishing the recommended DIR, the recommended DIR mechanism fails the third prong of the three-prong test, that the Stipulation must not violate any important regulatory principle or practice. Additionally, neither the Stipulation nor the testimony offered in support of the Stipulation contains a specific analysis of what assets would be replaced, a concrete methodology to target the asset improvement/replacements, or any expected quantifiable tangible improvement to reliability measured by customer outages or power quality indices. Thus, the DIR recommended in the Stipulation suffers from the same problems that caused Staff member Doris McCarter to recommend that the DIR proposed in the Companies' ESP application should not be approved. Regardless of Ms. McCarter's views, the DIR recommended in the Stipulation is unaccompanied by any examination of reliability of the utility's distribution system or the other requirements in Section 4928.143(B)(2)(h), Revised Code, that I understand must be satisfied before an ESP may include any provision regarding an electric distribution utility's ("EDU") distribution service.

Q11. Does the DIR recommended in the Stipulation violate other regulatory principles or practices?

A11. Yes. Because the DIR recommended in the Stipulation is a non-bypassable stand-alone rider, the Companies' financial and business risk associated with this rider is reduced below the financial and business risk associated with returns that would apply in a rate case proceeding. Therefore, and relatively speaking, the return component of the recommended DIR should reflect this lower business and financial risk condition. The Companies have indicated that their weighted average long-term debt cost is approximately 5.34% on a combined basis. The weighted average cost of capital ("WACC") rate described earlier that is included in the Stipulation for DIR, results in a carrying cost rate that is grossed up for taxes of 11.23%, per Companies' witness Allen on Exhibit WAA-2, page 2. Therefore, by utilizing the current weighted average cost of long-term debt in lieu of a WACC rate, carrying charges would be reduced by more than 50%.

Q12. You have identified that the DIR recommended in the Stipulation also calls for an allowance for property taxes, commercial activity taxes, associated

income taxes, and return of (depreciation) certain distribution plant in-service. Were the effects of including these items identified in the Stipulation?

A12. No. These components of the DIR were not quantified in the Stipulation. Companies' witness Allen did provide a calculation of property taxes and commercial activity taxes but there is no calculation supporting the associated income taxes or depreciation.

Q13. Can you describe why good regulatory practice requires that these components be quantified and that the quantification methodology be specifically described?

A13. Yes. I can illustrate by example. For tax purposes, the Companies are allowed to take a deduction against taxable income that is calculated using accelerated depreciation of capital investments. The tax accelerated depreciation initially exceeds "book" or "straight line" depreciation used for traditional rate-base-rate-of-return economic regulation. This difference in tax expense creates a tax advantage that, according to standard regulatory practices, needs to be accounted for in any carrying cost calculation that is adopted for ratemaking purposes. The Stipulation recommends a carrying cost rate that provides for "associated income taxes" but fails to identify if the benefit the Companies acquire from accelerated depreciation is to be recognized in the carrying cost calculation. The Companies have omitted the recognition of this benefit in computing carrying charges in similar circumstances so the Stipulation's failure to address this issue implies that customers will be deprived of this benefit.

Q14. Are there any other regulatory principles or practices that are violated by the DIR recommended in the Stipulation?

