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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 Authority to Establish A Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan	))))))	**Case No. 11-346-EL-SSO** **Case No. 11-348-EL-SSO**
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority	))))	**Case No. 11-349-EL-AAM** **Case No. 11-350-EL-AAM**

CORRECTED MOTION TO INTERVENE OF THE NATURAL RESOURCES DEFENSE COUNCIL AND THE SIERRA CLUB

For the reasons set forth in the accompanying Memorandum in Support, the Natural Resources Defense Council and the Sierra Club move the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above styled cases pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11 and 4901:1-35-06(B), and to grant to the intervening parties the full powers and rights specifically authorized by statute or by the provisions of the Ohio Administrative Code.

Respectfully submitted,

/s/ Henry W. Eckhart

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CORRECTED MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE OF THE NATURAL RESOURCES DEFENSE COUNCIL AND THE SIERRA CLUB

The Natural Resources Defense Council and Sierra Club (collectively, "Movants") seek intervention in this proceeding regarding the Columbus Southern Power Company and Ohio Power Company (collectively "Company" and/or "Companies") proposed Standard Service Offer/Electric Security Plan ("SSO/ESP") because they may be adversely affected by the Public Utilities Commission of Ohio ("Commission") ruling in this matter. This SSO/ESP process presents critical questions regarding the Companies' pursuit of energy efficiency and renewable energy resources, and the retirement of or installation of environmental controls on existing coal-fired electric generating units. These questions directly impact NRDC and Sierra Club's interests in protecting public health and the environment, and the interests of their members who reside in the Companies' service territory and/or live near the Companies' power generation sources. As such, Movants are entitled to intervene in this proceeding.

I. Legal Standard

Ohio law provides for intervention in proceedings before the Commission for parties demonstrating a real and substantial interest in a Commission proceeding, and for any party that may be adversely impacted by the Commission's ruling. Under Ohio law, a party may intervene if they "may be adversely affected by a public utilities commission proceeding," O.R.C. 4903.221. In determining whether a party may be adversely affected for purposes of intervention, the Commission is required to evaluate:

(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.

O.R.C. 4903.221(B).

The Commission's rules similarly provide that any person may intervene where "[t]he person has a real and substantial interest in the proceeding." O.A.C. 4901-1-11(A)(2). The regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining whether a party would be "adversely affected," and also add a fifth factor regarding "the extent to which the person's interest is represented by existing parties." O.A.C. 4901-1-11(B).

As the Ohio Supreme Court recently held, intervention in Commission proceedings "ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission]." *Ohio Consumers' Counsel v. Pub. Util Comm'n of Ohio*, 111 Ohio St. 3d 384, 388 (Ohio 2006). The Commission has

consistently maintained a policy to "encourage the broadest possible participation" in its proceedings, even under extenuating circumstances. See e.g. *In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party's failure to file within the deadline).

NRDC and Sierra Club easily satisfy these liberal intervention standards.

II. Movants are entitled to intervene because they "may be adversely affected" by the outcome of this proceeding.

Movants are entitled to intervene in this proceeding because they satisfy each of the four factors demonstrating that they "may be adversely affected" by the outcome. O.R.C. 4903.221. First, the nature and extent of Movants' interests in the proceeding is real and substantial, O.R.C. 4903.221(B)(1), as the issues involved herein are directly related to Movants' interests in promoting energy efficiency and renewable energy, and will have direct economic, public health, and environmental impacts on NRDC and Sierra Club's members in Ohio.

In particular, NRDC is a non-profit environmental organization that has worked for its 40 year history to, among other things, promote energy efficiency and renewable energy sources, and to protect air and water quality. NRDC has more than 10,600 members in Ohio, many of whom reside in the Companies service area and/or live near the Companies existing or proposed power generating facilities. NRDC has been granted intervention on numerous occasions in proceedings before the Commission, including in the Companies first ESP case (08-917-EL-SSO, et al.). NRDC has been an active member of the Companies energy efficiency collaborative.

Sierra Club is a non-profit environmental organization which has 1.4 million members in the United States and over 25,000 members and supporters in Ohio. Sierra Club was founded in

1892 and has been actively concerned with electric utility issues since it first engaged in protection of America's scenic resources from hydropower development. Since 2008 Sierra Club has intervened in American Electric Power's ("AEP") previous portfolio case, a solar waiver case, a case to certify one of AEP's coal plants as a renewable energy resource if the plant repowered with biomass, and the Sporn closure case. Sierra Club has also been active in AEP's energy efficiency collaborative.

