

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company for Authority to) Case No. 11-346-EL-SSO
Establish a Standard Service Offer) Case No. 11-348-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,)
in the Form of an Electric Security Plan.)

In the Matter of the Application of)
Columbus Southern Power Company and) Case No. 11-349-EL-AAM
Ohio Power Company for Approval of) Case No. 11-350-EL-AAM
Certain Accounting Authority.)

In the Matter of the Application of)
Columbus Southern Power Company to) Case No. 10-343-EL-ATA
Amend its Emergency Curtailment)
Service Riders.)

In the Matter of the Application of)
Ohio Power Company to Amend its) Case No. 10-344-EL-ATA
Emergency Curtailment Service Riders.)

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.)

In the Matter of the Application of)
Columbus Southern Power Company) Case No. 11-4920-EL-RDR
for Approval of a Mechanism to Recover)
Deferred Fuel Costs Ordered Under)
Ohio Revised Code 4928.144.)

In the Matter of the Application of)
Ohio Power Company for Approval of a)
Mechanism to Recover Deferred Fuel) Case No. 11-4921-EL-RDR
Costs Ordered Under Ohio Revised)
Code 4928.144.)

**MOTION BY INDUSTRIAL ENERGY USERS-OHIO FOR AN ORDER
DIRECTING THE COMPANIES TO SERVE TARIFFS AND SUPPORTING
WORKPAPERS ON THE PARTIES AND FOR AN ORDER THAT NEW
RATES AND CHARGES BE BILLED AND COLLECTED SUBJECT TO
RECONCILIATION, AND A REQUEST FOR EXPEDITED RULING AND
MEMORANDUM IN SUPPORT**

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December 20, 2011

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RECONCILIATION, AND A REQUEST FOR EXPEDITED RULING**

Pursuant to Rule 4901-1-12 of the Ohio Administrative Code (“OAC”), Industrial Energy Users-Ohio (“IEU-Ohio”) moves for an order requiring the Ohio Power Company (“OP”) and Columbus Southern Power Company (“CSP”) (collectively “Companies”) to serve electronically parties with proposed tariffs and supporting workpapers at the same time the filings are provided to the Staff of or otherwise made with the Public Utilities Commission of Ohio (“Commission”). IEU-Ohio further moves for an order that any tariffs that become effective on January 1, 2012 be subject to reconciliation until such time as the Commission completes a final review of the proposed tariffs. Due to the time constraints identified in the Commission Opinion and Order, IEU-Ohio further requests that the Commission issue an expedited ruling on this Motion. The reasons supporting this Motion and request for expedited ruling are set out in the accompanying memorandum.

Respectfully submitted,

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MEMORANDUM IN SUPPORT OF THE MOTION

On December 14, 2011, the Commission issued its Opinion and Order modifying and approving the Electric Security Plan (“ESP”) and other terms set out in a stipulation filed on September 7, 2011. In the Opinion and Order, the Commission found “that the Companies should file revised final tariffs consistent with this order by December 23, 2011. In light of the short timeframe remaining before these tariffs by necessity must go into effect, the Commission finds that the revised final tariffs shall be approved effective January 1, 2012, subject to final review by the Commission.”¹ The Commission further ordered the Companies to notify their customers of the changes in the tariffs by either bill message or bill insert within thirty days of the effective date.²

Given the limited time available to review any compliance filing the Companies may make before the proposed tariffs become effective, IEU-Ohio, through this motion, urges the Commission to direct the Companies to electronically serve all parties with any proposed compliance tariffs shared informally with the Commission’s Staff and formally filed with the Commission along with, in both cases, supporting workpapers. Only by timely access to this information, will interested parties be able to alert the Commission to problems that the Commission may want to address before the problems start appearing in electric bills. Additionally, IEU-Ohio urges the Commission to order that any proposed tariffs that may go into effect January 1, 2012 do so subject to reconciliation until a more deliberate review of the proposed tariffs is complete.

¹ Opinion and Order at 65. The Commission also issued an Order consistent with these findings. *Id.* at 67.

² *Id.* at 68.

Finally, IEU-Ohio requests that the Commission issue an expedited ruling on the Motion because of the short time frames affecting all parties.

