

FILE

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Exelon

Sandy I-ru Grace, Esq.  
Assistant General Counsel

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February 4, 2011

Public Utilities Commission of Ohio  
Docketing Division  
180 E. Broad Street, 10<sup>th</sup> Floor  
Columbus, OH 43215

RECEIVED-DOCKETING DIV  
2011 FEB -7 AM 10:35  
PUCO

Re: Case No. 10-2929-EL-UNC

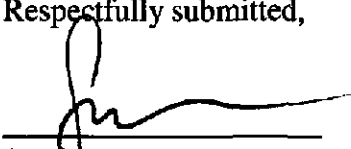
Dear Sir/Madam:

Please find enclosed the following for filing in the above referenced matter:

- i) the original and twelve (12) copies of Exelon Generation Company, LLC Motion to Intervene and Memorandum in Support;
- ii) the original and twelve (12) copies of the Motion to Admit Sandy I-ru Grace to Practice *Pro Hac Vice Instante* Before the Commission; and
- iii) the original and twelve (12) copies of the Motion to Admit Jesse A. Rodriguez to Practice *Pro Hac Vice Instante* Before the Commission.

Please place these documents on file.

Respectfully submitted,

  
Sandy I-ru Grace

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician AK Date Processed FEB 07 2011

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**


In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company	) ) )	Case No. 10-2929-EL-UNC
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**MOTION TO INTERVENE OF EXELON GENERATION COMPANY, LLC**

Pursuant to the Ohio Rev. Code § 4903.221 and Ohio Admin. Code § 4901-1-11, Exelon Generation Company, LLC (Exelon Generation) moves for leave to intervene in this proceeding. The Public Utilities Commission of Ohio (Commission) should grant Exelon Generation leave to intervene because Exelon Generation has a real and substantial interest in the proceeding, and the Commission's disposition of this proceeding may impair or impede Exelon Generation's ability to protect that interest.

Respectfully submitted,

Jesse A. Rodriguez, Esq.  
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Exelon Generation Company, LLC  
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February 4, 2011

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company	) ) )	Case No. 10-2929-EL-UNC
--	-------------	-------------------------

**MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE OF  
EXELON GENERATION COMPANY, LLC**

Pursuant to Ohio Rev. Code § 4903.221 and Ohio Admin. Code § 4901-1-11, Exelon Generation Company, LLC (Exelon Generation) files this Memorandum in Support of Motion for Leave to Intervene in the above-captioned proceeding.

**I. Background**

On November 24, 2010, American Electric Power Service Corporation (AEP) filed an application (AEP Filing) on behalf of Ohio Power Company and Columbus Southern Power Company (collectively AEP-Ohio) with the Federal Energy Regulatory Commission (FERC), in which it sought to change the basis for the compensation of its capacity costs to a cost-based mechanism and included formula rate templates under which AEP-Ohio would calculate its capacity related costs pursuant to the Reliability Assurance Agreement (RAA). In that filing, AEP-Ohio explained that it had been receiving capacity compensation from alternative retail load serving entities (LSE) (competitive retail electric suppliers, or CRES) based on the reliability pricing model (RPM) clearing prices in the unconstrained part of PJM Interconnection, LLC.<sup>1</sup> Under this mechanism, each retail LSE pays the RPM clearing price for its proportionate share of the total capacity procured. AEP-Ohio sought to change the basis for the compensation of its capacity obligations to a cost-based recovery, through formulas that track actual capacity

<sup>1</sup> American Electric Power Service Corporation filed an application with FERC on Nov. 24, 2010 in FERC Docket No. ER11-2183. AEP Filing at 2-3.

costs.<sup>2</sup> In its filing, AEP-Ohio further explained that Ohio had yet to establish a state compensation mechanism.<sup>3</sup> In a filing made in response to AEP's filing, this Commission noted that the state had implicitly adopted the use of the RPM auction price to value capacity since the inception of AEP-Ohio's standard service offer; furthermore, as of December 8, 2010, it had expressly adopted the use, on an interim basis and during the pendency of its review, of the RPM auction price as AEP-Ohio's state compensation mechanism.<sup>4</sup> FERC subsequently issued an order on January 20, 2011, in which it rejected AEP's filing, on the basis that RAA provides that a "state compensation mechanism will prevail" in allocating capacity costs to retail LSEs.<sup>5</sup>

On December 8, 2010, this Commission initiated this instant proceeding to determine the impact of AEP-Ohio's proposed changes to its capacity charges that it had filed with FERC.

