

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Fuel Adjustment)	
Clause of Columbus Southern Power)	Case No. 10-268-EL-FAC
Company and Ohio Power Company and)	Case No. 10-269-EL-FAC
Related Matters for 2010.)	

In the Matter of the Fuel Adjustment)	
Clauses for Columbus Southern Power)	Case No. 11-281-EL-FAC
Company and Ohio Power Company and)	
Related Matters.)	

**INITIAL POST-HEARING BRIEF
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

***** PUBLIC VERSION *****

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January 8, 2014

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. STANDARD OF REVIEW AND BURDEN OF PROOF	4
III. LAW AND ARGUMENT	6
A. Ohio Power Did Not Prove That the Cash Working Capital Requirement Associated with the AEP River Transportation Division Is a Prudently Incurred Cost and, Therefore, Those Amounts Should Be Removed from the Costs Ohio Power Collects from Customers from January 1, 2010 Forward.	6
B. The PUCO Should Reduce the Amount of FAC Costs to Be Collected from Customers by the Accumulated Deferred Income Taxes Related to Deferred Fuel, or at Least Make the Amount Subject to Refund.....	9
C. All Proceeds from the Sale of the Conesville Coal Preparation Plant Should Be Applied to the Fuel Adjustment Clause Under-Collections as Recommended by the Auditors.	13
D. All Adjustments of Rates Paid by Customers Resulting from This Proceeding Should Be Applied as Credits to the Amounts Customers Pay Through the Phase-In Recovery Rider.....	16
IV. CONCLUSION.....	17

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I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") files its initial brief in these proceedings where the Public Utilities Commission of Ohio ("PUCO") will decide how much customers of Ohio Power Company ("Ohio Power" or "AEP Ohio")¹ will have to pay for fuel costs related to their electric service.² Ohio Power seeks to collect fuel costs and associated carrying charges from customers through a fuel adjustment clause

¹ At the time these proceedings began, Columbus Southern Power Company ("CSP") and Ohio Power Company ("OPC") were operating companies of AEP Ohio. Effective at the end of 2011, the two merged, with Ohio Power becoming the successor in interest to Columbus Southern. See *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, Entry (March 7, 2012) at 11. Ohio Power Company is a d/b/a for AEP Ohio.

² Briefs in this proceeding were due January 7, 2014. Tr. at 218-219. But the PUCO's offices were closed on January 7, 2014 due to a water main break. Per Ohio Adm. Code 4901-1-7(D), "[i]f the commission office is closed to the public for the entire day that constitutes the last day for doing an act or closes before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday." The PUCO extended the deadline for filings due on January 7, 2014 until January 8, 2014. See *In the Matter of the Extension of Filing Dates for Pleadings and Other Papers Due to a Building Emergency*, Case No. 14-38-AU-UNC, Entry (January 8, 2014).

(“FAC”)³ approved in its first Electric Security Plan (“ESP”) cases, 08-917-EL-SSO and 08-918-EL-SSO.

The auditors for these cases – Energy Ventures Analysis (“EVA”) and Larkin & Associates PLLC (“Larkin”) (collectively, “Auditors”) – made several recommendations regarding AEP Ohio’s FAC for 2010 and 2011.⁴ EVA made eight recommendations concerning strategies, policies and procedures for the management of AEP Ohio’s fuel supplies for 2010⁵ and six such recommendations for 2011.⁶ Larkin conducted the financial audit of AEP Ohio’s FAC, and made eight recommendations for the proper accounting treatment of several fuel-related expenses for 2010⁷ and 12 such recommendations for 2011.⁸

Ohio Power challenges only four of the Auditors’ recommendations. First, Ohio Power claims that EVA’s recommendation that AEP Ohio expand upon its procurement policies and procedures in a revised policy manual is “neither necessary nor beneficial.”⁹ Second, Ohio Power disagrees with the Auditors’ recommendations in the 2011 Audit

³ The FAC is the mechanism Ohio Power is authorized to use to collect, from customers, prudently incurred fuel, purchased power and other miscellaneous expenses, and carrying charges on deferred fuel costs.

