

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company for Authority to)
Recover Costs Associated with the)
Construction and Operation of an)
Integrated Gasification Combined)
Cycle Electric Generating Facility.)

Case No. 05-376-EL-UNC

**PUBLIC VERSION
DIRECT TESTIMONY OF KEVIN M. MURRAY
ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO**

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NOVEMBER 6, 2014

ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

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1 **I. INTRODUCTION**

2 **Q1. Please state your name and business address.**

3 A1. My name is Kevin M. Murray. My business address is 21 East State Street, 17th
4 Floor, Columbus, Ohio 43215-4228.

5 **Q2. By whom are you employed and in what position?**

6 A2. I am employed as a Technical Specialist by McNees Wallace & Nurick LLC
7 ("McNees") and serve as the Executive Director of the Industrial Energy Users-
8 Ohio ("IEU-Ohio"). I am providing testimony on behalf of IEU-Ohio.

9 **Q3. Please describe your educational background.**

10 A3. I graduated from the University of Cincinnati in 1982 with a Bachelor of Science
11 degree in Metallurgical Engineering.

12 **Q4. Please describe your professional experience.**

1 A4. I have been employed by McNees for 17 years where I focus on helping IEU-
2 Ohio members address issues that affect the price and availability of utility
3 services. I have also been actively involved, on behalf of commercial and
4 industrial customers, in the formation of regional transmission organizations
5 ("RTOs") and the organization of regional electricity markets from both the
6 supply-side and demand-side perspective. I serve as an end-use customer
7 sector representative as well as Vice Chair on the Midcontinent Independent
8 Transmission System Operator, Inc. ("MISO") Advisory Committee and I have
9 been actively involved in MISO working groups that focus on various issues since
10 1999. Prior to joining McNees, I was employed by the law firm of Kegler, Brown,
11 Hill & Ritter ("KBH&R") in a similar capacity. Prior to joining KBH&R, I spent 12
12 years with The Timken Company, a specialty steel and roller bearing
13 manufacturer. While at The Timken Company, I worked within a group that
14 focused on meeting the electricity and natural gas requirements for facilities in
15 the United States. I also spent several years in supervisory positions within The
16 Timken Company's steelmaking operations.

17 **Q5. Have you previously testified before the Public Utilities Commission of**
18 **Ohio ("Commission")?**

19 A5. Yes. The proceedings before the Commission in which I have submitted expert
20 testimony are identified in Exhibit KMM-1.

21 **Q6. What is the purpose of your testimony?**

1 A6. The purpose of my testimony is to recommend that, in the event the Commission
2 does not order Ohio Power Company¹ ("AEP-Ohio") to refund² the entire
3 revenues of \$24,239,988.86³ that AEP-Ohio collected from customers, the
4 Commission should direct that an audit be conducted of the costs that AEP-Ohio
5 claims were reasonably incurred to construct the proposed Great Bend
6 Integrated Gasification Combined Cycle ("IGCC") generating facility in Ohio.
7 Further, the scope of the audit should include a determination of what portion of
8 the costs that AEP-Ohio claims were associated with the Great Bend IGCC may
9 have been utilized in projects at other sites.

10 II. HISTORY OF THIS PROCEEDING

11 Q7. What is the history of this proceeding?

12 A7. The procedural history of this case is summarized in the Joint Initial Comments of
13 IEU-Ohio and the Office of the Ohio Consumers' Counsel ("OCC") submitted on
14 September 5, 2014 in this proceeding.

15 My testimony is submitted in response to the Commission's August 11, 2014
16 Entry in this proceeding in which the Commission solicited testimony to assist the
17 Commission in its review of the issues on remand in this case.

¹ The application in this proceeding was initially filed by the Columbus Southern Power Company and Ohio Power Company. Those entities have subsequently merged and the surviving corporation is Ohio Power Company.

² As discussed in the direct written testimony of IEU-Ohio witness Joseph G. Bowser, the amount to be refunded to customers should reflect an appropriate level of interest.

