

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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THE KROGER COMPANY'S REPLY BRIEF

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I. **AEP-Ohio Fails to Demonstrate that the Retail Stability Rider ("RSR") is Not an Attempt to Recover Stranded Costs.**

AEP-Ohio has failed to explain how the RSR is not an attempt by the AEP-Ohio to take a second bite of the apple to recover stranded costs. In fact, AEP-Ohio has essentially thumbed its nose at the ETP Stipulation, which strictly prohibited AEP-Ohio from recovering transition costs in the future. In its initial post-hearing brief, AEP-Ohio attempts to distinguish the transition costs of capacity from the transition costs of generation, but in the end, this is a distinction without a difference, and the RSR should be rejected by the Commission and eliminated from the ESP. No matter what terminology is used, AEP-Ohio has not and cannot truthfully claim that RSP is not an attempt to recover stranded generation costs.

Furthermore, the RSR should be eliminated as a capacity price mechanism because the state mechanism for the reimbursement of CRES

suppliers for capacity costs was decided by the Commission in Case No. EL-UNC-10-2929. While the case is not fully and finally decided, the methodology and reasoning supported a much lower capacity charge than AEP-Ohio's alleged embedded cost of capacity of \$355/MW-day charge. The Commission has decided the appropriate cost of capacity and cost recovery mechanism in Case No. EL-UNC-10-2929, and it would be wholly inconsistent to approve the RSR based on a capacity price requested by AEP-Ohio, but which the Commission clearly found to be far too high to be justifiable.

**II. If the RSR is Approved, the RSR Rate Design Must be Modified to a Demand Charge.**

In AEP-Ohio's Post-hearing Brief, AEP-Ohio failed to address the fact that the RSR rate design fails to link claimed costs to cost-causers. If the Commission were to approve the RSR in some form, it should be modified to recover demand costs through a demand charge. Specifically, the rate design of the RSR for demand-billed customers is determined on a 5 CP basis. However, the RSR is proposed to be recovered through an energy charge. This is a clear flaw in the rate design of the RSR, which resulted in disproportionate charges to high load factor users in certain demand billed customer classes. There is a simple solution to the RSR rate design: For demand billed customers, allocate cost allocation and cost recovery based on capacity charges. This solution eliminates intra-class subsidies that unreasonably place an unfair economic burden on high load factor energy users despite the fact that a fair, adequate and reasonable rate design based on demand is easily attainable.

**III. The Distribution Investment Rider (“DIR”) is an Unnecessary Burden on Consumers.**

AEP-Ohio goes to great lengths to persuade the Commission that its distribution reliability record is better than required by the Commission’s legal standards in order to justify the DIR. (AEP-Ohio Brief at 87-94). It is simply not a persuasive argument to request additional charges from AEP-Ohio customers in the absence of the conventional distribution rate case application for the DIR when AEP-Ohio is simultaneously making the argument that the distribution system is reliable. Accordingly, AEP-Ohio should continue to operate under the terms of its last distribution rate case until such time as another distribution rate case is necessary. The DIR is not necessary to recover funds to ensure reliability of the distribution system. The major argument for DIR appears to be that a distribution rate case is costly and inconvenient. That is perhaps true, however, the cost and inconvenience is necessary in order to make certain that requested distribution charges are reasonable, prudent and otherwise justified. When the time comes for a distribution rate case, AEP-Ohio can more appropriately address its distribution related concerns in a global distribution package, rather than a piecemeal approach as AEP-Ohio is attempting in the ESPII case.

**IV. AEP-Ohio has Failed to State an Appropriate Basis for Aggregating Distribution Rates.**

AEP-Ohio failed to explain the logic behind its rate-making by aggregating the incremental distribution investment in both service territories. The cost of service for the Ohio Power service territory and the cost of service in the

Columbus Southern Power service territory have been separate and distinct for decades. Now that the companies have merged, AEP-Ohio is attempting to combine these distinct territories and their unique rate structures in one fell swoop in order to jam the DIR through the regulatory process. This is not an appropriate manner to create distribution rates. Furthermore, this type of *ad hoc* rate-making for the merged entities sets a concerning precedent for the future of AEP-Ohio as it develops new rates for the two separate service territories. Accordingly, the Commission should reject AEP-Ohio's plan to aggregate the incremental distribution investment in both service territories.

**V. AEP-Ohio Failed to Address the Incorporation of Accumulated Deferred Income Taxes ("ADIT") into the DIR.**

AEP-Ohio failed to address the incorporation of ADIT into the DIR, which was recommended by multiple parties, including Kroger and the PUCO Staff. The bottom line is that the incorporation of ADIT into the DIR is necessary to create a credit against the rate base because there is a clear benefit to the accelerated depreciation of AEP-Ohio's assets. This benefit should be passed on to AEP-Ohio customers, rather being ignored, and thus, unjustly enriching AEP-Ohio. As such, the Commission should include ADIT in the DIR.

**VI. Conclusion.**

For the foregoing reasons, Kroger respectfully requests that the Commission modify the ESP II by rejecting the RSR and DIR riders. If the Commission approves the RSR, it should be modified to reflect a fair rate design based on demand. Additionally, if the Commission approves the DIR, it should be modified to include ADIT into the DIR.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark S. Yurick", is written over a horizontal line.

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## CERTIFICATE OF SERVICE

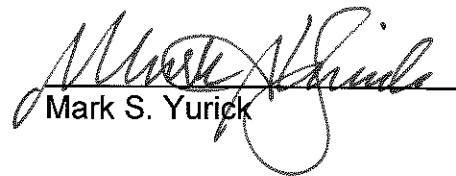
I hereby certify that a copy of the foregoing *The Kroger Company's Reply Brief* was served via electronic mail on this 9<sup>th</sup> day of July 2012 upon counsel for all parties of record in this case.

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Summary: Reply Brief of The Kroger Company electronically filed by Mark Yurick on behalf of The Kroger Company