⁴ In the first AEP Ohio FAC case, the PUCO hired EVA to conduct the three annual FAC audits for the term of AEP Ohio’s first ESP, with AEP Ohio bearing the cost of the audits. See *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company*, Case No. 09-872-EL-FAC, Entry (January 7, 2010). Larkin is a subcontractor for EVA. The Auditors are “expected to analyze, interpret, and make specific recommendations with respect to the structure, policies, and procedures of the company’s field procurement, fuel utilization, power purchases, capacity purchases, and related functions.” *Id.*, Entry (November 18, 2009), Attachment at 3.

⁵ Report of the Management/Performance and Financial Audits of the FAC of the Columbus Southern Power Company and The Ohio Power Company, Case Nos. 10-268-EL-FAC, et al. (May 26, 2011) (“2010 Audit Report”) at 1-6. The recommendations were numbered 13 through 20.

⁶ Report of the Management/Performance and Financial Audits of the FAC of the Columbus Southern Power Company and The Ohio Power Company, Case No. 11-281-EL-FAC (May 24, 2012) (“2011 Audit Report”) at 1-5 and 1-6.

⁷ 2010 Audit Report at 1-9 and 1-10. The recommendations were numbered 15 through 22.

⁸ 2011 Audit Report at 1-9 and 1-10.

⁹ See Ohio Power Ex. 3 (Henry Testimony) at 6.

Report¹⁰ that proceeds from the sale of the Conesville Coal Preparation Plant (“CCPP”) should be credited against the 2011 under-collection of the FAC balance.¹¹ Third, Ohio Power argues against EVA’s recommendations, in both audit reports,¹² that the return on the AEP River Transportation Division’s (“RTD”) Cash Working Capital component be removed unless Ohio Power can demonstrate through a lead-lag study analysis that RTD has indeed a significant Cash Working Capital requirement.¹³ And fourth, Ohio Power asserts that it is unnecessary to address its accumulated deferred income tax (“ADIT”) savings related to the under-collected fuel balances, as the Auditors recommended,¹⁴ because, Ohio Power contends, the PUCO resolved the issue in AEP Ohio’s first ESP case.¹⁵

OCC generally agrees with the Auditors’ recommendations. The Auditors’ findings and recommendations are well-supported and reasonable and should be adopted by the PUCO, with some modifications.¹⁶ Specifically, modifications are warranted to further clarify the recommendations and to remove inflated and unjustified cost items for fuel transportation, carrying costs for deferred fuel expenses, fuel procurement and disposition of assets.¹⁷ Although the Auditors identified these inflated and unjustified costs, the Auditors did not propose a specific adjustment (i.e., calculate the amount of

¹⁰ Management Recommendation No. 5 and Financial Recommendation No. 12.

¹¹ Ohio Power Ex. 4 (Nelson Testimony) at 6-7.

¹² 2010 Financial Recommendation No. 19; 2011 Financial Recommendation No. 4.

¹³ Ohio Power Ex. 4 (Nelson Testimony) at 7-8.

¹⁴ See 2010 Financial Recommendation No. 22.

¹⁵ Ohio Power Ex. 4 (Nelson Testimony) at 11.

¹⁶ See OCC Ex. 1A (Duann Testimony) at 5.

¹⁷ See *id.* at 5.

money that should not be paid by customers) or propose a specific remedy regarding those unreasonable costs.¹⁸

Industrial Energy Users-Ohio (“IEU”) raises three issues regarding the Auditors’ findings. First, similar to OCC, IEU argues that carrying charges should be calculated on deferral balances that have been reduced by ADIT. Second, IEU calls for the PUCO to issue the request for proposal (“RFP”) regarding the valuation of the coal reserves that the Auditors suggested in the 2009 FAC case. And third, IEU recommends that the PUCO require Ohio Power to record a regulatory liability for the estimated value of the future customer benefits from the 2008 coal mining contract arrangement that will accrue from 2013 through 2018, and to amortize the regulatory liability over the period that the benefits are realized.¹⁹ OCC agrees with IEU’s recommendations.

