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Via E-File

December 23, 2013

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case Nos. 12-3254-EL-UNC

Dear Sir/Madam:

Please find attached the MEMORANDUM CONTRA APPLICATION FOR REHEARING OF THE OHIO ENERGY GROUP, for filing in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.

Cc: ALJ Jonathan Tauber, Esq. (via electronic mail)
ALJ Sarah Parrot, Esq. (via electronic mail)
Certificate of Service

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power :
Company to Establish a Competitive Bidding Process : **Case No. 12-3254-EL-UNC**
for Procurement of Energy to Support its Standard :
Service Offer :

**MEMORANDUM CONTRA APPLICATION FOR REHEARING
OF THE OHIO ENERGY GROUP**

The Ohio Energy Group (“OEG”) submits this Memorandum Contra the Application for Rehearing filed by Ohio Power Company (“AEP Ohio” or “Company”) at the Public Utilities Commission of Ohio (“Commission”) on December 13, 2013. For the following reasons, the Commission should deny AEP Ohio’s application for rehearing.¹

I. The Commission Already Addressed the Proper Interpretation of Its Order in AEP Ohio’s Most Recent ESP Case and AEP Ohio Presented No Valid Reason to Alter That Interpretation.

AEP Ohio alleges that the Commission’s decision to require AEP Ohio to blend a \$188.88/MW-day capacity rate with its base generation rates in the same percentages that the Company will blend its energy rates was inconsistent with the Commission’s findings in AEP Ohio’s most recent ESP case, Case No. 11-346-EL-SSO *et al.*² But the issue of the proper interpretation of the Commission’s ESP Order was already raised and thoroughly considered by the Commission in its Order in this case.³ Consequently, AEP Ohio’s argument is merely an attempt at a second bite at the apple and should be rejected by the Commission.

AEP Ohio also claims that the Commission’s decision lacks any basis in the record in this case.⁴ However, both testimony and briefs filed in this case discussed in detail the capacity blending methodology

¹ OEG’s decision not to respond to other arguments raised in this proceeding should not be construed as implicit agreement with those arguments.

² AEP Ohio Application for Rehearing at 4-7.

³ Opinion & Order (November 13, 2013) at 10-14; Ohio Power Company’s Initial Brief at 15-21.

⁴ AEP Ohio Application for Rehearing at 7-8.

ultimately adopted by the Commission.⁵ Hence, the Commission had a sufficient record upon which to base its decision.

Finally, AEP Ohio claims that the Commission's capacity blending methodology will have substantial financial impacts on AEP Ohio.⁶ Yet the information that AEP Ohio cites to quantify the financial impacts of the Commission's decision was readily available to the Commission in the record of this case prior to the issuance of its Order.⁷ Those financial impacts were therefore likely already considered and found reasonable by the Commission prior to the issuance of its decision in this case. Accordingly, given that AEP Ohio has raised no valid reason warranting rehearing of the Commission's decision regarding the blending of SSO rates, AEP Ohio's request for rehearing on this issue should be rejected.

II. AEP Ohio Failed to Refute That The Fixed Cost Rider Will Double Recover Certain Fixed Costs Collected by AEP Ohio Through The \$188.88/MW-Day Capacity Rate.

AEP Ohio alleges that there is no basis for finding that any costs now recovered through the Fixed Cost Rider ("FCR") charge are being double recovered through base generation rates.⁸ This argument misses the point. It is not double recovery through the base generation rates that is the issue in this case, although the Commission may wish to explore that issue in a different proceeding. Rather, the issue here is the potential for AEP Ohio to double recover certain fixed costs through both the \$188.88/MW-day portion of the blended capacity rate and the FCR charge.

As the record in this case reflects, fixed purchased power costs from FERC Account 555 were used in calculating the \$188.88/MW-day cost-based capacity rate established in Case No. 10-2929-EL-UNC ("Capacity Case").⁹ That \$188.88/MW-day cost-based capacity rate will now be collected from retail customers in increasing percentages through the blended SSO capacity rates. Problematically, the same fixed purchased power costs from FERC Account 555 were also proposed to be included and recovered through the FCR charge.¹⁰ Therefore, approval of the FCR will allow AEP Ohio to double recover those fixed purchased power costs.

⁵ See e.g. FES Ex. 7 (Direct Testimony of Sharon L. Noewer); Post-Hearing Brief of FirstEnergy Solutions Corp. at 3-11.

⁶ AEP Ohio Application for Rehearing at 8-9.

⁷ See FES Ex. 7, Attachment 2.

⁸ AEP Ohio Application for Rehearing at 11-12.

⁹ FES Ex. 2; Tr. Vol. I at 97 and 101-02.

¹⁰ Tr. Vol. I at 101-02.

The Commission may decide to address this double recovery issue in a subsequent proceeding, but if the issue is confronted in this proceeding, it should be decided against AEP Ohio since the Company has failed to refute that the FCR will not result in double recovery of the fixed purchased power costs from customers. AEP Ohio urges the Commission to infer that those fixed costs were not reflected in the \$188.88/MW-day rate since it asked the Commission for approval of a rate significantly larger than \$188.88/MW-day in the Capacity Case.¹¹ But nothing in the record of either the Capacity Case or this case definitely proves that those costs were excluded. Rather, as discussed above, the record in this case reflects that the opposite is true. Particularly since AEP Ohio itself believes that the methodology used by the Commission to calculate the \$188.88/MW-day rate “makes it infeasible to determine which costs are actually being recovered through that charge,”¹² AEP Ohio cannot definitely state that the fixed purchase power costs from FERC Account 555 were excluded from the \$188.88/MW-day capacity rate.

WHEREFORE, for the foregoing reasons, OEG respectfully requests that the Commission deny AEP Ohio’s application for rehearing.

Respectfully submitted,



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December 23, 2013

COUNSEL FOR THE OHIO ENERGY GROUP

¹¹ AEP Ohio Application for Rehearing at 16-18 (citing its request for a \$355.72/MW-day rate).

¹² Application for Rehearing at 19.

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 23rd day of December, 2013 to the following:



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Summary: Memorandum Ohio Energy Group (OEG) Memorandum Contra to Application for Rehearing electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group