

**FILE**

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

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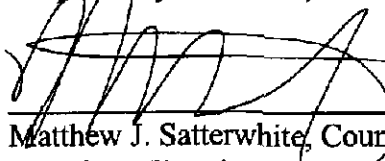
In the Matter of the Application of )  
Duke Energy Ohio, for Approval of a Market )  
Rate Offer to Conduct a Competitive Bidding ) Case No. 10-2586-EL-SSO  
Process for Standard Service Offer Electric )  
Generation Supply, Accounting Modifications, )  
and Tariffs for Generation Service. )

**COLUMBUS SOUTHERN POWER COMPANY AND OHIO POWER COMPANY'S  
MOTION TO INTERVENE**

On November 15, 2010, Duke Energy Ohio, Inc. (Duke) filed an application for approval of its standard service offer (SSO) in the form of a market rate offer (MRO).

Columbus Southern Power Company and Ohio Power Company (CSP, OPC, and jointly, AEP Ohio) respectfully request that they be permitted to intervene in this proceeding as full parties of record, under Section 4903.221, Ohio Revised Code, and Rule 4901-1-11, Ohio Administrative Code, and for reasons set out in the attached Memorandum in Support.

Respectfully submitted,



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## **MEMORANDUM IN SUPPORT**

In its first application filed under S.B. 221, in Case No. 08-920-EL-SSO, Duke Energy Ohio, Inc. (Duke) sought and received approval from the Commission to implement an electric security plan (ESP). Duke's ESP expires on December 31, 2011, and Duke now seeks approval in this proceeding for its next standard service offer (SSO), which it proposes will take the form of a market rate offer (MRO), pursuant to 4928.141-142, Revised Code, and Administrative Code Chapter 4901:1-35. Duke requests Commission approval of its MRO on or before February 14, 2011. AEP Ohio has real and substantial interests in the outcome of this SSO proceeding, and therefore seeks intervention in accordance with Section 4903.221, Ohio Revised Code, and Rule 4901-1-11, Ohio Administrative Code.

Section 4901-1-11 (A) (2), Ohio Admin. Code, provides:

(A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

(2) The 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.

Further, Section 4901-1-11 (B), Ohio Admin. Code provides:

(B) In deciding whether to permit intervention under paragraph (A) (2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner 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 proceedings.

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

(5) The extent to which the person's interest is represented by existing parties.<sup>1</sup>

CSP and OPC are each an electric light company, as that term is defined in §§4905.03 and 4928.01 (A) (7), Ohio Rev. Code. The companies are utilities in the state of Ohio, engaged in the generation, transmission and distribution of electric power. AEP Ohio serves nearly 20,000 megawatts of load and approximately 1,460,000 retail customers in Ohio.

Regarding the criteria for intervention, AEP Ohio's interest is unique as compared to the other intervenors and parties to this proceeding. Particularly, CSP jointly owns generation facilities with Duke at the Conesville Station Unit 4<sup>2</sup>, the Walter C. Beckjord Station Unit 6<sup>3</sup>, the William H. Zimmer Generating Station Unit 1<sup>4</sup>, and the J.M. Stuart Plant<sup>5</sup>. Duke asserts, in its SSO application, that it will "seek approval to transfer its legacy generation assets," which include these units jointly owned with CSP. AEP Ohio has a clear interest in any transfer of ownership of co-owned assets.<sup>6</sup> AEP Ohio should be permitted to intervene in order to protect its considerable investment in these plants, and in the partnership going forward.

AEP Ohio also has an interest in the affect of Duke's "expected realignment in regional transmission organizations" and the resulting impact on the energy market generally in Ohio that is not similarly represented by the competitive retail electric suppliers that have thus far moved to intervene in this proceeding. AEP Ohio has extensive expertise and participation all aspects of

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<sup>1</sup> Factors (B) (1) – (4) are consistent with §4903.221 (B), Ohio Rev. Code.

<sup>2</sup> Conesville Unit 4 is a 780 MW generating unit located in Conesville, Ohio, jointly owned by CSP, Duke, and Dayton Power and Light (DP&L).

<sup>3</sup> Beckjord Unit 6 is a 434 MW generating unit located at the Walter C. Beckjord Station near New Richmond, Ohio. It is operated by Duke, and co-owned by DP&L, Duke and CSP.

<sup>4</sup> Zimmer Unit 1 is a 1300 MW generating unit in Moscow, Ohio, operated by Duke, and co-owned by Duke, DP&L and CSP.

<sup>5</sup> The J.M. Stuart Plant is a 2,400 MW coal-fired plant located in Aberdeen, Ohio, operated by DP&L, and co-owned by DP&L, Duke, and CSP.

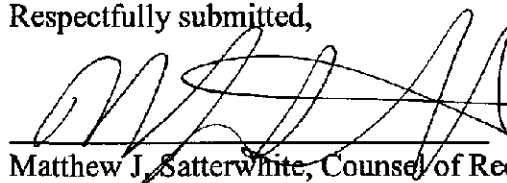
<sup>6</sup> In Case No. 10-2376-EL-UNC, the application of CSP and OPC for authority to merge is currently pending before the Commission. Upon closing of the proposed merger, OPC will be the surviving entity and therefore will be the owner of CSP's share of these jointly owned generation assets. Accordingly, OPC's interests in the disposition of these assets are identical to those of CSP.

the energy market, including the generation, transmission and distribution of power across Ohio, and it is uniquely suited to assist in the development of a full and complete record to aid the Commission in its consideration of Duke's application.

AEP Ohio's intervention will not prolong or delay this proceeding. This motion precedes all discovery or other procedural termination dates, and is filed more than five days before the hearing deadline established in Rule 4901-1-29.

For the foregoing reasons, AEP Ohio respectfully requests that the Commission grant this joint motion for leave to intervene and that CSP and OPC be made full parties of record in this proceeding.

Respectfully submitted,

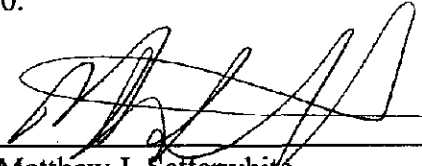
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Columbus Southern Power Company and Ohio Power Company's Motion to Intervene was served by U.S. Mail upon counsel identified below this 7th day of December, 2010.

  
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