The PUCO should order several adjustments to the 2010 and 2011 annual FAC costs to protect AEP Ohio customers from paying unjust and unreasonable rates for electric service. In this brief, OCC addresses most of the issues discussed above and explains why the PUCO should follow the recommendations of OCC witness Dr. Duann.

II. STANDARD OF REVIEW AND BURDEN OF PROOF

The standard of review in this case is set forth in R. C. 4928.143(B)(2)(a), which provides that the PUCO may authorize an electric distribution utility to collect from customers the utility’s prudently incurred cost of fuel used in the generation of electricity.²⁰ In addition, R.C. 4928.02 mandates that the PUCO should ensure that the

¹⁸ See *id.*

¹⁹ IEU Ex.15 (Bowser Testimony) at 3-4.

²⁰ R.C. 4928.143(B)(2)(a).

cost of electric service for AEP Ohio's customers is reasonable. Within the environment of competitive retail electric service, the PUCO's authorization of the recovery of AEP Ohio's prudently incurred and actual fuel cost must be consistent with the state policy enumerated in R.C. 4928.02.

R.C. 4928.143(C)(1) provides that the burden of proof in an ESP proceeding shall be on the electric utility.²¹ Because the origin of this case is AEP Ohio's ESP case, the burden of proof remains with the electric utility. Thus, Ohio Power bears the burden of proving that the fuel costs it seeks in its application were prudently incurred and reasonable.

The PUCO's rules give even further guidance on the burden that Ohio Power must meet in order to charge its customers for fuel. Specifically, the Ohio Adm. Code mandates that:

Each electric utility for which the commission has approved an electric security plan (ESP) which includes automatic adjustments under division (B)(2)(a) of section 4928.143 of the Revised Code shall file for such adjustments in accordance with the provisions of this rule.²²

* * *

On an annual basis, the prudence of the costs incurred and recovered through quarterly adjustments shall be reviewed in a separate proceeding outside of the automatic recovery provision of the electric utility's ESP. **The electric utility shall demonstrate that the costs were prudently incurred as required under division (B)(2)(a) of section 4928.143 of the Revised Code** and, if a significant change in costs has incurred, include an analysis comparing the electric utility's resource and/or environmental compliance strategy with supply and demand-side alternatives.²³

²¹ R.C. 4928.143(C)(1).

²² Ohio Adm. Code 4901:1-35-09(A).

²³ Ohio Adm. Code 4901:1-35-09(C) (emphasis added).

Ohio law and the PUCO's rules (discussed above) both mandate that the burden of proof for automatic collection of costs, such as fuel costs, is on the utility. And only those costs that are proven (by the utility) to be prudently incurred and reasonable may be collected from customers.

III. LAW AND ARGUMENT

A. Ohio Power Did Not Prove That the Cash Working Capital Requirement Associated with the AEP River Transportation Division Is a Prudently Incurred Cost and, Therefore, Those Amounts Should Be Removed from the Costs Ohio Power Collects from Customers from January 1, 2010 Forward.

In both Audit Reports, the Auditors examined the cost of coal transportation charged to Ohio Power by the RTD. The RTD is owned by Indiana and Michigan Power Company ("Indiana & Michigan"), an affiliated company of AEP Ohio, and is responsible for shipping coal by barge to Ohio Power and other AEP operating companies.²⁴ The primary purpose of the RTD is "to move coal for the operating companies of the AEP system at the most reasonable price."²⁵

In the 2010 Audit Report, the Auditors recommended that:

AEP should be required to analyze the receipt of revenue and the payment of cash expenses for RTD captive operations, similar to a lead-lag study, and to present such information to support its assumption that RTD has a significant Cash Working Capital requirement. If adequate supporting information is not provided to substantiate that RTD has a significant Cash Working Capital requirement and the amount of that requirement using lead-lag study analysis of cash receipts and cash payments, the RTD Capital component of the RTD investment base should be removed

²⁴ See 2010 Audit Report at 7-99 to 7-109.

