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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Ohio Power Company and)
Columbus Southern Power Company)
For Authority to Merge and Related)
Approvals.)

Case No. 10-2376-EL-UNC

INITIAL COMMENTS OF FIRSTENERGY SOLUTIONS CORP.

I. INTRODUCTION

On February 9, 2011, the Commission invited comments from interested persons regarding the issues it should consider in reviewing the proposed merger of Ohio Power Company and Columbus Southern Power Company (the "Companies"). See Entry dated Feb. 9, 2011, ¶ 5. In fact, the Companies have filed parallel applications for approval of that merger with the Commission and the Federal Energy Regulatory Commission ("FERC"). In opposing intervention in the instant proceeding by FirstEnergy Solutions Corp. ("Solutions"), a competitive retail electric service supplier, the Companies described this merger proceeding as "limited" and represented that it will have "no bearing" on their rates. See Mem. Contra dated Nov. 12, 2010, p. 1, 2. But to FERC, the Companies indicated that "any impact on [their] retail customers, who have the choice to purchase their electricity from competitive retail suppliers, will be addressed through the PUCO's review of the proposed transaction." *Ohio Power Co. & Columbus Southern Power Co.*, FERC Docket No. EC11-37-000, Application dated Jan. 18, 2011, pp. 18-19. By the Companies' own reckoning, then, issues raised by the proposed merger regarding retail customers and competition should be addressed by the Commission in this proceeding.

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The Commission should accept the Companies' invitation to examine those issues in this case. As the Companies acknowledge, the proposed merger will result in "blend[ed]" rates, along with "new rates, terms and conditions." App., ¶¶ 8, 13. But in this regard, the Companies' Application raises more questions than it answers. In fact, the Application contains no information regarding the effect of the merger on retail rates and switching. And this omission may be telling. As set forth below, in recent months the Companies have both expressed concerns regarding increasing levels of switching in their service territories and taken steps to curb shopping. The Commission should require additional information regarding the short and long-term effect of the merger on retail rates, switching, and competition to ensure that the Companies' instant merger application is not merely another attempt to restrict retail competition.

II. COMMENTS ON THE COMPANIES' APPLICATION

A. The Commission Should Ensure That The Companies' Proposed Application Is Not Merely The Latest In A Series Of Filings Designed To Hinder Retail Competition.

Recent filings by the Companies at the Commission and FERC demonstrate a pattern of attempts to hinder retail competition. On multiple recent occasions, the Companies have expressed concern regarding the level of retail switching in their service territories. For example, in their recently-filed ESP application, the Companies cite evidence that the level of retail switching in their service territories has increased approximately ten-fold in a single year, from under one-half percent in January 2010 to nearly 5% in December 2010. *See In re Application of Columbus S. Power Co. & Ohio Power Co. for Authority to Establish a Standard Serv. Offer Pursuant to § 4928.143, Ohio Rev. Code, in the Form of an Elec. Sec. Plan*, Nos. 11-346-EL-SSO, *et al.*, Ex. LJT-3, p. 2. The Companies apparently believe this increase foretells an increase like the one experienced by other Ohio utilities the year before, in which switching went from levels near zero in January 2009 to nearly fifty percent just one year later. *Id.* at 1. In fact,

in an earnings call the day after they filed their ESP application, the Companies' CEO stated that "we are concerned about shopping in the marketplace" and its potential "rate skewing effect."

AEP—Q4 Am. Elec. Power Earnings Conf. Call, Final Transcript dated Jan. 28, 2011, p. 11.