Specifically, the Commission has sought public comments on the following issues:

- 1) what changes to the current state mechanism are appropriate to determine AEP-Ohio's FRR capacity prices to Ohio competitive retail electric service (CRES) providers;
- 2) the degree to which AEP-Ohio's capacity charges are currently being recovered through retail rates approved by the Ohio PUC or other capacity charges; and
- 3) the impact of AEP Ohio's capacity charges upon CRES providers and retail competition in Ohio.

Initial comments were filed on January 7, 2011. On January 20, 2011, AEP-Ohio filed a request asking for an extension on the date for filing reply comments.<sup>6</sup> In that filing, AEP-Ohio requested that this Commission move forward with an evidentiary hearing to establish a state

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<sup>2</sup> AEP-Ohio proposed to make its rate schedules implementing the proposed formula rate effective on January 1, 2011.

<sup>3</sup> AEP Filing at 3.

<sup>4</sup> Comments submitted on behalf of the Public Utilities Commission of Ohio (filed Dec. 10, 2010) in FERC Docket No. ER11-2183.

<sup>5</sup> *American Electric Power Service Corp.*, 134 FERC ¶ 61,039 at PP 8-13 (2011).

<sup>6</sup> Motion and Memorandum in Support to Stay the Reply Comment Period and Establish a Procedural Schedule for Hearing and Expedited Ruling. PUCO Case No. 10-2929-EL-UNC

compensation mechanism.<sup>7</sup> On January 21, 2011, the Commission granted AEP-Ohio's request, making reply comments due on February 7, 2011.

## **II. Motion for Intervention**

Exelon Generation is located at 300 Exelon Way in Kennett Square, PA, which owns or controls approximately 30,000 MW of generating facilities. Exelon Generation is a subsidiary of Exelon Corporation, which is located at 10 South Dearborn Street, Chicago, Illinois. Exelon Power Team is the wholesale marketing division of Exelon Generation and is a leading power marketer throughout the country. Exelon Energy is a wholly-owned subsidiary of Exelon Generation and is (i) an electric retail service provider in Illinois, Pennsylvania and Ohio; and (ii) a gas retail service provider in Illinois, Michigan, Ohio and Pennsylvania.

The issues addressed in this case will significantly affect the retail electric market in Ohio, including future contracts that Exelon Energy may seek to enter. No other party to this proceeding can adequately represent Exelon Generation's interest. Intervention would not unduly delay the proceeding nor unjustly prejudice any existing party. Accordingly, Exelon Generation has a real and substantial interest and is entitled to intervene in this action under Ohio Rev. Code § 4903.221 and Ohio Admin. Code § 4901-1-11.

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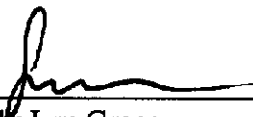
<sup>7</sup> *Id.* at 2.

### III. Conclusion

Wherefore, in consideration of the foregoing, Exelon Generation respectfully requests that this Commission grant it intervenor status in the above-captioned proceeding.

Respectfully submitted,

Jesse A. Rodriguez, Esq.  
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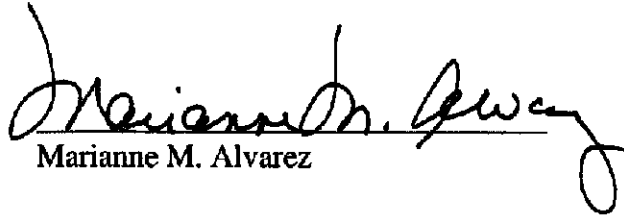
  
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February 4, 2011

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail (where available) and by first-class postage prepaid mail, to all parties on this 4<sup>th</sup> day of February, 2011.



