

IN THE SUPREME COURT OF OHIO

In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Rates : Case No. 2010-0722
: Appeal from the Public Utilities Commission of Ohio
: Public Utilities Commission of Ohio
: Case No. 09-1095-EL-RDR

In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code. : Case No. 2010-1073
: Appeal from the Public Utilities Commission of Ohio
: Public Utilities Commission of Ohio
: Case No. 10-154-EL-RDR

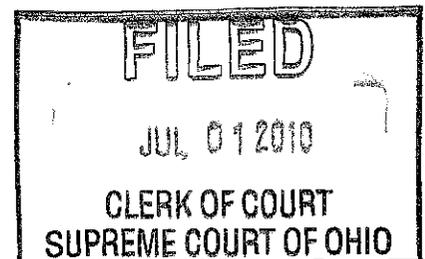
MOTION TO CONSOLIDATE AND MEMORANDUM IN SUPPORT OF INDUSTRIAL ENERGY USERS-OHIO

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IN THE SUPREME COURT OF OHIO

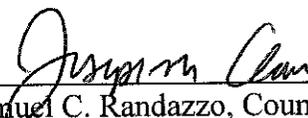
In the Matter of the Application of Columbus Southern : Case No. 2010-0722
Power Company and Ohio Power Company to Adjust :
Their Economic Development Cost Recovery Rider :
Rates :

In the Matter of the Application of Columbus Southern : Case No. 2010-1073
Power Company and Ohio Power Company to Adjust :
Their Economic Development Cost Recovery Rider :
Pursuant to Rule 4901:1-38-08(A)(5), Ohio :
Administrative Code. :

MOTION TO CONSOLIDATE

Pursuant to S.Ct. Prac. R. 14.4, Industrial Energy Users-Ohio (“IEU-Ohio”) hereby files this Motion to Consolidate Ohio Supreme Court Case Nos. 2010-0722 and 2010-1073. IEU-Ohio’s Amended Notice of Cross-Appeal in Ohio Supreme Court Case No. 2010-0722 and IEU-Ohio’s Notice of Appeal in Ohio Supreme Court Case No. 2010-1073 raise the same allegations of error and should be consolidated for purposes of briefing, oral argument, and decision. A Memorandum in Support further detailing the reasons to consolidate these cases is attached to this Motion.

Respectfully submitted,



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Power Company and Ohio Power Company to Adjust :
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In the Matter of the Application of Columbus Southern : Case No. 2010-1073
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Their Economic Development Cost Recovery Rider :
Pursuant to Rule 4901:1-38-08(A)(5), Ohio :
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MEMORANDUM IN SUPPORT OF MOTION TO CONSOLIDATE

On November 13, 2009, Columbus Southern Power Company (“CSP”) and Ohio Power Company (“OP”) (collectively, American Electric Power – Ohio or “AEP-Ohio”) filed an Application in Public Utilities Commission of Ohio (“PUCO”) Case No. 09-1095-EL-UNC (hereinafter “09-1095 Case”) to adjust their respective economic development rider (“EDR”) rates. On January 7, 2010, the PUCO issued a Finding and Order in the 09-1095 Case. Both AEP-Ohio and Industrial Energy Users-Ohio (“IEU-Ohio”) filed Applications for Rehearing from the PUCO’s Finding and Order. On March 24, 2010, the PUCO denied IEU-Ohio’s Application for Rehearing and granted in part and denied in part AEP-Ohio’s Application for Rehearing. AEP-Ohio filed a Notice of Appeal from the PUCO’s Orders in the 09-1095 Case in Ohio Supreme Court Case No. 2010-0722 on April 26, 2010. IEU-Ohio also filed a Notice of Appeal in Ohio Supreme Court Case No. 2010-0722 on April 27, 2010. IEU-Ohio subsequently filed an Amended Notice of Cross-Appeal on May 21, 2010 in Ohio Supreme Court Case No. 2010-0722.

