

**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
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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
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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
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In the Matter of the Application of Columbus Southern Power Company to Amend its Emergency Curtailment Service Riders	:	Case No. 10-343-EL-ATA
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In the Matter of the Application of Ohio Power Company to Amend its Emergency Curtailment Service Riders	:	Case No. 10-344-EL-ATA
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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
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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
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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
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OHIO POWER COMPANY'S MOTION AND REQUEST FOR EXPEDITED RULING

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On December 14, 2011, the Commission issued an Opinion and Order in the above-captioned cases (Opinion and Order), modifying and adopting the September 7, 2011 Stipulation and Recommendation (Stipulation). The Opinion and Order, among other things, adopted a modified Electric Security Plan (ESP) for Ohio Power Company (OPCo) and Columbus Southern Power Company (CSP) and approved the proposed merger of CSP and OPCo. In conformance with the modified Stipulation adopted by the Commission, CSP merged into OPCo effective at the end of 2011. Accordingly, OPCo (also referred to as “AEP Ohio”) also represents, and is the successor in interest to, the interests of CSP.

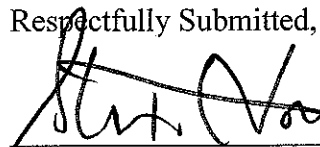
On December 29, 2011, AEP Ohio filed a Revised Detailed Implementation Plan (Revised DIP) to ensure in a transparent and open fashion that all interested stakeholders understood the details associated with implementing the Opinion and Order. After certain parties objected to the Revised DIP filing, the Commission issued a Compliance Entry on January 23, 2012 indicating that it was interpreting and enforcing the Opinion and Order (Compliance Entry). The Compliance Entry ordered AEP Ohio to revise the December 29, 2011 DIP and file it in its tariffs – without providing a specific deadline for doing so.

For the reasons set forth in the attached memorandum in support, AEP Ohio requests clarification that filing of the new version of the Revised DIP be deferred until after the Commission issues its rehearing decision. AEP Ohio submits that the Compliance Entry adopts additional modifications to the Stipulation and discloses new and different interpretations of the Opinion and Order that have a material and adverse impact on AEP Ohio. Because AEP Ohio plans to file an application for rehearing

concerning the Compliance Entry's interpretations and because related issues were already raised in the January 13, 2012 applications for rehearing pending in these dockets, AEP Ohio requests clarification that the Commission will defer any requirement for AEP Ohio to file a new Revised DIP until after issuance of a rehearing decision that finalizes the Commission's resolution of these issues.

AEP Ohio requests an expedited ruling on this request, under Rule 4901-1-12(C), Ohio Admin. Code.

Respectfully Submitted,



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Company and Ohio Power Company

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## MEMORANDUM IN SUPPORT

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Prior to resolving the related issues pending on rehearing, the Compliance Entry imposes a requirement on AEP Ohio to file a new version of the Revised DIP to implement five new or enhanced obligations, each of which involves significant financial cost to AEP Ohio, as follows:

- The Compliance Entry (pages 3-4) indicates that the modification to *pro* rata allocation of the RPM-priced capacity set-aside level “goes back to the initial allocation among the customer classes based on September 7, 2011, data, regardless of whether any customer class is now over-subscribed,” even though the Opinion and Order indicated (page 55) that it was modifying a different provision related to reversion of set-aside as of January 1, 2012.
- The Compliance Entry (page 4) now explains that the modification “is meant to include all communities that have established governmental aggregation programs, up to and including those communities that approved government aggregation programs in the November 2011 election,” notwithstanding the fact that the language in the Opinion and Order related only the November 2011 ballot communities (twice referenced on page 54) and repeatedly characterized its modification as being made to include the communities that passed ballots in November 2011 (pages 64 and 65).
- The Compliance Entry (page 5) now provides that the aggregation-based modification of the set-aside will be “over and above the *pro* rata allocation provided to customers in the Stipulation for 2012,” whereas the Opinion and Order (page 54) ordered that the RPM set-aside to be adjusted as needed to “accommodate” the specified aggregation programs that complete the process to take service by the end of 2012.
- The Compliance Entry (page 5) now asserts continuing jurisdiction over the set-aside levels “to ensure that retail shopping through governmental aggregation does not unintentionally displace individual shopping in 2013 and 2014, even though the Opinion and Order unequivocally provided (page 54) that individual customers would be restricted to shop “within the RPM set aside to the extent it is available.”

- The Compliance Entry (page 6) directs that mercantile customers (large commercial and industrial customers) “should not be excluded from RPM-priced capacity that may be available to non-mercantile customers in eligible governmental aggregation communities,” while the Opinion and Order’s modification of the set-aside was made in order to accommodate governmental aggregation communities with ballot initiatives (by definition referring to opt-out programs that necessarily exclude mercantile customers) and was made so as to include residential customers as beneficiaries of the set-aside and given the Commission’s belief that “governmental aggregation programs “have proven to be the most likely means to get substantial numbers of residential customers to become a customer of a CRES providers.”

As further explained below, AEP Ohio’s request to defer the filing of additional revisions to the detailed implementation plan is reasonable and should be granted pending final outcome of the disputes regarding the Opinion and Order’s modifications regarding the RPM-priced capacity set-aside (and without prejudice to the outcome of those disputes).

One relevant consideration on whether to defer the requirement for filing additional revisions to the Revised DIP is the resulting financial impact on AEP Ohio. The ultimate cost of some of these requirements can be estimated and the cost of others is less clear. But it cannot be disputed that the outcome of the issues addressed in the Compliance would involve significant financial cost to AEP Ohio.