²⁵ Id. at 7-100.

from the cost charged by RTD to OPCo from January 1, 2011 forward.²⁶

The Auditors were critical of the cost calculation used by RTD in pricing its service.²⁷ The RTD transportation services are priced based on the costs of providing these services as specified in the May 1986 Barge Transportation Agreement.²⁸ However, the prices of RTD's service are not set or regulated by the Federal Energy Regulatory Commission or other state commissions.²⁹ These costs for RTD's service to AEP Ohio, as calculated by RTD, include a return (initially set at 9.21% per annum) on Indiana & Michigan's net investment in the RTD.³⁰ RTD's Net Investment Base consists primarily of a Working Capital Requirement and Real Property and Personal Property taxes,³¹ which means that a very significant portion of the capital cost charged by RTD is related to its Working Capital requirement.³²

The Auditors recommended that AEP Ohio be required to support its assumption that RTD has a significant Cash Working Capital requirement.³³ AEP Ohio claims that a lead-lag study would violate its agreement with RTD.³⁴ This claim, however, is merely based on the testimony of one AEP Ohio witness.³⁵ AEP Ohio failed to produce any legal document or other writing with RTD to support such a requirement. The PUCO

²⁶ Id. at 1-10.

²⁷ Id. at 7-107 to 7-109.

²⁸ Id. at 7-99 to 7-100.

²⁹ See OCC Ex. 1A (Duann Testimony) at 7.

³⁰ See 2010 Audit Report at 7-99.

³¹ Id. at 7-105 to 7-106.

³² See OCC Ex. 1A (Duann Testimony) at 8.

³³ 2010 Audit Report at 7-109.

³⁴ Ohio Power Ex. 4 (Nelson Testimony) at 8.

³⁵ Id.

should not give weight to AEP Ohio's bald claims. And such a claim is fatal to Ohio Power's burden to prove that any a Cash Working Capital requirement is a prudent and reasonable cost that customers should have to pay.

Also, the exclusion of unsupported costs associated with the Cash Working Capital requirement is consistent with prior PUCO practices as demonstrated, for example, in the most recent AEP Ohio rate case.³⁶ Thus, the PUCO should remove the costs associated with RTD's Cash Working Capital requirement from the amount to be collected from customers through the FAC.

The Auditor recommends that "the RTD Capital component of the RTD investment base should be removed from the cost charged by RTD to OPCo from January 1, 2011 forward."³⁷ But such a charge should also be removed from the costs customers paid during the 2010 FAC period – beginning January 1, 2010.³⁸ In the 2010 Audit Report, the Auditors estimated the 2010 annual charges collected from OPC associated with the RTD Working Capital Requirement was [REDACTED].³⁹ However, in the 2011 Audit Report, the Auditors reduced the RTD Working Capital Requirement to [REDACTED] to reflect a lower share of Ohio Power's revenue allocation among RTD's customers.⁴⁰ The PUCO should remove the remaining [REDACTED] from Ohio Power's 2010 FAC costs, as OCC witness Dr. Duann recommends.⁴¹

³⁶ See OCC Ex. 1A (Duann Testimony) at 8.

³⁷ 2010 Audit Report at 1-10.

³⁸ OCC Ex. 1A (Duann Testimony) at 6-9.

³⁹ 2010 Audit Report at 7-107 (Confidential).

⁴⁰ See 2011 Audit Report at 7-121(Confidential).

⁴¹ OCC Ex. 1A (Duann Testimony) at 9 (Confidential). Ohio Power had no cross-examination for Dr. Duann. Tr. at 209. Thus, his testimony is uncontroverted in the record of this proceeding.

In addition, in the 2011 Audit Report the Auditors estimated that Ohio Power collected [REDACTED] from customers for the RTD Working Capital Requirement.⁴² The PUCO should also remove this amount from Ohio Power's 2011 FAC costs, as Dr. Duann recommends.⁴³

B. The PUCO Should Reduce the Amount of FAC Costs to Be Collected from Customers by the Accumulated Deferred Income Taxes Related to Deferred Fuel, or at Least Make the Amount Subject to Refund.

