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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Columbus Southern Power Company and )  
Ohio Power Company for Approval of ) Case No. 09- 464-EL-UNC  
Their Corporate Separation Plans. )  
)

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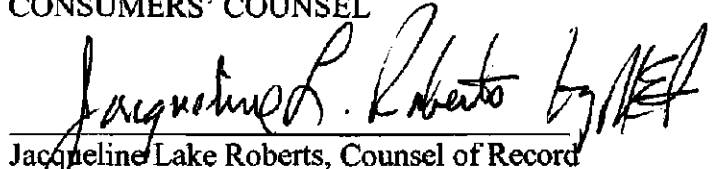
MOTION TO INTERVENE  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene<sup>1</sup> in this case where Columbus Southern Power Company and Ohio Power Company (collectively "AEP Ohio") have filed corporate separation plans ("Plan") and seek the approval of the Plan by the Public Utilities Commission of Ohio ("PUCO"). The Plan will affect all of AEP Ohio's about 1.2 million residential customers. The reasons the PUCO should grant OCC's Motion to Intervene are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

  
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<sup>1</sup> This motion is filed under R.C. 4903.221, Ohio Adm. Code 4901-1-11 and 4901-1-12.

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**MEMORANDUM IN SUPPORT**

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This case involves the review of the reasonableness and lawfulness of the corporate separation plan ("Plan") filed by Columbus Southern Power Company and Ohio Power Company (collectively "AEP Ohio") which can impact all of AEP Ohio's customers, including about 1.2 million residential customers represented by the Office of the Ohio Consumers' Counsel ("OCC"). The corporate separation plan governs the interactions of AEP Ohio and its affiliates ("Affiliates") and is intended to protect customers from paying subsidies to Affiliates and prevent uncompetitive behavior that would be a benefit to the Affiliates. The interaction of AEP Ohio and its Affiliates is governed by R.C. 4928.17 and 4928.18 and Ohio Admin. Code 4901:1-37. OCC has authority under law to represent the interests of all the approximately 1.2 million residential utility customers of AEP Ohio, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially if the consumers were unrepresented in a proceeding involving the determination of the appropriate dealings between AEP Ohio and its Affiliates pursuant to a corporate

separation plan approved by the PUCO. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (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; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential customers of AEP Ohio in order to protect them from paying subsidies to Affiliates or being victims of anti-competitive behaviors. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for consumers will include advancing the position that the Plan must comply with Ohio law and regulation and that the rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case where residential customers could be harmed were AEP Ohio to violate the laws pertaining to corporate separation. Such a violation could result in consumers paying subsidies to Affiliates or being victims of anti-competitive behaviors.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's

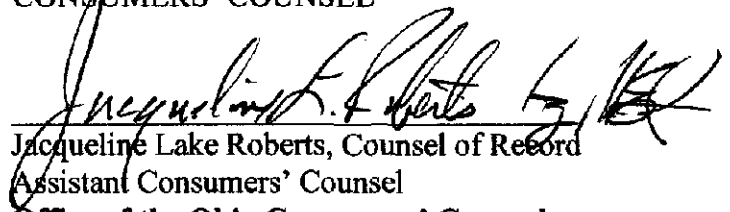
residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.<sup>2</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



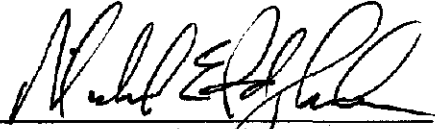
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<sup>2</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* regular U.S. Mail Service, postage prepaid, this 26<sup>th</sup> day of June 2009.

  
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