In its Amended Notice of Cross Appeal, IEU-Ohio raised the following allegations of error:

- A. The Finding and Order and March 24, 2010 Entry on Rehearing are unlawful and unreasonable inasmuch as the Commission has no subject matter jurisdiction over PUCO Case No 09-1095-EL-RDR. The Commission lost jurisdiction over AEP-Ohio's electric security plan ("ESP") and all proceedings stemming from the ESP when the Commission failed to issue an order within 150 days of the filing of AEP-Ohio's ESP Application.
- B. The Finding and Order and March 24, 2010 Entry on Rehearing are unlawful and unreasonable inasmuch as the Commission continues to permit AEP-Ohio to take the benefits of the higher rates contained in the ESP while AEP-Ohio simultaneously still reserves the right to withdraw and terminate its ESP.
- C. The Finding and Order and March 24, 2010 Entry on Rehearing are unlawful and unreasonable inasmuch as the brand new exception for the economic development rider ("EDR") from the maximum percentage increases permitted in the ESP violates the Commission's precedent and unreasonably increases customers' rates.
- D. The Finding and Order and March 24, 2010 Entry on Rehearing are unreasonable inasmuch they permit AEP-Ohio to calculate the carrying costs on deferred EDR delta revenues as the weighted average cost of long-term debt without any evaluation of possible lesser cost alternatives.

On February 8, 2010, AEP-Ohio filed an Application in PUCO Case No. 10-154-EL-RDR ("10-154 Case") to update its EDR rates. AEP-Ohio filed its EDR update pursuant to the PUCO's Finding and Order in the 09-1095 Case. The PUCO issued its Finding and Order in the 10-154 Case on March 24, 2010. IEU-Ohio timely filed an Application for Rehearing and the PUCO denied IEU-Ohio's Application for Rehearing on May 19, 2010.

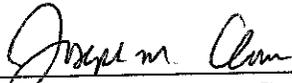
IEU-Ohio filed an appeal of the 10-154 Case on June 18, 2010. In its Notice of Appeal, IEU-Ohio raised the following allegations of error:

- A. The Finding and Order and Entry on Rehearing are unlawful and unreasonable inasmuch as the Commission has no subject matter jurisdiction over PUCO Case No 10-154-EL-RDR. The Commission lost jurisdiction over AEP-Ohio's electric security plan ("ESP") and all proceedings stemming from the ESP, including PUCO Case No. 10-154-EL-RDR, when the Commission failed to issue an order within 150 days of the filing of AEP-Ohio's ESP Application.

- B. The Finding and Order and Entry on Rehearing are unlawful and unreasonable inasmuch as the Commission continues to permit AEP-Ohio to take the benefits of the higher rates contained in the ESP while AEP-Ohio simultaneously challenges the ESP Orders as well as reserves the right to withdraw and terminate its ESP.
- C. The Finding and Order and Entry on Rehearing are unlawful and unreasonable inasmuch as they continue the illegal exception for the economic development rider (“EDR”) from the maximum percentage increases permitted in the ESP.
- D. The Finding and Order and Entry on Rehearing are unlawful and unreasonable inasmuch as they fail to ensure the carrying cost rate for the EDR is the lowest cost carrying rate.

IEU-Ohio respectfully asks this Court to consolidate the IEU-Ohio cross-appeal of the 09-1095 Case (Ohio Supreme Court Case No. 2010-0722) and the IEU-Ohio appeal of the 10-154 Case (Ohio Supreme Court Case No. 2010-1073) inasmuch as doing so will facilitate the efficient use of resources for the Court as well as the parties involved in these cases. As shown above, IEU-Ohio has raised the same allegations of error in its appeals of both the 09-1095 Case and the 10-154 Case. IEU-Ohio’s appeal of the 10-154 Case is simply a continued challenge of the same issues IEU-Ohio raised in its appeal of the 09-1095 Case. Consolidation would save time and effort for the Court as well as the parties, permit briefing of these same issues only once, and also negate the need for a separate oral argument or opinion from the Court on the common allegations of error raised by IEU-Ohio. Finally, no party would be prejudiced by consolidation of these cases.

Respectfully submitted,



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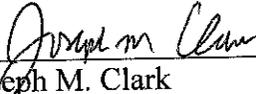
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Consolidate and Memorandum in Support of Industrial Energy Users-Ohio* was sent by ordinary U.S. mail, postage prepaid, or hand-delivered to all parties to the proceeding on July 1, 2010.



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