A14. Yes. The recommended DIR rate increases are based on post-2000 distribution plant investments. As I indicated earlier, the DIR reaches back in time effectively presuming that the distribution revenues collected by the Companies after 2000 were not adequate to provide the Companies with just and reasonable compensation. In view of the Commission's determination that CSP had significantly excessive earnings in 2009, this presumption seems to be inconsistent with prior determinations of the Commission. I would also note that driving rate increases based on post-2000 investment effectively evades the distribution rate freeze that the Companies agreed to as part of the resolution of the Companies' Rate Stabilization Plan proceedings in Case No. 04-169-EL-UNC and the total rate cap established during the Market Development Period (commencing January 1, 2001) that is described by Mr. Murray in his testimony. Additionally, OPCo and CSP currently have applications to increase distribution rates pending in Case Nos. 11-351-EL-AIR and 11-352-EL-AIR and the date certain which has been approved by the Commission for purposes of identifying the rate base valuation is August 31, 2010. The Staff Reports of Investigation ("Staff Report") in the two rate cases were recently filed on September 15, 2011. The Staff Reports address the DIR proposal contained in the Companies' ESP application and contain a recommendation that a plant investment baseline for the year 2000 **not** be used until the Commission renders a decision in the pending rate increase proceedings. The Staff Reports also find that CSP's current distribution rates are too high (by between $9.5 million and $2.3 million) and that OPCo's current distribution rates could be increased. On a net and combined basis, the Staff Reports recommend that any distribution rate increase should be between about $13.7 million and $29.6 million, based on the net distribution rate base "used and useful" as of August 31, 2010 (the date certain). Based on the findings in the Staff Reports, the rate increases that would result from the DIR recommended in the Stipulation are clearly excessive, unjust and unreasonable. If the DIR recommended in the Stipulation is adopted and if the distribution rate increase proposed in the Companies' rate increase applications or recommended in the Staff Reports are approved by the Commission, the total distribution rate increase that the Companies will be permitted to impose will provide the Companies with an unwarranted and unreasonable windfall profit. And, from a regulatory practice and principle perspective, the amount of any rate increase or decrease that the Commission should authorize should be based on the cost of service determined in the rate increase proceedings and not driven by the backward-looking arbitrary increase that would occur if the DIR recommended in the Stipulation is adopted. I also believe that it would be unreasonable for the Commission to allow a rate increase through a DIR-like mechanism for the Companies on any investment prior to the date certain in the pending rate increase proceedings.

Q15. Are there inconsistencies between the CSP and OPCo Staff Reports in the distribution rate cases and the DIR recommended by the Stipulation?

A15. Yes. The rate of return range recommended in the Staff Reports is based on a cost of common equity of 8.6% to 9.6%. The return on the equity component of the DIR recommended in the Stipulation is 10.5% and, as I indicated previously, it is unaccompanied by any cost of equity capital evidence. Regardless of this inconsistency, a return on common equity of 10.5% is unreasonable based on current cost of capital considerations and the DIR's lowering of the Companies' business and financial risk

III. PHASE-IN RECOVERY RIDER ("PIRR") / SECURITIZATION

Q16. What does the Stipulation recommend regarding the PIRR?

A16. Beginning at page 25, the Stipulation recommends that the Commission approve a PIRR. As recommended, the PIRR will commence January 1, 2012 for non-residential customers and will include a debt carrying charge rate of 5.34% and is calculated with no adjustment to the book balance as of year-end 2011 (the "Modified PIRR"). The Modified PIRR will be in place for the entire amortization period or until the unamortized PIRR balance is "securitized", whichever comes first. Collection of the PIRR will be delayed for 12 months for residential customers, subject to two conditions: (1) if securitization is completed by the end of 2012, the additional carrying costs related to the actual delay in commencing the residential collection period will be included in the unamortized balance for collection from all customers; (2) if securitization is not completed by the end of 2012, the Modified PIRR will commence effective January 1, 2013 for residential customers (and the Modified PIRR will continue for non-residential customers) and the additional carrying charges related to the 12-month delay of commencing the residential collection period will be included in the unamortized balance for collection from all customers.

The Stipulation also provides that the Signatory Parties agree to support the concept of securitization for the phase-in deferral associated with the PIRR, and to work in good faith to pass suitable and appropriate legislation to address the matter as expeditiously as reasonably possible and to support any subsequent tariff approvals needed by the Companies to securitize the PIRR phase-in deferral.

Q17. Do you believe the PIRR mechanism and securitization components in the Stipulation are appropriate and consistent with regulatory practices and principals?

A17. No. There are several reasons why I believe these components of the Stipulation are inappropriate and violate important regulatory practices and principals.

