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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO

In the Matter of the Settlement Agreement)
Between the Staff of the Public Utilities)
Commission of Ohio and Columbus)
Southern Power Company and Ohio)
Power Company.)
Case No. 03-2570-EL-UNC

In the Matter of the Self-Complaint of)
Columbus Southern Power Company and)
Ohio Power Company Concerning the)
Implementation of Programs to Enhance)
Their Currently Reasonable Level of)
Distribution Service Reliability.)
Case No. 06-222-EL-SLF

**MEMORANDUM IN RESPONSE TO MOTION FOR CONTINUANCE
AND
MOTION FOR PREHEARING CONFERENCE, AND REQUEST FOR
EXPEDITED RULING,
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, on behalf of the residential consumers of the Columbus Southern Power Company and the Ohio Power Company (collectively "AEP" or "Company"), responds to the Motion for Continuance ("Motion") filed by the Staff of the Public Utilities Commission of Ohio ("PUCO" or "Commission") on February 13, 2007. The Staff included in its Motion a request for an expedited ruling. While the Staff certified that "no party has raised any objection to the issuance of an expedited ruling,"¹ the Staff did not certify, pursuant to Ohio Adm. Code 4901-1-12, that no party actually objects to an expedited ruling. The

¹ Motion at 1.

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OCC herein raises its concern regarding the requested continuance, and responds to the PUCO Staff's Motion regarding conditions that should accompany a later date for the final hearing in these cases.²

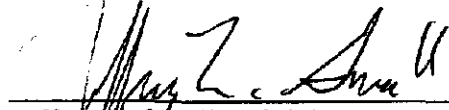
The OCC also moves, pursuant to Ohio Adm. Code 4901-1-12(A) and 4901-1-26, for a prehearing conference in these cases. The prehearing conference may be important for a number of reasons, and particularly in the event of an extended continuance before the hearing. Among other matters, the OCC would like to discuss the distribution of reliability reports during the period for the continuance and the establishment of specific dates on which out-of-town witnesses will appear with certainty. The OCC requests an expedited ruling, pursuant to Ohio Adm. Code 4901-1-12(C). All parties were notified electronically regarding the OCC's request, but this filing is made before responses from all parties could be obtained.

The reasons supporting the OCC's Motion for Prehearing Conference are contained in the following Memorandum in Support.

² An Entry was issued on February 15, 2007 that addresses the PUCO Staff's Motion. The instant pleading is not moot, however, because the OCC did not consent to the expedited ruling. In the alternative, the OCC's pleading should be considered a motion to permit the submission of testimony at a later date as well as a motion for a prehearing conference.

Respectfully submitted,

Janine L. Migden-Ostrander
Consumers' Counsel

A handwritten signature in black ink, appearing to read "Jeffrey L. Small", is written over a horizontal line.

Jeffrey L. Small, Trial Attorney
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**ARGUMENT AND
MEMORANDUM IN SUPPORT**

I. INTRODUCTION

On January 31, 2006, the Columbus Southern Power and Ohio Power Company (collectively, "AEP" or the "Company") filed a self-complaint ("Complaint"), pursuant to R.C. 4905.26, regarding its ability to provide reliable distribution service.³ On April 17, 2006, the PUCO Staff filed a report on the subject of AEP's distribution system reliability over the period of 2001-2005.

On October 6, 2006, AEP filed a plan regarding its electric service and a rate recovery proposal along with testimony in the above-captioned cases. By Entry dated November 27, 2006, the Attorney Examiner issued a procedural schedule that set

³ *In re AEP's Self-Complaint Regarding Service Reliability*, Case No. 06-222-EL-SLF, Complaint at 1 (January 31, 2006).

February 27, 2007 as the start of the final hearing in these cases. The procedural schedule was adjusted by Entry dated December 22, 2006, but the hearing date for the final hearing remained February 27, 2007.

On February 13, 2007, the PUCO's Staff Motion sought later dates for the filing of its testimony and for the hearing date. Staff proposed that its deadline for submitting testimony be set at April 17, 2007 and that the date of the hearing be set for April 30, 2007.