Moreover, the applications for rehearing filed by parties on January 13, 2012 in these dockets demonstrate that the Opinion and Order is ambiguous and needs to be addressed on rehearing, despite the Compliance Entry’s attempt to portray the decision as already being clear in these respects. It is significant that the parties with motivation to broadly construe the Opinion and Order’s modification did not read the Opinion and Order as doing what the Compliance Entry says. In fact, they asked the Commission to expand the modification on rehearing (to match what the Commission has interpreted in

the Compliance Entry). See FES Application for Rehearing Issue C.10 (at 38-44), IEU Issue 13 (at 43-45), and AEP Ohio Application for Rehearing Issue IV (at 38-45).

Another example in this vein is that OCC/APJN argue in their application for rehearing (at 15-16) that additional RPM-priced capacity above the set-aside levels should also be made available for communities that aggregate before the November 2011 ballot initiative (something the Compliance Entry asserts was already done through the Opinion and Order). AEP Ohio respectfully submits that the Compliance Entry short-circuited the statutory rehearing process by addressing these contested matters as part of a Compliance Entry and portraying them as already being resolved.

Perhaps the most compelling evidence of the Opinion and Order's ongoing ambiguity and need for final resolution on rehearing of the aggregation-related modification is the opinion expressed by Commissioner Roberto. In her opinion dissenting in part from the Compliance Entry, she aptly made the following observations:

Although I fully support the development of competitive markets in this state, I believe that the clarification on government aggregation is inconsistent with the letter and intent of the Opinion and Order in these proceedings. The Opinion and Order clearly contemplates that, once retail shopping for any customer class reaches 21 percent through any combination of individual shopping and government aggregation in 2012, the capacity set asides will be available only for additional customers through government aggregation for the balance of the year. The clarification in today's Entry greatly expands the set asides available to individual shoppers significantly altering the balance of benefits in the stipulation. Accordingly, I concur, in part, and dissent, in part, from the Entry.

(Emphasis added.)

There are clearly ongoing disagreements as to the meaning and intent of the Opinion and Order. AEP Ohio plans to file an additional application for rehearing in response to the Compliance Entry in order to request that the Commission reconsider the

findings rendered in the Compliance Entry. Further, because related matters are already pending on rehearing and the Compliance Entry necessarily is not disposing of the pending applications for rehearing, AEP Ohio suggests that it is best for all interested parties if the Commission provides a clear and final resolution of these disagreements prior to implementation of these matters.

While AEP Ohio believes it will ultimately prevail upon the Commission through the rehearing process to more narrowly tailor its remedy to the particular concerns stated in the Opinion and Order (as opposed to the broader approach taken in the Compliance Entry), it is not necessary to decide such matters in clarifying the required timing of the final compliance version of the DIP. Deferral of the requirement to file a new version of the Revised DIP until after rehearing will not prejudice the final outcome of these matters to be decided on rehearing. Granting AEP Ohio's clarification request and making the filing after rehearing does not diminish the fact that AEP Ohio will comply with the Commission's final decision – it simply ensures that the decision becomes final before undertaking the complex plan to implement it. In the meantime, AEP Ohio will continue to follow the December 29, 2011 Revised DIP (which already implements the Opinion and Order aside from the five incremental changes related to the Compliance Entry).

The DIP is not like a rate or tariff to be implemented upon issuance of an Opinion and Order and remain in effect during the rehearing process. Rather, as referenced above, the primary disputes for rehearing in this regard relate to the accommodation for governmental aggregation adopted in the Opinion and Order and to future administration of the set-aside levels. The disputed matters will be implemented in the future –after issuance of the rehearing decision – and do not present an immediate impact or require an

immediate resolution. In other words, these matters can be sorted out on rehearing prior to the time they need to be implemented.

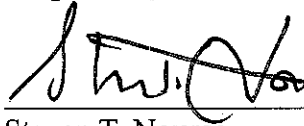
Further, until the Commission finalizes its decision regarding the aggregation-related modification of the set-aside, there exists the potential for confusion and uncertainty with regard to how the aggregation set-aside issues will be addressed. Version 1 was presented by the Signatory Parties; Version 2 was filed on December 29; Version 3 is the new version contemplated in the Compliance Entry; and Version 4 would be required if anything is changed on rehearing. Rather than using such a confusing approach, AEP Ohio submits that it is better to go through this compliance filing process only once more and avoid the potential for multiple additional cycles. The rehearing process is designed to finalize Commission orders and these additional provisional rulings in the middle of the rehearing process presents a unique set of circumstances which could cause further confusion and uncertainty for customers and CRES providers in the competitive marketplace. The public interest is best served by waiting for a final order before further revising the detailed plan for implementing the RPM-priced capacity set-aside provisions.



## CONCLUSION

For the foregoing reasons, the Commission should grant AEP Ohio's request for clarification such that the filing of any new Revised DIP would not be required until after a rehearing decision is issued. Because this request relates to an obligation currently set forth in the Compliance Entry, AEP Ohio requests an expedited ruling on the request. Absent further direction from the Attorney Examiners or the Commission, AEP Ohio plans to await ruling on this motion prior to filing a new version of the Revised DIP.

Respectfully Submitted,



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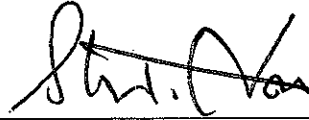
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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Ohio Power Company's Motion and Request for Expedited Ruling has been served upon the below-named counsel and Attorney Examiners by electronic mail this 25<sup>th</sup> day of January, 2012.



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Summary: Motion and Request for Expedited Ruling electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company