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October 24, 2008

VIA HAND DELIVERY

Public Utilities Commission of Ohio
Docketing Division, 10th Floor
180 East Broad Street
Columbus, Ohio 43215-3793

RE: Case No. 08-917-EL-SSO
Case No. 08-918-EL-SSO

Dear Sir/Madam:

The attached Motion For Leave To File Out of Time and Motion To Intervene of The Association of Independent Colleges and Universities of Ohio, is hereby served on the Commission.

Pursuant to Rule 4901-1-02 of the Ohio Administrative Code, attached to this correspondence are one (1) original and twenty (20) copies.

Please provide seven (7) time-stamped copies of each the attached documents to the representative hand-delivering this information.

Sincerely,



Christopher L. Miller

CLM:amc

Enclosures

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of The Columbus)
Southern Power Company for Approval)
of its Electric Security Plan; an Amendment)
to its Corporate Separation Plan; and)
the Sale of Certain Generating Assets)
)

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)
)

Case No. 08-918-EL-SSO

**MOTION FOR LEAVE TO FILE OUT OF TIME AND MOTION TO INTERVENE OF
THE ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES OF OHIO**

The Association of Independent Colleges And Universities of Ohio ("AICUO") on behalf of itself and its member institutions hereby move the Public Utility Commission of Ohio ("Commission") for leave to file out of time this motion to intervene as a full party of record in the above captioned proceedings pursuant to Ohio Revised Code ("R.C.") Section 4903.221 and Ohio Administrative Code ("OAC") Rule 4901-1-11. As set forth in the attached Memorandum in Support, the AICUO and its members have real and substantial interests in these proceedings which cannot be adequately represented by parties currently intervening in this proceeding. Additionally, the AICUO submits that the disposition of these proceedings will impair or impede the ability of the AICUO and its members to protect those interests. The AICUO further submits that the legal positions and issues that it will advance are relevant to the merits of these proceedings and, although it will accept the record in these proceedings as it stands, it intends to contribute in a unique manner to the full development and equitable resolution of the proceeding.

The AICUO also submits that granting this Motion will not unduly delay the proceedings or unjustly prejudice any existing party.

For these reasons, as explained more fully herein, the AICUO respectfully requests that the Commission grant its motion for leave to file out of time and its motion to intervene in the above captioned proceedings.

Respectfully Submitted,



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Attorneys For The AICUO

**MEMORANDUM IN SUPPORT OF THE ASSOCIATION OF INDEPENDENT
COLLEGES AND UNIVERSITIES OF OHIO MOTION FOR LEAVE TO FILE OUT OF
TIME AND MOTION TO INTERVENE**

I. PROCEDURAL BACKGROUND

The above captioned proceedings were initiated by Columbus Southern Power Company and Ohio Power Company (collectively “the Companies”). The Companies initiated these proceedings in order to obtain Commission review and approval of its Standard Service Offer (“SSO”) to be completed via the Electric Security Plan (“ESP”) proposed jointly by the Columbus Southern Power Company (08-917-EL-SSO) and by the Ohio Power Company (08-918-EL-SSO). The Companies conduct combined business in the state of Ohio under the trade name AEP Ohio.

By Entry dated August 5, 2008, the Commission established a procedural schedule for its consideration of the ESP requiring that adversely impacted parties file motions to intervene by September 4, 2008. By Entry dated September 5, 2008, the Commission set the evidentiary hearing in this proceeding to be held at its Columbus, Ohio, office beginning November 17, 2008. Additionally, by Entry dated September 24, 2008, the Commission ordered that local public hearings be held at locations around the state of Ohio. The Commission ordered that the local public hearings be held so that customers of the Companies would have the opportunity to provide testimony in the ESP proceeding. Until early October, the AICUO was fully unaware of the Commission’s consideration of the ESP applications and aggressive hearing schedule.

On September 8, 2008, four (4) days after the Commission’s established deadline for intervention motions, Morgan Stanley Capital Group filed a motion to intervene in the above

captioned proceedings. Additionally, on September 9, 2008, five (5) days after the deadline, the Commercial Group, representing Wal-Mart Stores East, LP, Sam's East, Inc., Macy's Inc., and BJ's Wholesale Club, Inc. ("the Commercial Group") filed a motion for leave to file out of time and motion to intervene in the proceedings.

By Entry dated October 2, 2008, the Commission found that the since the motions to intervene asserted real and substantial interests not represented by another party to the proceedings, that the disposition of the proceedings may impair or impede the ability to protect those interests and "in light of the fact that this is the first time electric utilities have filed applications for standard service offers under Am. Sub.Senate Bill 221, these motions to intervene should be granted, notwithstanding the failure to file the motions by the deadline for intervention." Accordingly, Morgan Stanley Capital Group and the Commercial Group have been admitted as full parties of record to these proceedings, on the same basis as parties that filed motions to intervene by the stated deadline.

On October 15, 2008, prior to the commencement of the evidentiary hearing in an unrelated Commission proceeding (08-935-EL-SSO) for the consideration of an ESP filed by the Ohio Edison Company, Toledo Edison Company, and Cleveland Electric Illuminating Company (collectively "First Energy"), the AICUO filed a motion similar in form and with identical factual reasoning to the current motion for leave to file out of time and motion to intervene. The Commission in that proceeding granted the request of the AICUO to intervene as a full party.