³ October 23, 2014 Direct Testimony of Andrea E. Moore at page 3.

1 **III. REFUND OF PHASE I REVENUES**

2 **Q8. What is IEU-Ohio's recommendation in this case?**

3 A8. For the reasons discussed in its September 5, 2014 Initial Comments⁴ and
4 September 19, 2014 Reply Comments in this proceeding, IEU-Ohio recommends
5 the Commission direct AEP-Ohio refund to customers the entire \$24,239,988.86
6 collected through the Phase I charges authorized by the Commission in this
7 proceeding, with an appropriate level of interest as recommended in the
8 testimony of IEU-Ohio witness Joseph G. Bowser.

9 **Q9. Do you have a recommendation if the Commission determines that**
10 **something less than \$24,239,988.86, with an appropriate level of interest,**
11 **should be refunded to customers?**

12 A9. Yes. If the Commission determines that something less than \$24,239,988.86
13 million, with interest, should be refunded to customers, the Commission should
14 direct that an audit be conducted of the costs that AEP-Ohio claims were
15 reasonably incurred to construct the proposed Great Bend IGCC generating
16 facility in Ohio. Further, the scope of the audit should include a determination of
17 what portion of the costs that AEP-Ohio claims were associated with the Great
18 Bend IGCC may have been utilized in projects at other sites.

19 The Commission should direct that the Commission Staff conduct the audit or
20 contract with an independent third party to conduct the audit.

⁴ IEU-Ohio's Initial Comments were filed jointly with the OCC.

1 **Q10. What is the basis for your alternative recommendation that the**
2 **Commission direct that an audit be conducted?**

3 A10. In its June 28, 2006 Entry on Rehearing in this proceeding, the Commission
4 stated:

5 All Phase I costs will be the subject of subsequent audit(s) to
6 determine whether such expenditures were reasonably incurred to
7 construct the proposed IGCC facility in Ohio. AEP-Ohio's request for
8 clarification does raise the issue of the status of the Phase I charges
9 that are collected. Although we continue to find that AEP-Ohio
10 should be permitted to recover the reasonable costs of further
11 developing and detailing the project proposal, the Commission
12 believes that there may be elements of the design and engineering
13 that may be transferable to other projects. Therefore, we find that if
14 AEP-Ohio has not commenced a continuous course of construction
15 of the proposed facility within five years of the date of issuance of
16 this entry on rehearing, all Phase I charges collected for
17 expenditures associated with items that may be utilized in projects
18 at other sites, must be refunded to Ohio ratepayers with interest.⁵
19

20 If the Commission concludes that the entire \$24,239,988.86, with an appropriate
21 level of interest, must be refunded to customers, there is no need for further
22 inquiry. However, if the Commission concludes it may be appropriate for AEP-
23 Ohio to retain some portion of the revenues collected through the Phase I
24 charges,⁶ the Commission should require that the conditions specified in its
25 June 28, 2006 Entry on Rehearing be met. It is uncontested that AEP-Ohio did
26 not commence a continuous course of construction of the proposed facility within
27 the required five-year period. Therefore, in order to retain any portion of the

⁵ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Recover Costs Associated With Construction and Ultimate Operation of an Integrated Gasification Combined Cycle Facility*, Entry on Rehearing at 16 (June 28, 2006) (emphasis added).

⁶ AEP-Ohio witness Andrea E. Moore identifies in her October 23, 2014 direct testimony at page 3 that AEP-Ohio collected \$24,239,988.86 in Phase I revenues versus \$20,570,062.56 in claimed Phase I costs for an over-recovery of \$3,669,926.60.

1 Phase I revenues, under the Commission's Entry on Rehearing, AEP-Ohio must
2 demonstrate that:

- 3 • All such expenditures were reasonably incurred to construct
4 the proposed IGCC facility in Ohio; and
- 5 • Any expenditure paid for with revenues collected through
6 Phase I charges is associated with items that may not be
7 used in projects at other sites.

