

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

**THE ENVIRONMENTAL LAW AND POLICY CENTER’S MOTION FOR LEAVE TO
FILE OUT OF TIME AND MOTION TO INTERVENE**

Pursuant to Ohio Revised Code §4903.221 and Ohio Administrative Code §4901-1-11, the Environmental Law and Policy Center (ELPC) respectfully moves to intervene, out of time, in the above-captioned proceedings. As explained in the attached Memorandum in Support, ELPC has a real and substantial interest in these proceedings. Additionally, the interests of ELPC are not adequately represented by any other party to these matters, and its participation in these proceedings will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

Consequently, ELPC respectfully requests the Public Utilities Commission of Ohio grant its motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Tara C. Santarelli

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**MEMORANDUM IN SUPPORT OF
THE ENVIRONMENTAL LAW & POLICY CENTER’S
MOTION FOR LEAVE TO FILE OUT OF TIME AND
MOTION TO INTERVENE**

ELPC moves the Commission for Leave to Intervene, out of time, in the above-styled matters relating to the “Application filed by Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan” (“Application”). ELPC accepts the record in this Docket as it exists on the date of this filing and is only requesting to participate from this point in the cases forward. This filing and ELPC's participation in these cases will not cause any party undue prejudice or delay.

On January 27, 2011, Columbus Southern Power Company and Ohio Power Company (collectively referred to as “AEP Ohio”) filed their Application. On February 9, 2011, the Public Utilities Commission of Ohio (“PUCO”) issued an Entry establishing a March 14, 2011

deadline to intervene. Shortly after participating in a recent AEP Ohio Collaborative meeting, ELPC learned of the filing and the PUCO Entry. ELPC now seeks to intervene in the cases.

Ohio Revised Code (ORC) §4903.221 provides, “Any other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding,” provided the PUCO makes certain determinations. ELPC is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of these proceedings. ELPC is not adequately represented by the other parties in these cases.

The matters filed by Columbus Southern Power Company and Ohio Power Company (collectively, “AEP Ohio”) concern the implementation of statutorily required energy efficiency and peak demand reduction programs. AEP Ohio seeks to obtain approval of its various energy efficiency and peak demand reduction programs in order to comply with Am. Sub. Senate Bill 221 (S.B. 221), housed in part at Ohio Revised Code §4928.66. ELPC has a strong interest in assuring the effective and timely implementation of S.B. 221.

Ohio Revised Code §4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, PUCO’s procedural rules at Ohio Administrative Code (OAC) §4901-1-11 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets each of the factors required by statute or rule.

Pursuant to ORC §4903.221(B), the Commission must 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; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

O.R.C. §4903.221(B).

As to the first factor, ELPC's interest is to ensure that the design and implementation of AEP Ohio's energy efficiency and peak demand reduction programs comply with O.R.C. §4928.66. As to the second factor, the Commission should carefully consider the programs and calculations AEP Ohio proposes. AEP Ohio puts forth these programs and calculations as complying with statutory requirements. Because AEP Ohio's efficiency and peak demand reduction portfolio will be in effect for the next three years (2012-2014), the Commission should closely analyze the proposals to ensure effective and correct implementation. AEP Ohio's ESP also addresses the retirement of or installation of controls on coal fired electric generating units, an environmental issue of concern to the ELPC.

Under the third factor, ELPC's inclusion will not unduly delay or prolong the proceedings. ELPC is committed to working within the schedule set in the Commission's Order to achieve the efficient and orderly disposition of the questions presented. Finally, ELPC will significantly contribute to the full development and resolution of the proceedings by bringing its unique perspective to bear. ELPC has expertise and experience throughout the Midwest regarding energy efficiency programs and implementation that will contribute to resolving the pending issues. ELPC is an active member of AEP Ohio's Collaborative and has participated in previous negotiations involving utilities' Electric Security Plans.

Similarly, ELPC meets the requirements set forth in OAC §4901-1-11:

- (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; [and]
- (5) The extent to which the person's interest is represented by existing parties.

Ohio Admin. Code §4901-11-1(B). The first four factors mirror those in ORC §4903.221 and for the reasons stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on “green” economic development, including new manufacturing and job creation.

Finally, this Commission's policy is to “encourage the broadest possible participation in its proceedings (*see e.g., Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2). ELPC's inclusion in these proceedings will contribute to the goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both ORC §4903.221 and OAC §4901-1-11, it respectfully asks this Commission to grant its motion to intervene in the above-captioned cases.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing MOTION FOR LEAVE TO FILE OUT OF TIME AND MOTION TO INTERVENE has been served upon the following parties, via regular U.S. mail, postage prepaid, this 7th day of April, 2011.

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Summary: Motion for Leave to File Out Of Time and Motion to Intervene electronically filed by
Tara Santarelli on behalf of Environmental Law & Policy Center