II. BASIS FOR INTERVENTION

a. Standard of Review

R.C. section 4903.221 and OAC Rule 4901-1-11 set forth the standards pursuant to which the AICUO may intervene in the above-captioned Commission proceedings. R.C. section

4903.221 confers the statutory right to intervene in a Commission proceeding to any party “who may be adversely affected by a proceeding.” Additionally, OAC Rule 4901-1-11 provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: . . . [t]he person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person’s interest is adequately represented by existing parties.

Upon filing a timely motion demonstrating a real and substantial interest and upon demonstrating that the proceeding will impair or impede the ability to protect the interest, a party is entitled to an Order granting its intervention request. In determining whether a party is entitled to intervene, the Commission shall consider:

(1) the nature and extent of the prospective intervenor’s interest; (2) the legal position advanced by the prospective intervenor and its probable relation to the merits of the case; (3) whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; (4) whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues; and (5) the extent to which the person’s interest is represented by existing parties.

(See *R.C. 4903.221(B)* and *OAC 4901-1-11(B)*). The AICUO is aware that the Commission established September 4, 2008, as the deadline to file motions to intervene in these proceedings. Accepting the fact that this motion to intervene is filed out of time, the AICUO requests that the Commission follow its precedent in the above captioned proceedings and in other ESP proceedings (08-935-EL-SSO) currently pending before the Commission regarding late filed intervention requests and consider the foregoing stated rules and facts in order to grant this motion to intervene.

b. AICUO And Its Member Institutions Have Real And Substantial Interests In This Proceeding That Cannot Be Represented By Any Other Party; And The Disposition Of These Proceedings Will Impair Those Interests.

The AICUO is comprised of fifty-one (51) independent colleges and universities located across the state of Ohio. AICUO member institutions with campuses in the territory of the Companies include the Blufton University, Capital University, Columbus College of Art & Design, Denison University, The University of Findlay, Franciscan University of Steubenville, Franklin University, Heidelberg College, Kenyon College, Malone University, Mount Carmel College of Nursing, Mount Vernon Nazarene University, Muskingum College, University of Northwestern Ohio, Ohio Dominican University, Ohio Northern University, Ohio Wesleyan University, Otterbein College, University of Rio Grande, Tiffin University, Walsh University, Wittenberg University, and The College of Wooster. Combined, these colleges and universities are home to more than 30,000 tuition paying students. In addition, these independent colleges and universities employ thousands of individuals within the territory of the Companies.

Unlike Ohio's public universities and colleges, AICUO members do not have line-items in the state budget providing funding for operations. AICUO members are almost exclusively tuition dependent, with very few having any substantial endowment relied upon for operations. After personnel costs for faculty and staff, utility costs are among the largest of costs for all independent colleges. AICUO members make difficult decisions each year regarding tuition and constantly strive to keep the increases to a minimum but must raise tuition sufficiently to meet rising operating expenses. The Companies' proposed ESP and corresponding increase in electric utility rates is yet another rising expense that may result in higher tuition fees if the interests of private independent colleges and universities are not represented in this proceeding.

Accordingly, we submit that the AICUO and its member institutions have real and substantial interests in the above captioned proceedings.

The AICUO member institutions cited herein are extremely large users of the Companies' electric utility service. The rate increase as well as the change in the terms and conditions under which electric utility service will be offered will have an adverse impact on the AICUO and its member institutions.

Additionally, the load characteristic of the AICUO membership is likely as diverse as the membership of the organization. The AICUO membership includes research universities, traditional liberal arts colleges, comprehensive universities, single-purpose institutions, and religiously affiliated colleges. Early morning and afternoon usage may be high at certain institutions while late evening and night usage may be high at others. These factors, we believe, should be considered in setting electric utility rates and we submit that no party currently admitted as an intervenor in these proceedings will represent the interests of the AICUO and its member institutions. As a result, those interests will be impaired if the AICUO is not admitted as an intervenor in these proceedings.

The AICUO only became aware of the Companies' proposed ESP and the Commission's aggressive proceeding schedule as of mid October 2008. Had the AICUO been aware of the proposed ESP and procedural schedule, a timely motion to intervene would have been filed by the requested deadline. The Companies' proposed SSO and ESP present novel concepts for the AICUO and its members and this is the first and only time that these entities will have the opportunity to ensure that those interests are addressed. Consequently, we submit that the AICUO and its members should have the same opportunity as other intervenors having filed after the stated deadline to participate in these proceedings.

III. CONCLUSION

For the reasons set forth above, the AICUO on behalf of its self and its member institutions respectfully requests that the Commission grant its motion for leave to file out of time and its motion to intervene in the above-captioned proceedings. The AICUO's intervention will not unduly prolong or delay the proceedings. In contrast, the AICUO's intervention will contribute to the full development the factual issues to be resolved in the proceeding. Finally, no other party to the proceeding is capable of representing the interests of the AICUO and its member institutions.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of Motion For Leave To File Out of Time and Motion To Intervene of The Association of Independent Colleges and Universities of Ohio was served via electronic mail to the parties listed below on the 24th day of October, 2008.


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