First, the PIRR recommended in the Stipulation functions to establish a charge that will permit rates to increase to recover a previously authorized increase that was delayed by the Commission pursuant to Section 4928.144, Revised Code, for the benefit of OPCo customers only. The Stipulation recommends that the PIRR be applied to both CSP and OPCo customers. There is no reason that CSP customers should be subjected to the PIRR charges; CSP customers have already compensated CSP for the CSP phase-in deferral authorized by the

Commission in the Companies' current ESP. Any benefit derived by the phase-in deferral amount that the Stipulation proposes to amortize through the PIRR is a benefit confined to OPCo customers, not CSP customers. As explained by Mr. Murray, the recommended PIRR produces a mismatch between the customers that received benefits and the customers who end up being responsible for paying for the benefits. As I explain below, the amount of the benefit actually derived by the OPCo customers is substantially less than the amount that the Stipulation would allow the PIRR to begin to recover and reducing the phase-in deferral as I have recommended will significantly reduce the bill impacts of any properly structured phase-in deferral recovery mechanism approved by the Commission.

Further, and based on the advice of counsel, Section 4928.20(I), Revised Code, precludes the application of the PIRR to a community aggregation program where the charge is not proportionate to the benefits received by the customers in the community aggregation group. As noted above, any benefit provided by the phase-in deferral subject to amortization through the recommended PIRR benefitted OPCo customers exclusively. Thus, the application of the recommended PIRR to both CSP and OPCo customers without exception for community aggregation programs in CSP's service area is unlawful, per the advice of counsel.

Second, the PIRR recommended in the Stipulation calls for carrying charges during the amortization period to be applied to a balance that has not been reduced for accumulated deferred income taxes ("ADIT") consistent with regulatory practices and principles. The deferrals associated with the PIRR cause a timing difference between the tax deduction and the book accounting treatment. The timing difference reduces the Companies' federal income tax liability before the Companies recognize the expense and collect it from customers. That timing difference should be used to reduce the deferred balance to which the carrying cost rate is applied. The ADIT would amount to approximately 35% of the regulatory asset balance. In short, the ADIT represents tax savings realized by the Companies. As a result of these tax savings, the Companies are not financing 100% of the deferral, but only the deferral amount net of the ADIT. The gross method proposed by the Stipulation violates important regulatory principles and practices.

Third, and as I discuss in more detail later in my testimony, adjustments to remove the revenue from provider of last resort ("POLR") charges and carrying charges on pre-2009 environmental investments must be made to determine the appropriate phase-in deferral balance, if any, that remains to be amortized through future rates and charges. There are also several outstanding issues before the Commission from the Companies' 2009 fuel adjustment clause ("FAC") audit and subsequent audits that will have a material impact on this remaining phase-in deferral balance.

Fourth, the PIRR recommended by the Stipulation calls for a carrying charge of 5.34% to be collected on the unamortized phase-in deferral balance during the amortization period. This 5.34% rate is unreasonable and excessive. Current, seven-year BBB rated, newly issued corporate bonds are presently being issued at an interest rate of about 3.75%, while the fixed interest rates on home mortgage rates currently are running in the range of 3 to 3.6% for 15-year loans. There is no good reason – based on currently prevailing interest rates – for the carrying charge to be based on an interest rate of 5.34%. Assuming a carrying charge rate of 3.75% was used during the amortization period and the tax benefit I described above is recognized, customers would see reduced cost on the order of $75 million assuming that the phase-in deferral amount was ultimately set at $624 million.

Q18. Are there problems associated with the Stipulation's linkage between securitization and the PIRR??

A18. Yes. Based on the advice of counsel, the Signatory Parties have failed to follow the Commission's rules dealing with securitization proposals, thereby violating regulatory principles and practices. Commission Rule 4901:1-35-03(C)(9)(e), Ohio Administrative Code ("O.A.C."), provides that a number of detailed requirements must be satisfied in conjunction with the securitization request. These requirements include a description of the securitization instrument and an accounting of that securitization, including the deferred cash flow due to the phase-in, carrying charges, and the incremental cost of the securitization. There must be a description of efforts to minimize the incremental cost of the securitization, and all documentation associated with the securitization including, but not limited to, a summary sheet of terms and conditions. The Commission's rule also requires a comparison of costs associated with securitization with the costs associated with other forms of financing to demonstrate that securitization is the least cost strategy.

Q19. Does the Stipulation or any of the Signatory Parties' testimony in support of the Stipulation provide the securitization details required by Commission Rule 4901:1-35-03(C)(9)(e), O.A.C., or any other details?

