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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2010 Annual Filing of :
Columbus Southern Power Company and : Case Nos. 11-4571-EL-UNC
Ohio Power Company Required by Rule : 11-4572-EL-UNC
4901:1-35-10, Ohio Administrative Code. :

**REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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INTRODUCTION

The only new matter in this case is the Staff's recommendation of the adoption of a simpler method of determining a comparable group. The method has the obvious advantages of simplicity, transparency, and accuracy. It provides essentially the same outcome as other more complex approaches but it does so in a way that can be duplicated by any sophisticated analyst. Use of this method will reduce uncertainty associated with the application of the SEET without loss in accuracy. Aside from this, the same parties make the same arguments that they have on multiple earlier occasions. These arguments will be discussed below.

DISCUSSION

A. American Electric Power

American Electric Power (AEP) presents seven areas of argument. The first is a Constitutional claim which has already been presented to the Ohio Supreme Court and is not a matter that this Commission is empowered to address in any event. The second is the calculation of the return on equity for the operating companies with which the Staff has no issues.

The third matter addressed by AEP is their continued defense of Dr. Makhija's computation of the comparable group. Again AEP misses the entire point. Dr. Makhija's approach is complicated. It cannot be duplicated by outsiders. It takes five pages of rather turgid text on brief to explain it. The Staff's method is simple, transparent and duplicable by any analyst. The Staff totals the net income of the companies in the SPDR Select Sector Fund-Utility and divides the total by the total common equity of those firms. That is all there is to it. This simplicity is obtained without loss of accuracy. As noted in the initial brief, the result of this analysis is nearly the same as that from Dr. Makhija. This simplicity and duplicability have real world advantages. Since analysts can readily re-create this method, they will no longer have to consider all the earnings of all the Ohio EDU's suspect until their SEET proceedings are finished. They will have much tighter parameters around the exposure that Ohio EDU's have due to the SEET review. This benefits everyone. The section also reiterates criticisms of the Staff analysis but these matters have already been discussed in the initial brief and do not warrant repetition.

The final four arguments made by AEP can best be viewed as a group. AEP takes the view that the Commission should increase the fifty percent adder for reasons unique to the company and explains its belief. Staff takes no position in this regard. It is a matter for the Commission's considered discretion. If the Commission should reject AEP's arguments *in toto* and stay with only the fifty percent adder, then the overearnings would be \$14.442 million (grossing to \$22.577 million).¹ Staff Ex. 4 at 2. If the Commission would increase the adder as it did last year to sixty percent, there would be no overearnings.

OEG

Ohio Energy Group presents four arguments. The first is a restatement of its position that off system sales should be included in the SEET calculation. This matter has already been rejected by the Commission in last year's case and should be again. The matter is already on appeal to the Ohio Supreme Court and should be left as it is until the Court has spoken.

The second is an argument that the Commission should reject the sixty percent adder used last year. As noted above, the Staff takes no position in this regard.

Staff would agree with OEG's last two points, specifically, if there is a refund it should be provided as quickly as possible and there is no reason to change the allocations used last year.

¹ Prefiled Redirect Testimony of Joseph P. Buckley (Staff Ex. 4) at 2

B. Ohio Consumers' Counsel

Consumers' Counsel presents five arguments. The first two recommend the use of the Staff's comparable group and the fifty percent safe harbor. Obviously Staff has no problem with these points.

OCC's third argument is the inverse of AEP's final four. The OCC argues that factors unique to AEP should result in the adder being reduced. As the Staff took no position about AEP's argument, it takes no position about the OCC's.

The fourth argument OCC makes is a restatement of their continued position that the SEET should include consideration of off system sales. As noted above, this argument has been rejected by this Commission and that rejection is currently on appeal. The Commission should let the matter stay as it is until the Court has issued its decision.

OCC's final point is that AEP's analysis should be rejected. Staff agrees insofar as the comparable group analysis of Dr. Makhija is simply too complicated and opaque to be as useful as is the Staff's method.

OPAE

Ohio Partners for Affordable Energy present three arguments (a fourth subsection is the calculated result of the three arguments). OPAE would include OSS, use the Staff comparable group and reject the sixty percent adder. As noted previously, the OSS issue should be left as it is pending the Supreme Court's decision on the matter, the Staff's comparable group should be used, and Staff takes no position about the sixty percent adder.

C. Industrial Energy Users-Ohio

Industrial Energy Users present four arguments. The first three are the same matters currently contained in their appeal of the Commission's last SEET decision. These matters should be left alone until the Court has acted in the earlier case. The fourth argument is a criticism of the sixty percent adder upon which the Staff offers no opinion.

CONCLUSION

Nothing new was offered in any of the initial briefs. That being the case the Commission should utilize the same methodology as it did in the previous case with one adjustment. Staff recommends that the Commission utilize the SPDR Select Sector Fund –Utility (XLU) as its comparable group. The use of the index provides clarity and transparency with no loss of accuracy. The index reduces regulatory risk to the benefit of all concerned.

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Reply Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, or hand-delivered, upon the following Parties of Record, this 10th day of February, 2012.



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