In the 2010 Audit Report, the Auditors raised the issue of the impact of ADIT on carrying costs that are paid by customers through the FAC. The Auditors contended that the ADIT balance related to deferred fuel costs is a source of non-investor supplied cost-free capital that has been used to finance part of the FAC deferral balance (or Under-Recovered Fuel Balances).⁴⁴ The Auditors stated:

If the ADIT balance related to the Company's FAC under-recovery balances is not considered, or deducted somewhere else, such as in rate base, ratepayers would be over-paying carrying costs by paying for carrying costs on the portion of the Deferred Fuel balance that has been financed by tax savings, i.e. on the portion not financed with investor-supplied capital. Unless the ADIT related to the under-recovered fuel balances is being recognized somewhere else in the ratemaking process, the pre-tax WACC should be getting applied to an Under-recovered fuel balances that is net of the related credit-balance ADIT, not to the gross Under-recovered balance.⁴⁵

The ADIT balance was not deducted in base rates, as Ohio Power witness Nelson noted.⁴⁶ Thus, to avoid customers over-paying carrying costs, as the Auditors discussed,

⁴² See 2011 Audit Report at 7-121 (Confidential).

⁴³ See OCC Ex. 1A (Duann Testimony) at 18.

⁴⁴ See 2010 Audit Report at 7-83.

⁴⁵ Id.

⁴⁶ See Ohio Power Ex. 4 (Nelson Testimony) at 11.

the PUCO should remove the ADIT from the calculation of carrying costs in Ohio Power's FAC costs.

The Auditors suggested that "AEP Ohio and the other parties to the case should re-examine whether the Commission-authorized gross-of-tax WACC for debt and common equity capital should be applied to what such investors are actually financing of the fuel cost under-recovery balances, which would appear to be the Deferred Fuel amounts recorded in Account 1823144 less the directly related credit-balance ADIT-Other for Deferred Fuel recorded in Account 283."⁴⁷ The Auditors did not calculate how removing the ADIT would affect the amount collected from customers through the FAC for 2010, but OCC witness Dr. Duann did make the calculation. Dr. Duann estimates that the FAC collection for 2010 should be reduced by [REDACTED]⁴⁸

In the 2011 Audit Report, the Auditors did calculate the 2011 carrying cost overstatement from not using the ADIT balance related to deferred fuel to offset the FAC deferral balance in calculating the annual carrying costs. The Auditors estimated the 2011 carrying cost on FAC deferral balance was overstated by approximately [REDACTED] [REDACTED] for AEP Ohio.⁴⁹

Because CSP and OPC merged, AEP Ohio did not file separate 2011 FERC Form 1s for CSP and OPC. Thus, Dr. Duann proposed the combined amount of [REDACTED] [REDACTED] be allocated between the CSP Rate Zone and the OP Rate Zone based on their shares of the estimated FAC deferral balances at the end of June 2011 (4.72% for CSP

⁴⁷ See 2010 Audit Report at 1-10.

⁴⁸ OCC Ex. 1A (Duann Testimony) at 18 (Confidential).

⁴⁹ 2011 Audit Report at 7-98 to 7-99 (Confidential).

and 95.28% for OP).⁵⁰ The PUCO should thus remove [REDACTED] from CSP's 2011 FAC cost and [REDACTED] from OPC's 2011 FAC cost, as Dr. Duann explained.⁵¹

Ohio Power witness Nelson claims that the PUCO already decided that AEP Ohio should be allowed to collect the fuel deferrals on a gross-of-tax basis (i.e., ADIT included in costs) rather than a net-of-tax basis (i.e., ADIT excluded from costs).⁵² But as both Dr. Duann and IEU witness Bowser pointed out, the PUCO's decision was contrary to the PUCO's own precedent and sound regulatory principles.⁵³ Indeed, as Mr. Bowser noted,⁵⁴ in addressing the Distribution Investment Rider ("DIR") in Ohio Power's second ESP case the PUCO found that "it is not appropriate to establish the DIR rate mechanism in a manner which provides the Company with the benefit of ratepayer supplied funds."⁵⁵ The PUCO "direct[ed] AEP-Ohio to adjust its DIR to reflect the ADIT offset."⁵⁶