8 **Q11. Has an independent audit of AEP-Ohio's Phase I IGCC expenditures been**
9 **completed?**

10 A11. I am not aware of an independent audit that has been completed. AEP-Ohio
11 witness Heather M. Whitney discusses in her testimony and provides the results
12 of an internal review of the allocation of Great Bend IGCC costs. Additionally,
13 AEP-Ohio witnesses Daniel M. Duellman and Heather M. Whitney briefly
14 discuss, in each of their testimony, a review of Phase I IGCC expenditures
15 conducted by the Commission in 2012 and Ms. Whitney identifies, in Exhibit
16 HMW-2 to her testimony, some adjustments to the Phase I expenditures that
17 resulted from the Commission Staff's review. However, there has been no audit
18 report by an outside independent auditor or a report published detailing the
19 results of the Commission Staff's review of Phase I expenditures. Further, the
20 Commission Staff has not discussed the scope and results of its review in initial
21 comments or reply comments in this phase of this proceeding. Therefore, it is
22 not known whether the scope of the Commission Staff's review examined the

1 question of whether any expenditures found to have been prudently incurred
2 were for items that may have been used in other projects.

3 **Q12. Could some of the Phase I expenditures AEP-Ohio allocated or assigned to**
4 **the Great Bend IGCC generating facility have been used in projects at other**
5 **sites?**

6 A12. Yes. As discussed in the testimony of AEP-Ohio witness Daniel M. Duellman,
7 about the same time as AEP-Ohio was pursuing the Great Bend IGCC
8 generating facility, it was actively pursuing IGCC projects at two other sites - the
9 Mountaineer site in West Virginia and the Carrs site in Kentucky. Of the three
10 projects, the Great Bend and Mountaineer sites advanced the farthest as
11 discussed below.

12 **Q13. Did American Electric Power Service Corporation ("AEPSC") pursue these**
13 **projects on parallel paths?**

14 A13. Yes. An identification of some milestones associated with each project helps
15 illustrate the parallel effort:

- 16 • On February 5, 2005, a press release was issued indicating
17 that AEPSC had requested PJM Interconnection, LLC
18 ("PJM") to evaluate interconnection feasibility for three sites -
19 Great Bend, Mountaineer and Carrs.
- 20 • On March 18, 2005, AEP-Ohio initiated this proceeding
21 seeking cost recovery for expenditures associated with the
22 Great Bend IGCC generating facility. The testimony of AEP-

1 Ohio witness William J. Jasper, submitted on May 5, 2005 in
2 this proceeding, stated that AEPSC expected to enter into a
3 front end engineering and design ("FEED") agreement with
4 General Electric ("GE") and Bechtel in July 2005 with an
5 expected duration of twelve months.

6 • [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 • On January 12, 2006, affiliate Appalachian Power Company
12 submitted an application with the West Virginia Public
13 Service Commission requesting approval to both construct
14 and recover the costs associated with the Mountaineer IGCC
15 facility.

16 • On April 10, 2006, the Commission issued an Opinion and
17 Order in this proceeding authorizing AEP-Ohio to collect
18 revenues through Phase I IGCC charges.

19 • On June 28, 2006, the Commission issued an Entry on
20 Rehearing in this proceeding placing conditions on AEP-
21 Ohio's recovery of Phase I IGCC expenditures and making
22 the collection of Phase I IGCC revenues subject to refund. I
23 should note that the Commission's actions limited AEP-

Ohio's authorization to collection of Phase I IGCC revenues; recovery of so-called Phase II and Phase III revenues was not authorized, nor was construction of the Great Bend IGCC generating facility.

- [REDACTED]

- On August 25, 2006, a number of parties in this proceeding appealed the Commission's decision to the Ohio Supreme Court.