A19. No. The only testimony offered in support of the Stipulation and addressing securitization is the testimony of witness William Allen. Included as Exhibit WAA-3 to witness Allen's testimony is a "Securitization Model" that provides assumptions for a hypothetical securitization. At the Technical Conference held at the Commission on September 14, 2011, Mr. Allen indicated that the Securitization Model on Exhibit WAA-3 is for illustrative purposes only. In response to IEU-Ohio Interrogatory 5-5, the Companies identified that the illustrative Securitization Model is based on a securitization undertaken by Entergy in Louisiana.

By failing to provide the information required by Commission Rule 4901:1-35-03(C)(9)(e), O.A.C., the securitization proposed in the Stipulation fails the third prong of the three-prong test, by violating appropriate regulatory practice. In addition, as noted earlier, if the PIRR carrying charge is reduced to reflect a more contemporary (lower) interest rate and the appropriate adjustments are made to the phase-in deferral balance, any customer benefits that could result from securitization would be diminished significantly, calling into question the need for any securitization.

Q20. Are the Companies presently engaged in the use of securitization?

A20. Yes and doing so without any additional legislation. As explained in the Form 10-K filed with the Securities and Exchange Commission ("SEC") for 2010 and at pages 19 and 51-52 of the section containing the annual report for American Electric Power Company, Inc., securitization is used to factor receivables. A securitization agreement was renewed in 2010 and the use of securitization is expected to continue into the future through the renewal of the securitization agreement. At page 51-52, it states:

> AEP Credit factors accounts receivable on a daily basis, excluding receivables from risk management activities, for CSPCo, I&M, KGPCo, KPCo, OPCo, PSO, SWEPCo and a portion of APCo. … AEP Credit has a receivables securitization agreement with bank conduits. Under the securitization agreement, AEP Credit receives financing from the bank conduits for the interest in the billed and unbilled receivables AEP Credit acquires from affiliated utility subsidiaries.

The weighted average interest rate on such securitization transactions identified in the Form 10-K for 2010 was 0.31%.

Q21. In view of the Companies' current use of securitization, do you have an opinion as to why the use of securitization in the Stipulation is conditioned on new legislation?

A21. Based on the Form 10-K described above and my experience, there is no reason why the use of securitization, in concept, needs to be tied to the enactment of new legislation. Had the information required by the Commission's rule on securitization proposals been submitted, perhaps I would have an understanding of why the Signatory Parties believe that securitization legislation is needed to use a securitization tool along with the amount of any incremental benefit and cost that might be associated with whatever legislation the Signatory Parties may have had in their mind at the time they signed the Stipulation. The Stipulation sheds no light on this subject.

IV. IMPACTS OF REMAND PHASE OF THE CURRENT ESPS

Q22. Are there other aspects of the Stipulation that cause the Stipulation to not pass the three-prong test?

A22. Yes and they are related to the implications from the remand phase of Case Nos. 08-917-EL-SSO, *et al*. It is my opinion that these implications must be considered with respect to the Stipulation ESP. It is also my opinion that when such implications are considered, the Stipulation is contrary to the public interest and violates important regulatory principles.

In the ESPs of CSP and OPCo for the years 2009 through 2011 (Case Nos. 08-917-EL-SSO, *et al*.) the Commission, in its Opinion and Order dated March 18, 2009, authorized CSP and OPCo to establish rates for the standard service offer ("SSO"). The revenue which the Commission authorized CSP and OPCo to collect through the ESP rates and charges included revenue components that were calculated to provide, among other things, a return on and of certain environmental capital expenditures that were alleged to be over and above that amount embedded in the Companies' legacy rates and charges. The capital expenditures occurred between 2001 and 2008, and prior to January 1, 2009. I shall refer to this revenue component as the “Pre-2009 Component.”

In addition, the Commission authorized CSP and OPCo to establish a separate charge that produced incremental revenue for “carrying costs” on capital expenditures for environmental plant made on or after January 1, 2009 and during the ESP period. I shall refer to this revenue component as the “Post-2008 Component.” With regard to the Post-2008 Component, the Commission directed the Companies to propose, through an annual filing, a charge for such carrying costs “after the investments had been made.” (Opinion and Order dated March 18, 2009 in Case Nos. 08-917-EL-SSO, *et al.* at page 30.)