Thus, the decision relied upon by Ohio Power to support including ADIT in FAC costs is an anomaly that contravenes PUCO precedent and that has not been followed by the PUCO itself. Further, as Ohio Power witness Nelson admitted at the hearing, the

⁵⁰ See OCC Ex. 1A (Duann Testimony) at 19 (Confidential), citing 2011 Audit Report Exhibits 7-42 and 7-43. On June 30, 2011, the actual FAC deferral balances were \$28,169,051 for CSP and \$568,063,327 for OPC. The total FAC deferral balance was \$596,232,378, and CSP's share was 4.72% and OP's share was 95.28%. This was the last time the FAC deferral balances were separately reported by AEP Ohio in the quarterly FAC filings. Dr. Duann's proposed reductions for 2010 and 2011 are similar to those recommended by IEU witness Bowser. See IEU Ex. 15 (Bowser Testimony) at 10.

⁵¹ See OCC Ex. 1A at 19-20 (Confidential). Ohio Power did not challenge Dr. Duann's calculations at hearing. Tr. at 209.

⁵² See Ohio Power Ex. 4 (Nelson Testimony) at 11.

⁵³ OCC Ex. 1A (Duann Testimony) at 13-17; IEU Ex. 15 (Bowser Testimony) at 5-6.

⁵⁴ IEU Ex. 15 (Bowser Testimony) at 9.

⁵⁵ *In re: AEP Ohio ESP Cases*, Case No. 11-346-EL-SSO, et al., Opinion and Order (August 8, 2012) at 47.

⁵⁶ *Id.*

issue is on appeal to the Ohio Supreme Court.⁵⁷ Thus, Ohio Power's position is, at best, based on an unsettled area of law.

The PUCO should follow OCC's and IEU's recommendation and remove the ADIT from the amount to be collected through the FAC. As Dr. Duann testified, this is consistent with long-standing regulatory principles and practices for setting cost-based rates in Ohio.⁵⁸ Reducing the FAC costs, to reflect the ADIT offset for carrying costs, for collection from customers would also help ensure that customers do not pay more than Ohio Power's actual cost of fuel and meet the requirements of R.C. 4928.144.⁵⁹ Out of fairness to customers, the PUCO should remove the ADIT from the FAC costs.

If, however, the PUCO does not reflect the ADIT offset for carrying costs and thus reduce Ohio Power's FAC costs in this proceeding, it should make collection of the higher carrying costs (due to no ADIT offset) through the FAC subject to refund. The PUCO's decision, in a prior case, not to reflect the ADIT offset for carrying costs on from deferred fuel costs is on appeal to the Ohio Supreme Court.⁶⁰ Should the Supreme Court overturn the PUCO's prior decision, Ohio Power would be unjustly enriched by collection of higher carrying costs in the time between the PUCO's decision in this case and the Court's decision overturning the PUCO's prior ruling. Making customers whole would be problematic unless the PUCO makes collection of higher carrying costs resulting from no ADIT offset through the FAC subject to refund.

⁵⁷ Tr. at 159.

⁵⁸ OCC Ex. 1A (Duann Testimony) at 11-12. See also IEU Ex. 15 (Bowser Testimony) at 7.

⁵⁹ OCC Ex. 1A (Duann Testimony) at 13-16.

⁶⁰ See Ohio Supreme Court Case No. 2012-2008.

AEP Ohio's customers have paid and will continue to pay a significant amount of carrying cost for FAC deferral balances from 2009 through 2018.⁶¹ As Dr. Duann noted, reflecting the ADIT offset in determining carrying costs collected through the FAC will provide needed relief for AEP Ohio's many customers who are now paying the highest electric rates in Ohio.⁶²

To protect consumers, the PUCO should reflect the ADIT offset in determining carrying costs to be collected through the FAC. If the PUCO does not follow OCC's recommendation, it should make collection of higher carrying costs through the FAC, due to not reflecting the ADIT offset, subject to refund, pending the Ohio Supreme Court's decision on this issue.