- [REDACTED]

- [REDACTED]

- On July 16, 2007, Appalachian Power filed an application with the Virginia State Corporation Commission for approval of a rate adjustment clause to begin recovery of the Virginia portion of Appalachian Power's Mountaineer IGCC facility financing costs.

- On March 8, 2008, the West Virginia Public Service Commission authorized Appalachian Power to build and recover the prudently-incurred costs associated with the Mountaineer IGCC facility.
- On March 13, 2008, the Ohio Supreme Court issued its decision reversing the Commission orders and remanding the case for further proceedings.
- On April 14, 2008, the Virginia State Corporation Commission issued an order denying Appalachian Power's request to recover the Virginia portion of the company's Mountaineer IGCC financing costs.

Q14. Are some of the FEED costs generic among these projects?

A14. Yes, and that is acknowledged on page 13 of the testimony of AEP-Ohio witness Daniel M. Duellman, where he identified that common engineering costs were allocated among the projects.

Q15. Are some of the FEED and related costs specific to each project?

A15. Yes. The Phase I costs were broader than the specific costs associated with the FEED study and included, for example, internal AEPSC engineering costs and other third party costs such as interconnection study costs and site permits. Some of these costs are, by their nature, associated with a specific project.

1 **Q16. Is there evidence to suggest that some costs that may have been allocated**
2 **to the Great Bend IGCC generating facility may or should have been**
3 **allocated to another project?**

4 A16. Yes.

5 **Q17. Can you provide an example?**

6 A17. Yes. Exhibit KMM-2 (confidential) to my testimony is a copy of [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]. This
12 demonstrates that some of the work completed for the Great Bend IGCC project
13 may have been used at other sites.

14 **III. CONCLUSION**

15 **Q18. What are your overall recommendations in this proceeding?**

16 A18. If the Commission concludes that the entire \$24,239,988.86, with an appropriate
17 level of interest, must be refunded to customers, there is no need for further
18 inquiry. However, if the Commission concludes it may be appropriate for AEP-
19 Ohio to retain some portion of the revenues collected through the Phase I
20 charges, the Commission should require a demonstration that:

- 1 • All such expenditures were reasonably incurred to construct
- 2 the proposed IGCC facility in Ohio; and
- 3 • Any expenditure paid for with revenues collected through
- 4 Phase I charges is associated with items that may not be
- 5 used in projects at other sites.

6 **Q19. Does this conclude your testimony?**

7 A19. Yes.

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Public Version Direct Testimony of Kevin M. Murray on Behalf of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 6th day of November 2014, via electronic transmission.

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ATTORNEY EXAMINER

Exhibit KMM-1

In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Revised Code, in the Form of an Electric Security Plan, et al., Case Nos. 13-2385-EL-SSO, et al.

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Market Rate Offer, et al., Case Nos. 12-426-EL-SSO, et al.

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

In the Matter of the Application of Columbus Southern Power Company 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, PUCO Case Nos. 11-346-EL-SSO and 11-348-EL-SSO, et al.

In the Matter of the Application of Columbus Southern Power Company for Approval of its Electric Security Plan; an Amendment to its Corporate Separation Plan, and the Sale or Transfer of Certain Generating Assets, Case No. 08-917-EL-SSO and In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan, PUCO Case No. 08-918-EL-SSO (remand phase).

In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration, PUCO Case No. 09-1089-EL-POR.

In the Matter of the Application of Ohio Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration, PUCO Case No. 09-1090-EL-POR.

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service, PUCO Case No. 09-906-EL-SSO.

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, PUCO Case No. 08-935-EL-SSO.

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate

Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service, PUCO Case No. 08-936-EL-SSO.

In the Matter of the Application of Columbus Southern Power Company for Approval of its Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets, PUCO Case No. 08-917-EL-SSO.

In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan, PUCO Case No. 08-918-EL-SSO.

In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan, PUCO Case No. 08-920-EL-SSO.

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, PUCO Case No. 08-1094-EL-SSO.

Exhibit KMM-2

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