After the Commission’s decision in the Companies’ current ESP cases was appealed to the Ohio Supreme Court (“Court”), on April 19, 2011, the Court held, among other things, that the Commission had erred in authorizing CSP and OPCo to collect revenue for items not specifically authorized by statute. The Court also stated that on remand the Commission may determine whether any of the listed categories of Section 4928.143(B)(2), Revised Code, authorizes recovery of environmental carrying charges.

In an Entry issued on May 25, 2011, regarding the remand phase referenced above, the Commission stated that the Companies and the intervenors should be afforded an opportunity to present testimony and to offer additional evidence in regard to the environmental carrying charges remanded to the Commission. The Commission also directed the Companies to file revised tariffs specifically stating that the Pre-2009 Component charges and the POLR riders would be collected subject to refund, effective as of the first billing cycle of June 2011.

The Commission also established a procedural schedule to address the issues raised by the Court's decision. On June 6, 2011, the Companies filed the testimony of Mr. Philip Nelson in support of the continuation of the Pre-2009 Component environmental charges in the remand phase of Case Nos. 08-917-EL-SSO, *et al*.

Q23. Has the Commission issued a decision addressing the contested issues in the remand phase of Case Nos. 08-917-EL-SSO, *et al*.?

A23. No. At the time of my writing of this testimony, there had been no decision issued by the Commission in the remand phase of the Companies' current ESP cases.

Q24. How do the unresolved issues in the remand phase of Case Nos. 08-917-EL-SSO, *et al.,* relate to the ESP recommended in the Stipulation filed in these proceedings?

A24. Since the resolution of the issues in the remand phase of Case Nos. 08-917-EL-SSO, *et al.,* will determine the rates and charges that are properly includable in the current ESPs (2009-2011), and the Stipulation ESP in these proceedings builds on the current ESP's rates, charges and revenue, the resolution of the issues in the remand phase of Case Nos. 08-917-EL-SSO, *et al.* has a direct effect on the starting point for the Stipulation ESP. In addition, and as explained by Mr. Murray, the resolution of the issues in the remand phase of the Companies' current ESP cases also affects the level of the rates in the market rate offer ("MRO") alternative that is used to test any proposed ESP considered in these proceedings (more specifically, the portion of the alternative MRO rate that is based on the EDU's most recent SSO).

Q25. You indicated earlier that you submitted testimony in the remand phase of Case Nos. 08-917-EL-SSO, *et al*. What opinions and recommendations were in that testimony?

A25. Based on my understanding of the April 19, 2011 decision of the Ohio Supreme Court and the specific categories in Section 4928.143(B)(2), Revised Code, through the advice of counsel and my understanding of the applicable accounting principles, I expressed the opinion (and hereby reaffirm that opinion) that the charges for the Pre-2009 Component are not includable in an ESP. Therefore, I recommended that CSP's and OPCo's ESP rates be adjusted downward to remove the Pre-2009 Component from the ESP rates and charges effective with the first billing cycle of June 2011. In addition, I recommended that the Commission require that CSP and OPCo return to customers (through a refund or bill credit) the amounts that have been collected subject to refund since the first billing cycle of June 2011, based on the Commission's May 25, 2011 Entry referenced above. I also observed that my recommended downward adjustment to rates was not sufficient to fully remove the Pre-2009 Component from CSP's and OPCo's future rates and charges because the Companies' first ESPs included a phase-in that was based on the revenue collection including the Pre-2009 Component. Therefore and to fully reflect the elimination of the Pre-2009

Component on all future rates and charges, I also recommended that the effect of the Pre-2009 Component on the amount eligible for future collection as a result of the phase-in deferral, delta revenue related to reasonable arrangements, and the Universal Service Fund ("USF") Rider also needed to be recognized.