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\*Indicates that party has agreed to be automatically served via electronic mail.

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Review of the )  
Capacity Charges of Ohio Power Company )  
and Columbus Southern Power Company )

Case No. 10-2929-EL-UNC

**MOTION TO ADMIT SANDY I-RU GRACE TO PRACTICE  
PRO HAC VICE INSTANTER BEFORE THE COMMISSION**

PUCO

2011 FEB - 7 AM 10:36

RECEIVED-DOCKETING DIV

Pursuant to Gov. Bar. XII(2)(A)(6), Sandy I-ru Grace, attorney for Exelon Corporation, hereby moves the Public Utilities Commission of Ohio (the "Commission") to grant her the permission to appear *pro hac vice instanter* and participate as co-counsel in the above-captioned proceeding.

Movant represents that the following is a list of jurisdictions in which she has ever been licensed to practice law, including dates of admission to practice, resignation, or retirement, and any attorney registration numbers:

- i) District of Columbia #495746, admitted on January 9, 2006; and
- ii) State of Maryland #9906240141 admitted on June 24, 1999

Movant represents that she has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Gov. Bar R. XII(2)(A)(5).

Constance Whyte Reinhard #0008862, an attorney licensed to practice in the State of Ohio in good standing, has agreed to associate with Movant in this proceeding.

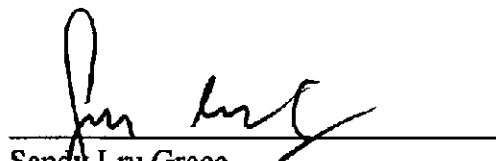
Pursuant Gov. Bar R. XII(3), a copy of the affidavit required by Gov. Bar R. XII(2)(A)(6), along with confirmation that the affidavit has been mailed to the Supreme Court of Ohio's Office of Attorney Services, is included herewith. Movant is providing the Commission a copy of Movant's Certificate of *Pro Hac Vice* Registration. Additionally, a certificate indicating service



of this Motion on all known parties and attorneys of record is attached. Movant understands that, if this Motion is granted, Movant must file a Notice of Permission to Appear *Pro Hac Vice* and a copy of the Order granting permission with the Office of Attorney Services within thirty days of the Order.

WHEREFORE, Sandy I-ru Grace respectfully moves the Commission for permission to appear *pro hac vice instant* before the Commission in the limited instance of this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sandy I-ru Grace', is written over a horizontal line.

Sandy I-ru Grace  
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February 4, 2011

# THE SUPREME COURT of OHIO

OFFICE OF ATTORNEY SERVICES

IN THE MATTER OF THE APPLICATION OF

**Sandy Grace**

FOR PRO HAC VICE REGISTRATION

per Gov. Bar R. XII, Section 2(A)(3)

Certificate of  
PRO HAC VICE  
REGISTRATION

2011

Registration Number:  
PHV- 1122-2011

**Sandy Grace**

\_\_\_\_\_, having met the requirements of, and found to be in full compliance with, Section 2(A)(3) of Rule XII of the Rules for the Government of the Bar of Ohio, is hereby issued this certificate of pro hac vice registration in the state of Ohio.

To receive permission to appear pro hac vice in an Ohio proceeding, a motion requesting such permission must be filed with the tribunal in accordance with Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio.

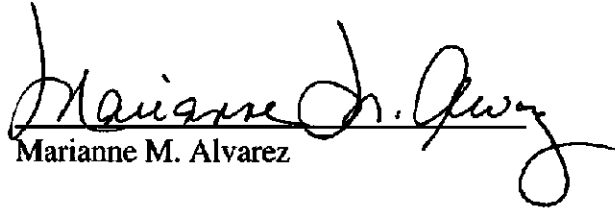


Susan B. Christoff  
Director, Attorney Services

Expires December 31, 2011

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail (where available) and by first-class postage prepaid mail, to all parties on this 4<sup>th</sup> day of February, 2011.