In order to identify potential problems with the Companies' proposed tariffs, interested parties must have timely access to such tariffs and the materials relied upon by the Companies to demonstrate that the proposed tariffs comply with the Commission's Opinion and Order. The Commission, however, did not specify in its Opinion and Order any process requirements associated with the compliance phase of these proceedings except that the Companies must file four complete copies of the tariffs consistent with the Opinion and Order and update their current electronically filed tariffs.³ Thus, IEU-Ohio urges the Commission to order the Companies to serve tariffs and supporting workpapers on all parties at the same time they are informally shared with the Commission's Staff and also when they are formally filed with the Commission.

Additionally, there is a need to have any tariffs that may go into effect on January 1, 2012 implemented subject to reconciliation once the Commission completes its final review. According to the Commission's Opinion and Order, the new tariffs are approved effective January 1, 2012,⁴ subject to final review by the Commission.⁵ Allowing the tariffs to be approved effective January 1, 2012 subject to final Commission review,

³ *Id.* at 68.

⁴ The Opinion and Order at page 67 indicates that the new tariffs are to be effective on bills rendered rather than service rendered basis. If the new rates and charges were to be effective on a service rendered basis, the new rates and charges would apply to all service rendered on or after January 1, 2012. By making the new rates and charges effective on a bills rendered basis, the new rates and charges will apply to electricity consumed prior to January 1, 2012, thereby producing a retroactive consequence. This retroactive consequence may be the subject of further discussion should it be necessary for IEU-Ohio to seek rehearing. However, the practical consequence of this retroactive aspect of the Opinion and Order escalates the importance of the relief requested in this Motion. The new rates and charges that the Companies are now positioned to bill and collect effective January 1, 2012 will be imposed on consumers with no advanced notice and imposed on consumption occurring prior to the date the Opinion and Order was issued.

⁵ *Id.* at 65.

however, leaves customers exposed to the risk that the Companies may file proposed tariffs that do not comply with the Commission's Opinion and Order with no recourse if the Companies bill and collect rates and charges that the Commission subsequently determines are improper.⁶ Rather than create a situation in which customers are exposed to new rates and charges that do not conform to the Opinion and Order, the Commission can (and recently has⁷) ordered the collection of rates and charges subject to refund. Under the somewhat unique circumstances presented in these cases, it similarly would be proper to direct that the rates be collected subject to reconciliation until such time as the Commission completes its review and determines whether the to-be-filed tariffs that the Commission has apparently approved effective January 1, 2012 comply with the Opinion and Order.⁸

IEU-Ohio further requests that the Commission address this Motion on an expedited basis.⁹ An expedited ruling is necessary to assure that the appropriate orders regarding disclosure of information supporting the proposed tariffs and collection of rates subject to reconciliation are in place before the to-be-filed proposed revised tariffs become effective on January 1, 2012.

⁶ *In re Application of Columbus Southern Power Co.*, 128 Ohio St. 3d 512 (2011). While a stay of execution is statutorily available, see Section 4903.16, Revised Code, it is not practically available to customers due to the bonding requirements.

⁷ *In the Matter of the Application of Columbus Southern Power Company for Approval of an 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 *et al.*, Objections of Industrial Energy Users-Ohio to Columbus Southern Power Company's and Ohio Power Company's October 6, 2011 Tariff Filing (Oct. 13, 2011). In its filing on October 6, 2011, the Companies sought to retain a provider of last resort charge based on pre-ESP orders. The Commission eventually approved an alternative set of tariffs that fully removed the POLR charges. *Id.*, Finding and Order (Oct. 26, 2011).

⁸ As a result of the remand of its Opinion and Order in the Companies' first ESP application, the Commission directed that then-current rates be collected subject to refund until such time as the Commission completed its review of the remanded issues. *Id.*, Entry at 3-4 (May 25, 2011).

⁹ Rule 4901-1-12(C), OAC.

For the reasons discussed above, the motion for procedural orders concerning the compliance filings of Ohio Power Company and Columbus Southern Power Company and request for expedited ruling should be granted.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion by Industrial Energy Users-Ohio for an Order Directing the Companies to Serve Tariffs and Supporting Workpapers on the Parties and for an Order that Rates Be Collected Subject to Refund, and a Request for Expedited Ruling* was served upon the following parties of record this 20th day of December 2011, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

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Summary: Motion By IEU-Ohio for an Order directing the companies to serve tariffs and supporting workpapers on the parties and for an order that new rates and charges be billed and collected subject to reconciliation, and a request for expedited ruling and memorandum in support electronically filed by Mr. Frank P Darr on behalf of Industrial Energy Users-Ohio