Based on testimony filed by IEU-Ohio witness Murray in the remand phase of Case Nos. 08-917-EL-SSO, *et al.,* who concluded that the Companies' POLR should not be approved by the Commission, I also recommended that CSP's and OPCo's ESP rates be adjusted downward to remove the POLR Rider from the ESP rates and charges, effective with the first billing cycle of June 2011. In addition, I recommended that the Commission should require that CSP and OPCo return to customers (through a refund or a bill credit) the amounts that had been collected subject to refund through their POLR Riders since the first billing cycle of June 2011, per the Commission's May 25, 2011 Entry referenced above.

Because the Companies' ESPs included a phase-in that will be based on the revenue collection including the POLR revenues, I also recommended that the effect of the POLR revenues on the amount eligible for future collection as a result of the phase-in deferral, delta revenue related to reasonable arrangements, and the USF Rider must also be recognized.

Q26. Can you elaborate on your recommendations in your testimony in the remand phase of the Companies' current ESP cases with respect to the significance of the phase-in deferral and also discuss why the

recommendations you made in the remand phase must be considered for purposes of evaluating the Stipulation ESP?

A26. Yes. In the current ESPs, the Commission initially authorized the Companies to collect a pot of ESP dollars or a total authorized ESP revenue requirement. The Commission then limited the amount of the authorized revenue that the Companies could collect during the ESP period ending December 31, 2011 by establishing a separate phase-in for OPCo and CSP. The balance of the total authorized revenue that would have been collected during the ESP period, but for the Commission's phase-in, was deferred for future collection. The separate phase-in deferral amount for OPCo and CSP eligible for future collection is the phase-in portion of the total revenue individually authorized by the Commission for OPCo and CSP and the Commission stated that this amount would be determined as a function of other components of the ESP as they were affected by the total bill increase limits established by the Commission. To the extent the amount of revenue collected individually by the Companies during the ESP period was based on items that are not properly includable in an ESP, the amount of the phase-in deferral is excessive and unreasonable. The Commission's Opinion and Order issued on March 18, 2009, at page 22, in the Companies' current ESP cases limits recovery of the phase-in deferral to that which is determined to be "allowed" at the end of 2011. In my remand phase testimony, I explained that the Commission must reduce the total authorized revenue by the amounts not properly collectible as part of an ESP, and subtract the amount actually collected from the adjusted ESP total to determine how much, if any, of the authorized revenue is eligible for future collection as a phase-in deferral after the end of the current ESPs. Otherwise, the improperly included ESP charges would be embedded in the revenue postponed for future collection.

Q27. What specific adjustments did you recommend to phase-in deferral in the remand case?

A27. I recommended that the amounts not properly collectible as part of an ESP from the beginning of the ESP through May 2011 for the Pre-2009 Component for environmental carrying charges ($62.8 million for CSP and $203 million for OPCo) be credited against the phase-in deferral. In addition, I recommended that the separate phase-in deferral amounts be reduced by $235.3 million for CSP and $132.4 million for OPCo for the POLR amounts that were improperly included in the Companies' current ESPs from the beginning of such ESPs through May 2011. The foregoing amounts do not include any recognition of interest that must also be added to these amounts for purposes of making the required reconciliation of the phase-in deferral.

I also explained in my remand testimony that practical reasons differentiated the results of my recommended downward adjustments to the phase-in deferrals of OPCo and CSP. Based on the differences between the two EDUs' ESPs, only OPCo was projected to have a positive phase-in deferral balance remaining at the end of 2011. Accordingly, the opportunity to reduce the going-forward effects of the inappropriate inclusion of the environmental charges and POLR revenues through an adjustment to the phase-in deferral balance is limited to OPCo. In order to effectuate a remedy for the unlawful wealth transfer from consumers to CSP commencing January 1, 2009, however, I suggested that the Commission could consider reducing CSP's regulatory assets included in Account 182.3 – Other Regulatory Assets for items such as deferred line extension costs, deferred storm expenses, and deferred deregulation implementation costs.

I also explained that other ratemaking adjustments were necessary to reflect the going-forward effects of the elimination of environmental charges and POLR charges, in the computation of allowable revenue for "delta revenue" and the USF Rider.

Q28. How do your recommendations from the remand phase of the Companies' current ESP cases apply to the Stipulation ESP?

