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Ohio Environmental Council

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[UNLEASHING THE POWER OF GREEN]

The Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, OH 53215

11-346-EL-SSO
11-348-EL-SSO
11-349-EL-AAM
11-350-EL-AAM

April 13, 2011

Re: Case No. 11-346-EL-SSO, et al.

Dear Ms. Jenkins,

Please find 20 copies and the original of the Ohio Environmental Council's Motion to Intervene and Motion for Leave to File Out of Time in Case No. 11-346-EL-SSO.

Kindest regards,

E. Camille Yancey

E. Camille Yancey

PUCO

2011 APR 15 PM 4:26

RECEIVED-DOCKETING DIV

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Columbus)	Case No. 11-346-EL-SSO
Southern Power Company and Ohio Power)	Case No. 11-348-EL-SSO
Company for Authority to Establish a)	
Standard Service Offer Pursuant to)	
§4928.143, Ohio Rev. Code, in the Form of)	
an Electric Security Plan.)	

In the Matter of the Application of Columbus)	Case No. 11-349-EL-AAM
Southern Power Company and Ohio Power)	Case No. 11-350-EL-AAM
Company for Approval of Certain Accounting)	
Authority.)	

MOTION FOR LEAVE TO FILE OUT OF TIME AND MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL

The Ohio Environmental Council ("OEC") moves to intervene, out of time, in this case, in which the Columbus Southern Power Company and the Ohio Power Company ("AEP Ohio or the "Companies") submit their Application for Authority to Establish a Standard Service Offer Pursuant to ORC §4928.143, in the Form of an Electric Security Plan ("Application"). The OEC 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. Among other things, AEP Ohio seeks approval of its energy efficiency and peak demand reduction programs with this Application to comply with Senate Bill 221 ("S.B. 221"). As more fully discussed in the accompanying memorandum, the OEC has a real and substantial interest in this proceeding to ensure that energy efficiency resources, renewable energy resources, Peak Demand Reduction ("PDR") projects and associated recovery riders are deployed in this state according to the clear requirements and timetables provided by S.B. 221 and to ensure that this Application is properly scrutinized in

light of the letter and intent of S.B. 221. The interests of the OEC, Ohio's largest non-profit environmental advocacy organization, are not represented by any existing party. The OEC's 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, the OEC hereby moves to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

WHEREFORE, the OEC respectfully requests that the Public Utilities Commission of Ohio grants the OEC's motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ E. Camille Yancey

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbus)	Case No. 11-346-EL-SSO
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Company for Approval of Certain Accounting)	
Authority.)	

**MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE OUT OF TIME AND
MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL**

R.C. Section 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” The OEC is a non-profit, charitable organization comprised of a network of over 100 affiliated member groups whose mission is to secure a healthier environment for all Ohioans. Throughout its 40-year history, the OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. The OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of energy efficiency and AER benchmarks. The OEC has a real and substantial interest in AEP Ohio’s Application. AEP Ohio’s energy efficiency, renewable energy and peak demand reduction programs will impact the amount of energy efficiency and renewable energy implemented by AEP Ohio, which will directly affect Ohio’s air quality and environment.

Therefore, the OEC has a substantial interest in assuring an effective assessment of AEP Ohio's Application.

R.C. 4903.221(B) outlines four factors that the Commission shall consider when ruling on a motion to intervene in a proceeding. First, pursuant to R.C. 4903.221(B)(1), the Commission shall consider "the nature and extent of the prospective intervenor's interest." The OEC has several distinct interests in the disposition of this case. First, OEC is interested in the achievement of maximum cost-effective energy efficiency and renewable energy implementation. The disposition of this case will influence how AEP Ohio pursues energy efficiency and renewable energy resources. Additionally, the OEC has an interest in the companies' cost-recovery that they are seeking to collect for the installation of pollution controls on electric generating units, as well as cost recovery for costs associated with the closure of electric generating units. The OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact this case could have on the emissions profile of AEP Ohio.

Second, pursuant to R.C. 4903.221(B)(2), the Commission shall consider "the legal position advanced by the prospective intervenor and its probable relation to the merits of the case." Although the OEC does not outline detailed legal arguments in this section, the OEC maintains that AEP Ohio's Application should be properly scrutinized by interested parties to ensure that it includes accurate assessments of AEP Ohio's energy efficiency and renewable energy programs and calculations that comply with S.B. 221. Additionally, the OEC has interest in the environmental impacts of AEP Ohio's installation of pollution controls on electric generating units and closure of electric generating units.

Third, pursuant to R.C. 4903.221(B)(3), the Commission shall consider "whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings." The OEC has significant experience dealing with electric utilities questions before the Commission and will not seek to unduly delay the proceeding. The OEC has been consistently involved in the development and enactment of S.B. 221 and the associated rules, including as a party in numerous cases before the Commission. The OEC's intervention will not unduly prolong or delay these proceedings; to the contrary, the OEC's expertise and unique interest will add value to the development of this case.

Fourth, pursuant to R.C. 4903.221(B)(4), the Commission shall consider "whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues." The OEC has actively participated in the implementation of the efficiency and renewable energy benchmarks established by S.B. 221 and in numerous other matters before the Commission. As an active participant in cases before the Commission, the OEC has developed expertise that will contribute to the full development of the legal questions involved in this proceeding. Finally, as Ohio's leading environmental advocate, the OEC will be able to assure that the environmental impacts of resource planning are fully developed.

The OEC also satisfies the intervention requirements outlined in the Commission's rules. The criteria for intervention established by O.A.C. 4901-1-11(A) are identical to those provided by R.C. 4903.221, with the exception that the rules add a fifth factor that the Commission shall consider when ruling on a motion to intervene. Pursuant to O.A.C. 4901-1-11(A)(5), the Commission shall consider "the extent to which the [intervenor's] interest is represented by existing parties." The OEC's interest is not fully represented by the existing parties. The OEC is the leading advocate for Ohio's environment. No other party to this proceeding has the mission

of securing healthy air for all Ohioans, and no other party has been a continuous participant in cases before the Commission for the specific purpose of furthering this mission.

Finally, we point out that it is the Commission's stated policy "to encourage the broadest possible participation in its proceedings."¹ The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

The OEC meets all the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5) and therefore should be granted leave to intervene in this proceeding.

WHEREFORE, the OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/ E. Camille Yancey

E. Camille Yancey, Counsel of Record
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¹ *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class or electronic mail this 11th day of April, 2011.

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