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September 18, 2007

Ms. Renee Jenkins  
Chief, Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
10<sup>th</sup> Floor  
Columbus, OH 43215

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PUCO

Subject: *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 Ultimate Operation of an Integrated Gasification Combined Cycle Electric Generating Plant,*  
Case No. 05-376-EL-UNC

Dear Ms. Jenkins:

Enclosed please find an original and fifteen copies of the following document:

- General Electric Company, GE Energy (USA), LLC, Bechtel Corporation, and Bechtel Power Corporation's Reply to OCC's Memo Contra Their Motion to Extend this Commission's April 10, 2006 Protective Order

Please accept the original and fourteen copies of this document for the Commission's files, and return the remaining copy to me via the individual who delivers the documents to you. You may call me if you have any questions concerning this filing.

As always, your attention is appreciated.

Very truly yours,



Michael D. Dortch

cc: Service List (via electronic service only)

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |   |                        |
|--|---|------------------------|
| In the Matter of the Application of    | ) |                        |
| Columbus Southern Power Company and    | ) | Case No. 05-376-EL-UNC |
| Ohio Power Company for Authority to    | ) |                        |
| Recover Costs Associated with the      | ) |                        |
| Ultimate Construction and Operation of | ) |                        |
| an Integrated Gasification Combined    | ) |                        |
| Cycle Electric Generating Facility     | ) |                        |

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**GENERAL ELECTRIC COMPANY, GE ENERGY (USA), LLC,  
BECHTEL CORPORATION, AND BECHTEL POWER CORPORATION'S  
REPLY TO OCC'S MEMORANDUM CONTRA THEIR  
MOTION TO EXTEND THIS COMMISSION'S APRIL 10, 2006 PROTECTIVE ORDER**

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On August 27, 2007, General Electric Company, GE Energy (USA), LLC, Bechtel Corporation, and Bechtel Power Corporation (together "GE/Bechtel"), timely moved the Public Utilities Commission of Ohio (this "Commission") to extend indefinitely the protective order issued by this Commission in its April 10, 2006 Opinion and Order (the "Order.")<sup>1</sup> As GE/Bechtel represented to this Commission, through counsel, the reasons for which they sought protection, and the reasons for which protection was granted initially, have not changed over the course of the past eighteen (18) months.

The Office of the Ohio Consumer's Counsel ("OCC") opposes the motions of GE/Bechtel and AEP. Interestingly, OCC does not contend that the information is not confidential, nor does it contend that the information does not constitute protectable trade secrets or proprietary information. Instead, OCC attempts to re-litigate positions it took more than two years ago, arguing that this Commission should have found that, initially, GE/Bechtel and AEP had failed to satisfy their burdens, and that AEP and GE/Bechtel did not sufficiently "minimize" the

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<sup>1</sup> AEP also timely moved this Commission to extend the protective Order. GE/Bechtel fully support AEP's Motion.

information to be kept from disclosure in 2005. OCC also argues that GE/Bechtel should not be permitted to merely refer to and incorporate evidence already submitted in this matter (the affidavits of Allan J. Connolly and Lance Murray), and finally OCC argues that the indefinite protection requested by GE/Bechtel is inappropriate.

GE/Bechtel will not re-litigate the issue of the nature of the information, which was extensively briefed in 2005. In addition to the briefs, the hearing examiners heard argument from the parties on the subject of the information. The hearing examiners ultimately conducted an *in camera* review of the documents at issue. Only then did they conclude that the information constituted trade secrets and/or confidential or proprietary information belonging to AEP and/or GE/Bechtel, the disclosure of which would violate Ohio law, and order it protected. This Commission later agreed with its hearing examiners. *See* Order at 7.

Furthermore, at the conclusion of the hearing in this matter, GE/Bechtel and AEP were ordered to review the confidential documents OCC had caused to be admitted into evidence and to redact from those documents those portions which contain information deemed trade secrets and confidential and/or proprietary information, and to then file copies of these redacted documents in the public record. GE/Bechtel and AEP complied with this direction. *See* Order at 7. Thus, the protected information was sufficiently "minimized," and OCC is simply incorrect.

Even cursory review of the information itself reveals, and the affidavits of Mr. Connolly, General Manager of GE's gasification and technology division, and Mr. Murray, Assistant Project Manager for Bechtel more than adequately support, that the protected information consists of not only financial information, but also technical scientific and engineering data. The information is of potentially enormous value to both GE/Bechtel and to its competitors. The facts also show that GE/Bechtel developed the information for their joint internal use, and

(subject to an appropriate protective agreement) revealed the information to AEP solely for purposes of its IGCC project.

In the Order, this Commission concluded GE/Bechtel's protected information satisfies the mandates of § 1133.61(D). GE/Bechtel have now represented to this Commission that the protected information retains the same value to them that it had two years ago and that GE/Bechtel continue to make reasonable efforts to maintain the secrecy of this information. GE/Bechtel are required to do no more to continue the protection of their information.

Finally, GE/Bechtel submit that the information, by its nature, deserves indefinite protection. The information, again, includes technical scientific and engineering processes that are proprietary to GE/Bechtel. GE/Bechtel anticipate that this information will retain its value for many years. Pursuant to O.A.C. § 4901-1-24(F), GE/Bechtel respectfully requests the PUCO to extend indefinitely the protective order issued in its April 10, 2006 Opinion and Entry.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'MD', with a long horizontal line extending to the right.

Michael D. Dortch (0043897)

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## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically upon parties, their counsel, and others through use of the e-mail addresses indicated below, this 18th day of September, 2007.

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