C. All Proceeds from the Sale of the Conesville Coal Preparation Plant Should Be Applied to the Fuel Adjustment Clause Under-Collections as Recommended by the Auditors.

To assist the PUCO in determining the actual cost of an electric utility's fuel, Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii) provides that an application by an electric utility seeking to collect its fuel costs from customers must include "any benefits available to the electric utility as a result of or in connection with such costs including but not limited to profits from emission allowance sales and profits from resold coal contracts."⁶³ This practice was common before S.B. 3 in the context of Electric Fuel

⁶¹ See OCC Ex. 1A (Duann Testimony) at 17.

⁶² Id., citing Ohio Utility Rates Survey (October 15, 2013) (which showed that the monthly bill of a typical residential customer in the CSP rate zone is 13.45% higher than the state average, and the monthly bill for a typical residential customer in the OP rate zone is 4.23% higher than the state average).

⁶³ Ohio Adm. Code 4901:1-35-03(C)(9)(a)(ii).

Component cases and generation rate cases.⁶⁴ Thus, in authorizing an electric utility's collection of its fuel costs from customers, the PUCO must balance for customers any benefits available to the electric utility as a result of, or in connection with, such cost, and thereby determine the actual fuel cost incurred by the utility.

In the 2009 FAC Audit Report, the Auditors recommended that American Electric Power Service Corporation ("AEPSC") should undertake a study to determine whether there is an economic justification for continuing to operate the CCPP.⁶⁵ AEPSC concluded in April 2011 that it was not economic to continue operating CCPP beyond the first quarter of 2012.⁶⁶ In the 2011 Audit Report, EVA recommended that "any proceeds received from the sale of CCPP assets be applied to the FAC under-recovery."⁶⁷

The PUCO should adopt this EVA recommendation. AEP Ohio's customers have paid (through the FAC) the operating costs as well as closure-related costs of the CCPP.⁶⁸ Accordingly, any proceeds received from the sale of CCPP assets should be applied to the FAC under-collection.⁶⁹ This treatment is consistent with the PUCO decision regarding AEP Ohio's 2009 FAC Audit.⁷⁰

⁶⁴ See *In the Matter of the Regulation of the Electric Fuel Component Contained Within the Rate Schedules of Cincinnati Gas & Electric Company and Related Matters*, PUCO Case No. 98-103-EL-EFC, Entry (December 22, 1998) at 3. See also *In the Matter of the Regulation of the Electric Fuel Component Contained Within the Rate Schedules of Columbus Southern Power Company and Related Matters*, PUCO Case No. 98-102-EL-EFC, Order (November 24, 1998) at 3. In these EFC cases, customers were credited benefits obtained as a result of assets paid for by customers.

⁶⁵ See 2011 Audit Report at 7-100.

⁶⁶ *Id.*

⁶⁷ See *id.* at 1-6.

⁶⁸ See OCC Ex. 1A (Duann Testimony) at 21.

⁶⁹ See *id.*

⁷⁰ Case Nos. 09-872-EL-FAC, et al., Opinion and Order (January 23, 2012).

In that proceeding, the PUCO decided that only the actual costs of any coal procurement contract should be collected from customers,⁷¹ and that the benefits (such as a payment by a coal producer to AEP Ohio) of a coal contract should be used to offset the costs of a coal contract for calculating the FAC costs.⁷² Specifically, the PUCO found that, “Given these factors, we agree with Staff that, in order to determine the real economic cost of coal used during the audit period, more of the value realized by AEP for entering into the Settlement Agreement should flow through to OP ratepayers through a credit to OP’s under-recovery and deferrals.”⁷³ More importantly, the PUCO directed that the yet-determined value of a coal reserve (received by AEP Ohio as a result of a Settlement Agreement) above the value already required to be credited against FAC deferral, accrue to AEP Ohio’s customers.⁷⁴