These proceedings present numerous issues that are directly relevant to the interests of NRDC and Sierra Club and their members. For example, the Companies seek approval of cost recovery mechanisms for various renewable energy and energy efficiency efforts. In addition, the Companies seeks the ability to collect as non-by-passable charges cost recovery for the installation of pollution controls on electric generating units, and recovery for various costs related to closure of electric generating units. These and other issues raised in these proceedings could play a significant role in determining the resource mix and pollution profile of the Companies' electric utility operations. As such, the interests of NRDC and Sierra Club in these proceedings stems from the direct and indirect impacts they will have on the environment of the State of Ohio and surrounding areas, and on the electric bills of their members in the Companies' service area.

Second, Movants' desire to promote energy efficiency, peak demand reduction, renewable energy, and cost-effective low carbon energy sources in Ohio is directly related to the issues of this case. O.R.C. 4903.221(B)(2). The SSO/ESP process at issue is meant to identify a set of "just and reasonable" policies, O.A.C. 4901:1-35-06(A), to "maintain essential electric service to consumers." O.A.C. 4901:1-35-02(A). The resulting ESP is to "include provisions relating to the supply and pricing of electric generation services," and may provide for recovery

of various costs if they are "reasonable" or "prudently incurred." O.R.C. 4928.143(B)(1), (B)(2)(a)-(b). Movants intend to present evidence and argument in support of policies that would promote aggressive implementation of energy efficiency and renewable energy sources, combined heat and power, and other low carbon generation sources as the most reasonable and prudent manner for the Companies to "maintain essential electric services." Such arguments are plainly related to the issues of this proceeding.

Third, Movants' intervention will not unduly prolong or delay the proceeding, O.R.C. 4903.221(B)(3), as this motion is being filed by the deadline set for intervention and Movants are able to comply with all case management deadlines established by the Commission and/or agreed to by the parties.

Fourth, intervention by Movants will significantly contribute to the full development of the record in this proceeding, O.R.C. 4903.221(B)(4), as NRDC and Sierra Club will bring significant expertise to bear in these proceedings. NRDC's staff and consultants have extensive experience in resource planning, analyzing the potential for cost effective energy efficiency, and in the laws and regulations regulating energy production. Further, NRDC has intervened and/or provided testimony on these issues in similar proceedings in a number of states including Illinois, Wisconsin, New York, Oregon, California, New Jersey, and Iowa, and has been granted intervention in numerous cases before the Commission. NRDC has regularly presented testimony before the U.S. Congress and various state legislatures related to the electric utility industry, including: energy efficiency, renewable energy, nuclear energy, and coal generation. The Sierra Club has also intervened in similar cases all across the country and is able to apply this national experience with its Ohio-specific expertise, having been involved in over thirty-five matters before the Commission.

As such, Movants should be permitted to intervene pursuant to O.R.C. 4903.221.

III. Movants may intervene because they have a "real and substantial interest" in the proceeding.

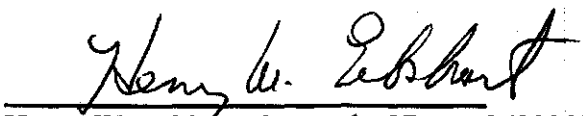
Movants may also intervene in this proceeding because they satisfy each of the five factors demonstrating that they have a "real and substantial interest" in the proceeding. O.A.C. 4901-1-11(B). The first four factors are identical to those set forth under O.R.C. 4903.221(B) and, therefore, Movants should be permitted to intervene for the same reasons as set forth in Section II above.

As for the fifth factor, Movants' interests in this proceeding will not be fully represented by other parties, O.A.C. 4901-1-11(B)(5), because none of the other parties can adequately represent the Movants' interests as national environmental organizations that are interested in both environmental protection and promotion of energy efficiency, renewable energy, combined heat and power, and other low carbon generation sources as the most reasonable and prudent way for AEP to maintain essential electric services.

IV. Conclusion

For the foregoing reasons, NRDC and the Sierra Club respectfully request that their Motion to Intervene be granted, and that they be authorized to participate as full parties to this proceeding.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have caused an accurate copy of the foregoing Motion and Memorandum to be served upon the following parties by US Mail, this 23rd day of March, 2011.

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