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 and Ohio Power Company to Amend its Emergency Curtailment Service Riders.	Case No. 10-343-EL-ATA 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 and Ohio 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 Case No. 11-4921-EL-RDR

APPLICATION FOR REHEARING OF THE OHIO HOSPITAL ASSOCIATION

Pursuant to Ohio Revised Code Section ("R.C.") 4903.10, the Ohio Hospital Association ("OHA") respectfully submits this Application for Rehearing of the December 14, 2011, Opinion and Order ("Order") of the Public Utilities Commission of Ohio ("Commission") in the above-

captioned proceedings. The Commission's Order is unreasonable and unlawful because: it modifies the capacity set-asides during the term of the ESP, denying the OHA's member hospitals and other Signatory Parties the benefits of the fair and consensus-based compromise that the Stipulation represents; and it creates a preference in favor of particular customer classes without a sound basis for doing so. OHA requests that the Commission reconsider and adopt the Stipulation as filed. The reasons supporting this Application for Rehearing are given below in the attached Memorandum in Support.

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Columbus Southern Power Company ("CSP") and Ohio Power Company ("OP") (collectively "AEP Ohio") filed its application for approval of an Electric Security Plan ("ESP") pursuant to R.C. Sections 4928.141 and 4928.143 on January 27, 2010. The plan, as filed, would have been in effect between January 1, 2012, and May 31, 2014. During the ensuing months, AEP Ohio, Commission Staff and numerous parties and stakeholders engaged in settlement negotiations. The result of these negotiations was the Joint Stipulation and Recommendation ("Stipulation") signed by AEP Ohio, Commission Staff and numerous intervenors, and filed in the above-referenced cases on September 7, 2011. The Stipulation was the culmination of months of negotiations among the stakeholders, and consisted of recommendations that addressed a series of highly contentious issues and resolved a number of contested cases beyond simply AEP Ohio's ESP application.

This Application for Rehearing relates to the Stipulation's resolution of the highly contentious issue of the cost of capacity to be recovered by AEP Ohio, either through its standard service offer ("SSO") rates, or through the PJM Reliability Pricing Model ("RPM")-based capacity rate charged to competitive retail electric service ("CRES") providers serving customers on the AEP Ohio distribution system, as addressed in Case No. 10-2929-EL-UNC. AEP Ohio was claiming an embedded capacity cost of approximately $355 per megawatt day, both in its requested Rider GEN in its ESP application, and also in Case No 10-2929-EL-UNC for the purposes of PJM-tariffed capacity rates. The compromise struck by the Stipulation resolved the matter by introducing a concept not found anywhere in AEP Ohio's ESP application – a path to a fully market-based SSO rate by June 1, 2015. But as part of the give-and-take of the Stipulation, AEP was allowed to collect a compromise SSO revenue requirement and a compromise RPM rate until May 31, 2015. Even this compromise RPM rate was reduced to $255 per megawatt day for the limited period specified in the Stipulation. Without question, there was give and take on the part of all participants to the settlement discussions.

A crucial part of this compromise for the OHA was Section IV.2.b.3., which states as follows:

> 3. In order to preserve and expand retail shopping in AEP Ohio's service territory and implement AEP Ohio's transition to a fully market-based SSO pricing system more quickly than is possible under an MRO, there will be a set aside of RPM-priced capacity available as follows: 21% of AEP Ohio's total retail load in 2012 (based on total kWh retail sales), 29% in 2013 until securitization is completed when it will become 31% for the remaining portion of 2013 after which securitization is completed (if securitization is completed prior to January 1, 2013, then the applicable set aside for the entirety of 2013 will be 31%), and 41% in 2014 continuing through the first half of 2015. . . . Beginning June 1, 2015, the RPM price will apply for all SSO load. During this transition period ending May 31, 2015, there will be no exceptions to the RPM-priced capacity set aside set forth in this Paragraph and the Commission will monitor and enforce the RPM-priced capacity set aside provisions during

> the transition period, such that any and all shopping in excess of the RPM-priced set aside limits will be priced at the $255/MW-Day capacity rate. The RPM-priced capacity set aside provisions set forth in this Paragraph include all existing and future shopping load during the transition period. The set aside of RPM-priced capacity shall be initially allocated on a pro rata basis among the residential, commercial and the industrial classes based upon projected kWh consumption for a period of approximately 4 months after the filing of the Stipulation. A customer's class determination shall be based on the same criteria used to define the class for purposes of the current forecasted load projection. The RPM-priced capacity set aside shall be awarded to customers on a first come, first serve basis based upon the rules and processes set forth in Appendix C. *After the expiration of the four month period, any kWhs of RPM-priced capacity that have not been consumed by a customer class will be available for customers in any customer class based upon the priority as set forth in Appendix C. . . .* (Emphasis added)