This regulatory principle of matching benefits with costs of a specific contract should also be applicable to AEPSC’s decision to close the CCPP.⁷⁵ The many costs associated with the closing of the CCPP are collected through the FAC from customers.⁷⁶ Then customers are entitled to all the proceeds from any sale of the CCPP assets. In addition, the process and terms of the sale or disposition of the CCPP should be reviewed in the next audit to ensure that AEP Ohio’s customers receive the full and fair value of the CCPP and that the proceeds are properly credited to customers through the FAC.

⁷¹ See *id.* at 13.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.* at 12.

⁷⁵ See OCC Ex. 1A (Duann Testimony) at 21-22.

⁷⁶ See 2011 Audit Report at 7-100 to 7-105. The estimated closure related cost in 2011 is [REDACTED] *Id.* at 7-103.

D. All Adjustments of Rates Paid by Customers Resulting from This Proceeding Should Be Applied as Credits to the Amounts Customers Pay Through the Phase-In Recovery Rider.

As a result of the fuel cost deferral ordered in AEP Ohio's first ESP in 2009, only a portion of the 2010 and 2011 FAC costs and associated carrying costs for CSP and OPC have been collected through the FAC charges in effect in 2010 and 2011. The remaining balance of the FAC costs incurred in 2010 and 2011, and their associated carrying costs, are being collected through 2018 under the Phase-In Recovery Rider ("PIRR").⁷⁷ Those FAC deferral balances and carrying costs incurred in 2010 and 2011 are not being collected from customers under the current FAC (which does not have a fuel cost deferral provision) established in the second ESP approved in 2012. Consequently, all adjustments adopted by the PUCO in this proceeding, should be applied as credits to offset part of the Deferred Fuel Balance to be collected through the PIRR. The monthly PIRR to be collected from AEP Ohio's customers will be reduced accordingly.

This should apply to all adjustments discussed in the Audit Reports. And, as discussed herein, there should be an additional FAC cost adjustment for the CSP rate zone of approximately [REDACTED] for the 2011 audit period that should be credited to the PIRR.⁷⁸ For the OP rate zone, the additional FAC adjustments to be credited to the

⁷⁷ See *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, et al., Compliance Tariffs filing (August 8, 2012), Exhibit A. On September 1, 2012, the estimated FAC deferral balances were \$7,668,632 for CSP and \$592,761,577 for OP. See id., Exhibit A, page 1 of 10.

⁷⁸ See OCC Ex. 1A (Duann testimony) at 23 (Confidential). The [REDACTED] adjustment is for the reduction in carrying costs associated with the ADIT offset in 2011. In 2010, there is no proposed adjustment here for CSP.

PIRR are of approximately [REDACTED] for the 2010 audit period⁷⁹ and [REDACTED] for the 2011 audit period.⁸⁰ In addition, the proceeds from the sale of the CCPP should be credited to the PIRR.

IV. CONCLUSION

OCC's recommended reductions to Ohio Power's FAC costs are based on sound, long-standing regulatory principles and practices. They were unchallenged at the hearing. The PUCO should adopt OCC's recommendations as presented by Dr. Duann.

Respectfully submitted,

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⁷⁹ Id. (Confidential). The [REDACTED] is the sum of the proposed reductions associated with RTD Working Capital Requirement [REDACTED] and the ADIT Offset [REDACTED]

⁸⁰ Id. (Confidential). The [REDACTED] is the sum of the proposed reductions associated with RTD Working Capital Requirement [REDACTED] and the ADIT Offset [REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that a copy of OCC's Initial Post-Hearing Brief (PUBLIC Version) was served on the persons stated below via electronic mail this 8th day of January 2014.

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Case No(s). 10-0268-EL-FAC, 10-0269-EL-FAC, 11-0281-EL-FAC

Summary: Brief Initial Post-Hearing Brief (Public Version) by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Etter, Terry L Mr.