The Companies' recent filings indicate how they intend to address that concern. In November 2010, the Companies filed a proposed cost-based capacity charge at FERC that would have significantly increased capacity charges to competitive suppliers. *See generally PJM Interconnection, L.L.C.*, Docket No. ER11-2183-000, Tariff Filing, p. 3 (Nov. 24, 2010). At best, this proposal would have severely curtailed retail switching; at worst, it would have brought shopping to an abrupt and complete halt. Fortunately, FERC rejected the proposal, finding that a state compensation mechanism already existed and rejecting the Companies' attempted end-run around the Commission's procedures. *Am. Elec. Power Serv. Corp.*, 134 FERC ¶ 61,039 at PP 8-13 (Jan. 20, 2011). Meanwhile, the Commission has initiated an investigation into the Companies' proposal, which is pending. *In re Commission Review of the Capacity Charges of Ohio Power Co. and Columbus S. Power Co.*, No. 10-2929-EL-UNC, Entry dated Dec. 8, 2010.

It appears that the Companies' parallel state and federal merger applications are yet another device intended to limit retail shopping. In its FERC application, the Companies indicate that "the combination of [the Companies'] loads and resources *will affect* the demand and energy rates that flow through to" each of their affiliates. *Ohio Power Co. and Columbus S. Power Co.*, FERC Docket No. EC-11-37-000, Application, p. 18. And in its application before the Commission, the Companies indicate that it is their "intent to blend its retail rates in future proceedings" as a result of the proposed merger. *See App.*, ¶ 8. The Companies are concerned about the increasing levels of retail switching in their service territories, and with their merger applications, they apparently intend to mitigate those levels of switching and competition.

B. The Commission Should Require More Information Regarding The Impact Of The Proposed Merger On Retail Competition.

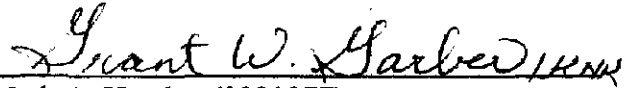
The Commission's review in this case should include the effect of the proposed merger on rates, retail competition and switching. As demonstrated above, the Companies not only have expressed concern regarding the level of switching in their service territories, but also have taken steps at FERC and at the Commission to attempt to hinder competition. The Commission should ensure that the proposed merger does not have a similar effect. Specifically, the Commission should require the Companies to provide information regarding the effect of the merger on short and long-term retail rates, switching and competition. The Commission also should require the Companies to explain any changes to the systems the Companies use to communicate with competitive retail electric service ("CRES") suppliers regarding basic customer information (e.g., name, address, customer class, load and other characteristics) and administrative and logistical details associated with the movement of a customer from SSO to CRES service.

III. CONCLUSION

For the foregoing reasons, the Commission should require the Companies to provide additional information regarding the effect of the proposed merger on rates, retail competition and switching and should set this matter for hearing.

Dated: February 25, 2011

Respectfully submitted,



Mark A. Hayden (0081077)
Counsel of Record
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
Telephone: (330) 761-7735
Facsimile: (330) 384-3875
E-mail: haydenm@firstenergycorp.com

David A. Kutik (0006418)
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
E-mail: dakutik@jonesday.com

Grant W. Garber (0079541)
Jones Day
Mailing Address
P.O. Box 165017
Columbus, OH 43216-5017
Street Address:
325 John H. McConnell Blvd., Suite 600
Columbus, OH 43215-2673
Telephone: (614) 469-3939
Facsimile: (614) 461-4198
E-mail: gwgarber@jonesday.com

ATTORNEYS FOR
FIRSTENERGY SOLUTIONS CORP.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Initial Comments of FirstEnergy Solutions Corp. was sent by first class U.S. mail, postage prepaid, to the following this 25th day of February, 2011.

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45839-8860

Daniel R. Conway
Porter Wright Morris & Arthur
Huntington Center
41 S. High Street
Columbus, Ohio 43215

Maureen R. Grady
Terry L. Etter
Jody Kyler
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Samuel C. Randazzo
Joseph E. Olikier
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, Ohio 43215

Steven T. Nourse
Anne M. Vogel
American Elec. Power Service Corp.
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215

John W. Bentine
Mark S. Yurick
Matthew S. White
Chester Willcox & Saxbe, LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215

David F. Boehm
Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202


An Attorney for FirstEnergy Solutions Corp.