

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

In the Matter of the Application of) Case No. 11-346-EL-SSO
Columbus Southern Power Company) Case No. 11-348-EL-SSO
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.)

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

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

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

In the Matter of the Commission) Case No. 10-2929-EL-UNC
Review of the Capacity Charges of Ohio)
Power Company and Columbus)
Southern Power Company.)

In the Matter of the Application of) Case No. 11-4920-EL-RDR
Columbus Southern Power Company 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) Case No. 11-4921-EL-RDR
Power for Approval of a Mechanism to)
Recover Deferred Fuel Costs Ordered)
Under Ohio Revised Code 4928.144.)

**RESPONSE TO AEP’S NOTICE OF INTENT
BY
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL
AND
APPALACHIAN PEACE AND JUSTICE NETWORK**

The Office of the Ohio Consumers’ Counsel, on behalf of the 1.2 million residential customers of OP (“AEP Ohio”), and Appalachian Peace and Justice Network, a not for profit organization whose members include low-income customers in southeast Ohio (collectively, “Respondents”), file this pleading in response to Ohio Power’s Notice of Intent. Overall Respondents’ interests are in advocating for affordable rates for electric retail service that are non-discriminatory and promote diversity of electric supply, while also allowing for customers to have effective choice over the selection of retail electric service providers.¹

Specifically, Respondents file this pleading to voice their concerns over the apparent substance of AEP Ohio’s modified electric security plan (“ESP”) as well as its request for expedited consideration of its modified ESP. What AEP Ohio is requesting is a step backward, not forward, and a very quick turn-around. Neither of these courses of action is appropriate especially where millions (if not billions) of dollars are at stake, and AEP is asking customers to protect it from financial harm that may occur as it moves toward a competitive market (which seems antithetical to having a competitive market).

The step backward AEP appears to be taking is related to AEP Ohio’s proposal that it receive favorable provisions (such as retail stability charges) to protect it from financial harm while at the same time not going directly to auction pricing in competitive

¹ See R.C. 4928.02(A).

bid auctions. This strategy seeks to ensure that AEP Ohio will get the best of both worlds.

On the capacity side of the equation, AEP Ohio wants to price capacity as it had proposed under the Commission-rejected stipulation in the electric security plan (“ESP”) case.² That proposal effectively placed limits on customer shopping and permitted AEP Ohio to collect \$255/MWH day for all non-set aside capacity pricing. As OCC, APJN, IEU-Ohio, and FirstEnergy Solutions have argued, the limited RPM pricing (as opposed to 100% RPM pricing starting in 2012) constrains shopping, to the detriment of the competitive market.

While protecting itself from shopping by insisting on non-RPM priced capacity, AEP at the same time pleads for a non-bypassable “retail stability” generation charge for 2012 through 2015 to “recover an amount intended to provide certainty and stability for AEP Ohio and certainty for its customers.”³ AEP indicates that such a charge will, among other things, ensure that AEP avoids financial harm. Inclusion of such a charge beginning in 2012, when there is limited RPM capacity pricing, appears to be a price of admission that AEP seeks to collect from customers for moving to 100% RPM pricing in 2015.

Respondents OCC and APJN question why the price of admission is being requested now, when there is no immediate competitive bid auction being proposed. Moreover, Respondents are not willing to write a blank check defined only by what AEP claims is necessary to avoid alleged financial harm. Demanding that customers pay now through a retail stability charge for alleged financial harm to the company seems to be a

² See Notice of Intent of Ohio Power Company at 2-3 (Mar. 5, 2012).

³ Id. at 4.

step backward from anything that was being discussed previously. It would likely result in imposing even higher rates than those set in AEP's rejected settlement. And those rates were ultimately rejected by the Commission as not being in the public interest.

AEP Ohio also indicates its intent to allegedly sweeten the deal even more, by including "a range of issues that are broader than the SSO for competitive retail electric service."⁴ Specifically, it notes that it will be proposing a Distribution Investment Rider to reduce regulatory lag for recovery of and on capital investments.⁵ The distribution investment rider was a highly contentious issue in the recent ESP case because it was not properly structured to incentivize distribution investment. Respondents will likely be closely examining any new distribution investment proposal to determine if the rider complies with the law and will promote reliable, safe, and efficient distribution service. Additionally, Respondents will be interested in determining whether AEP Ohio has demonstrated a need for such a mechanism.

AEP also indicates it is committed to addressing rate design issues through a "fair approach that considers the impact on all customers and balances the equities associated with the rate changes resulting from the modified plan."⁶ Respondents too are concerned with rate design issues, especially if significant changes in the structure of residential rates are being discussed.

AEP Ohio also indicates that in order to transition to an RPM entity in 2015, it will need to have "immediate approval" for structural corporate separation.⁷ As indicated

⁴ Id. at 3.

⁵ Id.

⁶ Id. at 4.

⁷ Id. at 5.

in OCC's comments, reply comments, and Application for Rehearing in the corporate separation docket, the spin off of generating assets, without providing net book values and market values, is problematic. If that information could be provided by AEP, in accordance with Ohio Admin. Code 4901:1-37-09, then perhaps a quicker resolution, albeit short of "immediate"—can be a possibility.

Respondents agree that AEP Ohio should come forward with detailed information on its plans for ultimate disposition of generating assets it currently owns. Moreover, it is not only "appropriate" but it is also necessary for AEP Ohio to address unit retirements planned during the modified ESP term. Additionally, AEP should fully explain its plans for bidding all or portions of the spun off units into the auction in 2015.

On the procedural front, AEP Ohio wants to expedite this process claiming that the PUCO should conduct an expedited proceeding to consider the modified ESP once it is filed.⁸ AEP believes there should be "efficiencies presented that reasonably facilitate an expedited process" but fails to explain what it is referring to.⁹ AEP urges the PUCO to adopt a procedural schedule to enable the modified ESP plan to become effective by June 1, 2012.

Respondents urge the Commission instead to avoid a rush to judgment and allow parties, including parties who may not have been involved up to this point, a sufficient opportunity to challenge the modified ESP and make proposals to the PUCO. Moreover, the Commission should be cognizant of the fact that negotiation and settlement discussions on the modified ESP will likely be ongoing, requiring parties to follow dual tracks--litigation and settlement. For parties like Respondents, the demands of such

⁸ Id at 5.

⁹ Id.

activities can be overwhelming on limited resources, and most certainly do not lend themselves to an expedited procedure.

In summary, AEP Ohio's notice of intent sets the stage for backward, not forward movement, and cannot serve as a reasonable basis for action. AEP Ohio's "asks" are great and appear to be not easily met, without imposing significant increased burdens upon AEP Ohio's customers. And AEP Ohio seeks a rush to judgment which is ill-suited for fair and reasonable resolution of the numerous and complex issues raised by AEP Ohio.

The course of action laid out by AEP Ohio is not reasonable. Respondents urge the Commission to pursue a course of action that will ensure parties have an adequate opportunity to challenge the modified ESP and make their own proposals. This means a reasonable procedural schedule is needed. Additionally, while the financial condition of AEP Ohio is a consideration for the Commission, the Commission must also recognize its duty and responsibility to uphold the policy of the state to ensure reasonably priced electric retail service. The PUCO should continue on the path of seeking fair and affordable electricity rates for Ohioans.

Respectfully submitted,

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On Behalf of the Appalachian Peace and

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response has been served via electronic service, to the counsel identified below this 6th day of March, 2012.

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/6/2012 5:25:05 PM

in

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

Summary: Response Response to AEP's Notice of Intent by the Office of the Ohio Consumers' Counsel and Appalachian Peace and Justice Network