  
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\*Indicates that party has agreed to be automatically served via electronic mail.

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Review of the     )  
Capacity Charges of Ohio Power Company     )  
and Columbus Southern Power Company     )

Case No. 10-2929-EL-ENC

**MOTION TO ADMIT JESSE A. RODRIGUEZ TO PRACTICE  
PRO HAC VICE INSTANTER BEFORE THE COMMISSION**

PUCO

2011 FEB - 7 AM 10:36

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Pursuant to Gov. Bar. XII(2)(A)(6), Jesse A. Rodriguez<sup>1</sup>, attorney for Exelon Corporation, hereby moves the Public Utilities Commission of Ohio (the "Commission") to grant him the permission to appear *pro hac vice instanter* and participate as co-counsel in the above-captioned proceeding.

Movant represents that the following is a list of jurisdictions in which he has ever been licensed to practice law, including dates of admission to practice, resignation, or retirement, and any attorney registration numbers:

- i) State of New Jersey (#035061999), admitted on December 30, 1999; and
- ii) Commonwealth of Pennsylvania(#84640) admitted on December 6, 1999.

Movant represents that he has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Gov. Bar R. XII(2)(A)(5).

Constance Whyte Reinhard (#0008862), an attorney licensed to practice in the State of Ohio in good standing, has agreed to associate with Movant in this proceeding.

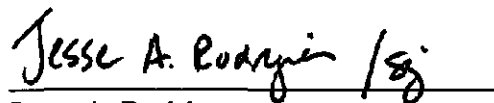
Pursuant Gov. Bar R. XII(3), a copy of the affidavit required by Gov. Bar R. XII(2)(A)(6), along with confirmation that the affidavit has been mailed to the Supreme Court of Ohio's Office of Attorney Services, is included herewith. Movant is providing the Commission a copy of

<sup>1</sup> Filed a name change form with the New Jersey and Pennsylvania Board of Bar Examiners changing my name from Jesus A. Rodriguez to Jesse A. Rodriguez.

Movant's Certificate of *Pro Hac Vice* Registration. Additionally, a certificate indicating service of this Motion on all known parties and attorneys of record is attached. Movant understands that, if this Motion is granted, Movant must file a Notice of Permission to Appear *Pro Hac Vice* and a copy of the Order granting permission with the Office of Attorney Services within thirty days of the Order.

WHEREFORE, Jesse A. Rodriguez respectfully moves the Commission for permission to appear *pro hac vice instant* before the Commission in the limited instance of this proceeding.

Respectfully submitted,

A handwritten signature in black ink, reading "Jesse A. Rodriguez /sj", is written over a horizontal line.

Jesse A. Rodriguez  
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February 4, 2011

# THE SUPREME COURT of OHIO

OFFICE OF ATTORNEY SERVICES

IN THE MATTER OF THE APPLICATION OF

**Jesse Rodriguez**

FOR PRO HAC VICE REGISTRATION

per Gov. Bar R. XII, Section 2(A)(3)

Certificate of  
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REGISTRATION

2011

Registration Number:  
PHV- 1115-2011

**Jesse Rodriguez**

\_\_\_\_\_, having met the requirements of, and found to be in full compliance with, Section 2(A)(3) of Rule XII of the Rules for the Government of the Bar of Ohio, is hereby issued this certificate of pro hac vice registration in the state of Ohio.

To receive permission to appear pro hac vice in an Ohio proceeding, a motion requesting such permission must be filed with the tribunal in accordance with Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio.



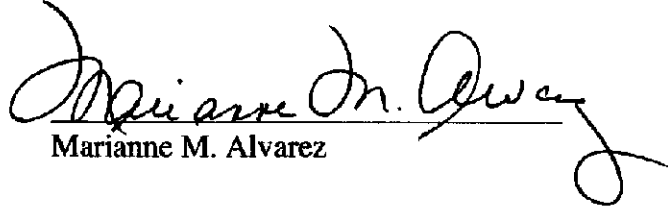
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