A28. Because the outcome of the remand case has not yet been determined, my recommendations from the remand case also apply to identify the current ESP starting point for purposes of evaluating the Stipulation ESP in these proceedings. The Stipulation ESP in this proceeding rests on a revenue foundation that includes the revenue from charges that the Ohio Supreme Court deemed were not properly authorized by the Commission. Accordingly, my recommendations in the remand phase of Case Nos. 08-917-EL-SSO, *et al***.** must be picked up in these proceedings to ensure that the flow-through effects of the Ohio Supreme Court's remand order on the phase-in deferral and, in the case of CSP, regulatory assets, and other issues such as delta revenues, are picked up in the evaluation of the Stipulation ESP. As I explained earlier in my testimony, the resolution of the issues in the remand phase of the Companies' current ESP cases will affect the phase-in deferral balance that is eligible for future recovery through the PIRR or any other amortization mechanism.

Further, because my recommendations in the remand phase included the recommendation that CSP's and OPCo's ESP rates be adjusted downward to remove the Pre-2009 Component from the ESP rates and charges [embedded in non- FAC generation rates] effective with the first billing cycle of June 2011, there is also an impact on the embedded non-FAC generation rates that the Stipulation ESP embeds in the Standard Offer Generation Service Rider ("Rider GSR") effective January 1, 2012.

Accordingly, it is my opinion that the issues in the remand phase of the Companies' current ESP cases must be resolved prior to any decision being issued on the Stipulation ESP in this proceeding. The adjustments I have recommended must also be recognized for purposes of computing the portion of the MRO that is based on each Company's most recent SSO. Adopting the Stipulation ESP without taking the steps I have recommended will embed unlawfully authorized revenue in the rates and charges resulting from the Stipulation ESP including, but not limited to, the PIRR.

Q29. Has the Commission issued a decision addressing the contested issues in the remand phase of Case Nos. 08-917-EL-SSO, *et al*. since the time you filed your testimony in this case on September 27, 2011?

A29. Yes. On October 3, 2011, the Commission issued its Order on Remand. The Commission's remand decision authorized the Companies to continue to collect 2001-2008 environmental carrying costs but directed the Companies to remove POLR charges from their current rates. In addition, the Commission found that there should be no adjustment to the phase-in deferral balance associated with the phase-in to address, on a prospective basis, the unjustified POLR and environmental carrying charges collected from the beginning of the ESP term through the point at which the charges became subject to refund. The Commission also found that there are no other areas in which it should similarly address the flow-through effects of the Court's remand (e.g. USF and delta revenues).

Q30. What are the impacts associated with the Remand Order's removal of POLR charges from current rates?

A30. Amounts of POLR revenues collected since the first billing cycle of June 2011 through the time that new tariffs take effect to remove the POLR charges from current rates, will first be credited against the phase-in deferrals of CSP and OPCo and then returned to customers by billing credits. In addition, new tariffs will be put in place to remove the POLR charges from current rates. The POLR revenue requirements originally authorized in the ESP case were $97.4 million annually for CSP and $54.8 million annually for OPCo. To illustrate, if new tariffs become effective on November 1, 2011 to remove the POLR charges from rates, then potential revenues for the last two months of 2011 would be reduced by approximately $16.2 million for CSP and $9.1 million for OPCo. In addition, during the period that the POLR charges were being collected subject to refund, (the 5 months June 2011 through October 2011), the phase-in deferrals or customer bills would be reduced by approximately $40.6 million for CSP and $22.8 million for OPCo. Customer's net billing impacts however, may also be impacted by changes to the FAC rates that result from POLR revenues decreasing, under the operation of the annual billing caps. However, the foregoing discussion of the impacts of the Commission's Remand Order is merely illustrative of the effect of the remand order as things presently stand with the understanding that the results in the remand case may yet change as a result of the rehearing process or further determinations by the Ohio Supreme Court.

Q31. Does this conclude your prepared direct testimony on the Stipulation ESP?

A31. Yes. However, I reserve the right to update this testimony for responses to discovery that are presently outstanding.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Revised Direct Testimony of Joseph G. Bowser on Behalf of Industrial Energy Users-Ohio* was served upon the following parties of record this 13th day of October 2011, *via* electronic transmission, hand-delivery or first class mail, U.S. postage prepaid.

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