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

MOTION TO INTERVENE
AND
REQUEST FOR LEAVE TO FILE MOTION TO INTERVENE OUT OF TIME
OF
DOMINION RETAIL, INC.

By the above-styled applications, Columbus Southern Power Company and Ohio Power Company (collectively, "AEP Ohio") seek to establish a standard service offer ("SSO") in the form of an electric security plan ("ESP") pursuant to Sections 4928.141 and 4928.143, Revised Code, and approval of certain related accounting measures. As more fully discussed in the accompanying memorandum, Dominion Retail, Inc. ("Dominion Retail") has a real and substantial interest in this proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Further, Dominion Retail's interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceeding or unjustly prejudicing any existing party. Accordingly,

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Dominion Retail hereby moves to intervene in this proceeding pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code.

Dominion Retail recognizes that the procedural entry issued in this proceeding on February 9, 2011 provided that motions to intervene should be filed by March 14, 2011. Although Dominion Retail has intervened in all prior electric SSO cases brought before the Commission (including Case Nos. 08-917/918-EL-SSO, wherein AEP-Ohio's current ESP was established), undersigned counsel was heretofore unaware of the March 14, 2011 due date for motions to intervene in these dockets. Thus, Dominion Retail respectfully requests that the Commission entertain its motion to intervene, notwithstanding that it is filed one week after the specified due date. Granting Dominion Retail leave to file its motion to intervene out of time would be consistent with the Commission's policy of encouraging the broadest possible participation in its proceedings,¹ and would also be consistent with the disposition of similar requests to file motions to intervene out of time in other SSO proceedings.² Further, in view of the procedural posture of the case,³ no party will be prejudiced by granting Dominion Retail's request. If its motion to intervene is granted, Dominion Retail will, of course, accept the record as it finds it.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its request for leave to file out of time and grant its motion to intervene.

¹ See, e.g., *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR (Entry dated January 14, 1986, at 2).

² See, e.g., *Duke Energy Ohio*, Case Nos. 08-920-EL-SSO, *et al.* (Entry dated September 17, 2008, at 4) and *The Dayton Power and Light Company*, Case Nos. 08-1094-EL-SSO, *et al.* (Entry dated February 5, 2009, at 2).

³ Pursuant to the February 9, 2011 procedural entry, the cut-off date for written discovery is June 16, 2011, and the hearing will not commence until July 13, 2011.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT
OF
MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.**

By the applications filed herein on January 27, 2011, AEP-Ohio seeks approval of an ESP-based SSO pursuant to Sections 4928.141 and 4928.143, Revised Code. Section 4903.221, Revised Code, provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” Dominion Retail is a Commission-certified CRES provider authorized to offer competitive retail electric service to customers within AEP-Ohio’s service territory. As such, Dominion Retail would be forced to compete against the proposed AEP-Ohio SSO – which includes numerous non-bypassable riders – to attract and retain customers. Thus, there can be no question that Dominion Retail may be adversely affected by this proceeding. Further, not only does Dominion Retail satisfy the underlying statutory test for intervention in Commission proceedings, but it also satisfies the standards governing intervention set forth in the Commission’s rules.

Rule 4901-1-11(A), Ohio Administrative Code ("OAC"), provides, in pertinent part, as follows:

(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 ability to protect that interest, unless the person's interest is adequately represented by existing parties.

As a CRES supplier, Dominion Retail plainly has a real and substantial interest in a proceeding in which the Commission is being asked to determine how the price against which it must compete will be established, and this proceeding may, as a practical matter, impair or impede its ability to protect this interest. Moreover, at this juncture, none of the pending motions to intervene in this proceeding have been granted. Thus, by definition, no existing parties adequately represent Dominion Retail's interest.

Although Dominion Retail does not believe this to be a close question, each of the specific considerations that the Commission may, by rule, take into account in applying the Rule 4901-1-11(A)(2), OAC, standard also fully support granting Dominion Retail's motion to intervene. Rule 4901-1-11(B), OAC, provides as follows:

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 case shall consider:

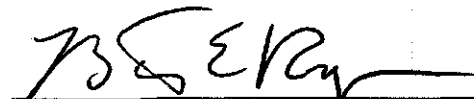
- (1) The nature and extent of the prospective intervenor's interest.
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether 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.

First, as previously explained, Dominion Retail's interest in the SSO pricing proposals contained in the AEP-Ohio application is obviously direct and substantial. Second, although Dominion Retail must necessarily await further developments before determining the specific positions it will adopt with respect to the issues in these proceedings, Dominion Retail will certainly advocate that the terms of the ESP-based SSO authorized as a result of this proceeding be fair, reasonable, non-discriminatory, and designed to promote retail electric competition. Third, in view of the procedural posture of this case, granting Dominion Retail's motion to intervene will not unduly delay or prolong the proceeding. Fourth, Dominion Retail has been a frequent participant in cases involving the establishment of competitive electric and gas markets in Ohio and the numerous other states in which it does business. As a result, Dominion Retail will bring substantial experience to bear on the issues raised. Finally, not only are there no existing parties that represent Dominion Retail's interest, but it would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its proceedings" to apply the Rule 4901-1-11(B)(5) standard in a manner that would favor certain CRES providers over others. Thus, granting Dominion Retail intervenor status is consistent with all the considerations set out in Rule 4901-1-11(B), OAC.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class US mail, postage prepaid, this 21st day of March 2011.


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