II. ARGUMENT

A. Dates for the submission of testimony should also permit the OCC an opportunity to develop its case.

The PUCO's Staff proposed a continuance -- two months -- that would permit more than the finalization of testimony that was originally due on February 16, 2007. The testimony of the OCC and other intervenors was due on January 19, 2007, based upon the February hearing date, and that deadline provided the Commission and parties over five weeks to review the testimony before the date set for the final hearing. A hearing date of April 30, 2007 will provide over fourteen weeks between the filing of the OCC's testimony and the hearing. Such a gap was not contemplated in the original schedule for this proceeding, as evidenced by the earlier procedural schedule. The timing of the new procedural schedule should also apply to the situation of OCC, and the OCC should also be permitted to submit testimony closer to the date of the hearing.

The OCC should be able to develop its case in the same time frame that is permitted for the Staff to develop its case. Staff states that it "requires additional time in

which to fully analyze the case and prepare its direct testimony.”⁴ The reports on distribution reliability from AEP and other distribution utilities are due on March 31, 2007, and will presumably be available to the Staff in preparing its testimony.⁵ The two-month delay should also enable the OCC to develop its case, including review of the Rule 10 Reports and possibly the outages that have recently affected thousands of AEP customers since the OCC submitted testimony on January 19, 2007.

The OCC proposes that it be permitted to submit testimony no later than April 10, 2007 (i.e. after the Rule 10 Reports are available) if the final hearing begins in late April. The OCC should be able to continue to develop its case during the lengthy delay in these proceedings, in the interests of the Ohio residential consumers that OCC represents and in the interest of the PUCO in having an appropriate record for deciding the case.⁶ The OCC has shown good cause for this requested extension, pursuant to Ohio Adm. Code 4901-1-13(A), especially now that the PUCO has determined that the extension and continuance of other scheduled dates is appropriate.

B. A prehearing conference should be conducted to facilitate, among other matters, the distribution of reliability reports and the effective presentation of evidence.

A prehearing conference may be important to promote administrative efficiency, especially after an extended continuance of the hearing. Among other matters, the OCC would like to discuss the timely distribution of the Rule 10 Reports to parties in these cases and the establishment of specific dates on which out-of-town witnesses will appear

⁴ Motion at 2.

⁵ Ohio Adm. Code 4901:1-10-10(C) (“Rule 10 Reports”). According to the deposition responses of an AEP witness in this case, the Rule 10 Reports may be available sooner.

⁶ R.C. 4903.09.

with certainty. The OCC's consultant, who resides outside the state, cleared his calendar to be present at the February hearing. The delay in the hearing date may cause challenges for the availability of the OCC's consultant, causing prejudice to the OCC's case.

The OCC would like a prehearing conference conducted as soon as practically possible to discuss, among other matters, the distribution of the Rule 10 Reports and specific dates on which witnesses from outside the Columbus area would appear with certainty.⁷

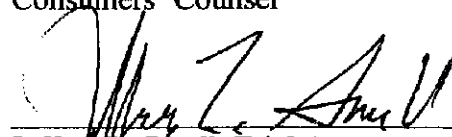
III. CONCLUSION

The adjustment of dates for the submission of testimony for the PUCO's Staff and for the final hearing in these cases should be accompanied by a new (later) due date for the submission of intervenor testimony. Also, a prehearing conference should be conducted as soon as possible to discuss procedural matters, especially the handling of the Rule 10 Reports and the establishment of dates when out-of-town witnesses can be certain that their testimony will be heard. The OCC requests an expedited ruling on the matters raised herein so that all parties understand the new procedures that will be followed in these cases as soon as possible.

⁷ The OCC is open to alternative means of dealing with its concerns, including a telephonic conference.

Respectfully submitted,

Janine L. Migden-Ostrander
Consumers' Counsel

A handwritten signature in black ink, appearing to read "Jeffrey L. Small", is written over a horizontal line.

Jeffrey L. Small, Trial Attorney
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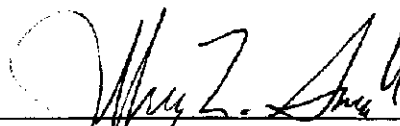
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing Memorandum in Response to Motion for Continuance and Motion for Prehearing Conference has been served upon the below-stated individuals, via regular U.S. Mail (and electronically), postage prepaid, this 16th day of February 2007.


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