The parties agreed to limit the availability of this RPM-priced capacity to 21% of AEP Ohio's total retail load in 2012, 29% (or 31% if securitization legislation is passed) in 2013, and 41% in 2014-15. The ability to shop will be on a first-come, first-served basis. However, for the first four months after the Stipulation was filed, the ability to shop was to be allocated to customer classes on a pro rata basis such that unless and until commercial customers exceeded their shopping allotment, no residential or industrial customers could cut into the commercial customers' share.

II. ARGUMENT

A. The Commission's Order is unreasonable and unlawful because it modifies the capacity set-asides during the term of the ESP, unfairly denying the Signatory Parties the benefit of the bargain struck in the Stipulation.

The Commission modified the availability of the discounted capacity called for by the Stipulation in two highly material ways: 1) the Commission made an accommodation for governmental aggregations that were passed by voters on November 8, 2011, so that if they are otherwise ready to become operational by January 1, 2012, they may obtain discounted capacity from the share allocated to the residential class; and 2) the Commission eliminated the year-end

inter-class reallocation process for discounted capacity that had been allocated, but unused, by a particular class. The effect of this modification ensures that exhausted allocations, such as those in the commercial class, will receive no further allocation of discounted capacity at the start of 2012, despite the reallocation mechanism being a key feature of the Stipulation.

With an agreement such as the Stipulation – as with any settlement – there is give and take that goes into the carefully crafted compromise. The Commission radically upset this balance by arbitrarily re-arranging the benefits and detriments of the Stipulation. The OHA would not have supported the Stipulation if there was not a reasonable chance that its members would have access to that discounted capacity. The OHA carefully assessed the risks that there would not be available capacity and determined that it would be likely that at least some capacity would be available for reallocation as of January 1, 2012. The Commission's Order removed any possibility of that happening and it did so in an arbitrary and capricious manner. The Commission has effectively deprived the OHA of the benefit of the bargain it struck when it agreed to sign the Stipulation.

The entire subject of the discounted capacity is an exclusive product of the negotiated outcome of this case. It appears nowhere in AEP Ohio's application in this case, and it is not the subject of any of the requirements of R.C. 4929.143. To the extent that any particular customer class received a benefit, it was the result of the good-faith negotiations that produced the Stipulation. The Commission simply has no sound basis for upsetting the careful balance reflected in the Stipulation.

B. The Commission's Order is unreasonable and unlawful because it creates a preference in favor of particular customer classes without a sound basis for doing so.

Each customer class has been given an initial; pro rata share of RPM-priced capacity. Each customer class has had an equal opportunity to avail itself of that class-based set aside. In fact, to the extent that the residential class is not subject to the same 90-day waiting period prior to switching that applies to the commercial and industrial classes, the benefit given to the residential class by the Commission's Order exacerbates this initial inequality. On the other hand, to the extent that customers within a particular class do not avail themselves of the full amount of that class' set-aside, the Stipulation merely allows that remaining capacity to be used where the demand does exist. It does this on a non-discriminatory, first-come, first-served basis. This arrangement is eminently fair. By eliminating the Stipulation's reallocation mechanism, the Commission effectively reallocates this valuable resource to customers who do not value it as highly as other customers. This is as decidedly inefficient as it is unfair.

The hospitals that relied on the careful construct of Section IV.2.b.3. of the Stipulation did so in the belief that they would have a fair chance to avail themselves of this scarce resource – the same chance as any other customer served by AEP Ohio. As a reward for working toward a fair and consensus-based resolution to otherwise intractable issues, the Commission has denied the hospitals, as well as other customers, of that fair chance. This action on the part of the Commission is unjust and unreasonable.

III. CONCLUSION

WHEREFORE, the Ohio Hospital Association respectfully urges the Commission to grant its application for rehearing.

Respectfully submitted on behalf of
OHIO HOSPITAL ASSOCIATION

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CERTIFICATE OF SERVICE

I hereby certify that the OHIO HOSPITAL ASSOCIATION'S APPLICATION FOR REHEARING was served by electronic mail on the parties of record listed below this 13th day of January 2012.

Thomas J. O'Brien

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/13/2012 4:46:07 PM

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Case No(s). 10-2376-EL-UNC, 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Application for Rehearing electronically filed by Teresa Orahood on behalf of Ohio Hospital Association