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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO 2011 JUN -8 PM 5: 17

In the Matter of the Application of )  
Columbus Southern Power Company and )  
Ohio Power for Authority to )  
Establish a Standard Service Offer )  
Pursuant to Section 4928.13, Revised )  
Code, in the Form of an Electric Security )  
Plan )

Case No. 11-346-EL-SSO  
Case No. 11-348-EL-SSO PUCO

In the Matter of the Application of the )  
Columbus Southern Power Company and )  
the Ohio Power Company for Approval of )  
Certain Accounting Authority. )

Case No. 11-349-EL-SSO AAM  
Case No. 11-350-EL-SSO AAM

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**COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER  
COMPANY'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL TESTIMONY  
REGARDING THE PROPOSED PROVIDER OF LAST RESORT CHARGES  
AND RELATED  
MODIFICATIONS OF THE PROCEDURAL SCHEDULE AND REQUEST FOR  
EXPEDITED RULING AND MEMORANDUM IN PARTIAL OPPOSITION TO  
STAFF'S MOTION FOR CONTINUANCE**

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Columbus Southern Power Company and Ohio Power Company ("the Companies" or "AEP Ohio") respectfully request the Commission for leave to file supplemental testimony regarding the proposed Provider of Last Resort (POLR) charges and to modify related aspects of the procedural schedule for their 2012-2014 electric security plan (2012 ESP) cases, as set forth below. Currently, the schedule for their 2012 ESP, established by the Attorney Examiner's February 9, 2011, Entry, as modified by her March 23, 2011 Entry, requires Intervenor's direct testimony to be filed by June 13, 2011 and Commission Staff's direct testimony by June 27, 2011; written discovery requests to be served by June 16, 2011, and an evidentiary hearing to begin on July 20, 2011.

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After those scheduling Entries in this ESP proceeding were issued, the Ohio Supreme Court issued a decision on April 19, 2011, affirming in part and reversing in part the Commission's final order in the Companies; prior electric security plan proceeding, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO (2009 ESP) *Application of Columbus S. Co.*, Slip Opinion No. 2011-Ohio-1788. The Court's decision, among other things, reversed and remanded for further consideration the Commission decision in the 2009 ESP that established POLR charges for the Companies. On May 25, 2011, the Commission issued an Entry establishing a schedule for the Remand phase of the 2009 ESP, which requires AEP Ohio to file testimony by June 6, 2011; Intervenor to file testimony by June 23, 2011, written discovery requests by June 29, 2011; a prehearing conference on July 7, 2011; and an evidentiary hearing on July 12, 2011.

Because the Court's decision also has an impact upon how AEP Ohio will support the POLR charges that they have proposed in their 2012 ESP, AEP Ohio requests a modification of certain aspects of the procedural schedule for their ESP in order to allow them to supplement their testimony in support of their proposed POLR charges. This proposal also involved some additional adjustments in the procedural schedule as discussed below.

On June 8, 2011, the Commission's Staff filed a request for continuance of Staff's testimony deadline, the Intervenor's testimony deadline and the evidentiary hearing. While the Companies have no objection to giving Staff a reasonable amount of additional time to formulate their testimony, the Companies object in part to the Staff's proposal and instead set forth a more comprehensive and timely set of changes to the procedural schedule. Specifically, in order to coordinate the schedule for AEP Ohio's 2012 ESP with

the Remand phase of their 2009 ESP; provide AEP Ohio with an opportunity to supplement their testimony in support of their 2012 ESP's proposed POLR charges; allow Intervenors additional time to prepare and file testimony in response to AEP Ohio's supplemental POLR testimony; and permit the Staff additional time to prepare and file its testimony, AEP Ohio submits an alternative set of more comprehensive and balanced changes to the 2012 ESP procedural schedule as follows:

June 16 - Existing general discovery cutoff stays in place for 2012-2014 ESP (except for intervenor requests related to supplemental POLR testimony and Company requests to intervenors regarding their yet-to-be-filed testimony, as addressed below)

June 23 – Intervenor ESP remand testimony\*

July 6 – AEP Ohio files supplemental POLR testimony in 2012-2014 ESP

July 12- ESP remand hearing\*

July 13 - Cutoff for intervenor discovery requests related to supplemental POLR testimony

July 15 – Intervenor testimony in 2012-2014 ESP

July 22 - Cutoff for Company discovery requests related to intervenor testimony

July 25 - Staff Testimony filed in 2012-2014 ESP

Aug 8 – Hearing for 2012-2014 ESP

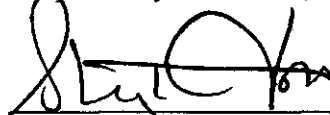
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\* These dates are existing dates from the May 25 Entry in ESP remand proceeding

All other deadlines established by the Commission's May 25 Entry in the Remand phase of AEP Ohio's 2009 ESP and its scheduling Entries in the 2012 ESP would remain the same.

AEP Ohio requests an expedited ruling on this motion.

A memorandum in support of this motion is attached.

Respectfully submitted,



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## **MEMORANDUM IN SUPPORT**

The current schedule for AEP Ohio's 2012 ESP for filing testimony, discovery requests, and the evidentiary hearing is as follow:

June 13, 2011	Testimony on behalf of intervenors
June 27, 2011	Testimony on behalf of the Commission Staff
June 16, 2011	Discovery requests, except for deposition notices
July 6, 2011	Procedural conference
July 20, 2011	Evidentiary hearing commences

On April 19, 2011, the Ohio Supreme Court issued its decision affirming in part and reversing in part the Commission's final order in AEP Ohio's prior electric security plan proceeding, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO (2009 ESP). *Application of Columbus S. Power Co.* Slip Opinion No. 2011-Ohio-1788. Pertinent to this motion, the Court's decision, among other things, reversed and remanded for further consideration the Commission's decision in the 2009 ESP to establish POLR charges for the Companies. On May 25, 2011, the Commission established the following schedule for the Remand phase of the 2009 ESP to further consider the basis for the Companies' POLR charges:

June 6, 2011	AEP Ohio Testimony
June 23, 2011	Intervenor Testimony
June 29, 2011	Discovery requests
July 7, 2011	Prehearing conference
July 12, 2011	Evidentiary hearing

In response to the Court's decision on, and pursuant to the schedule that the Commission established for the Remand phase of the 2009 ESP, the Companies pre-filed

testimony on June 6, 2011, that provides additional support for their 2009 ESP POLR charges. Because the Court's decision also has an impact upon how they will support the POLR charges that they have proposed in their 2012 ESP, the Companies are requesting that they be allowed to supplement their testimony in support of their 2012 ESP's POLR charges..

As a related matter, on June 8, 2011, the Commission's Staff filed a request for continuance of Staff's testimony deadline, the intervenors' testimony deadline and the evidentiary hearing. Ironically, even though the Staff's request (at 5-6) is based on the notion advanced by AEP Ohio in the remand proceeding (Case Nos. 08-917-EL-SSO and 08-918-EL-SSO) that the Company and parties should be given an organized and timely opportunity to address the remand issues, the Staff's request does not propose or address anything about the Company's opportunity to update their POLR testimony in these cases. Further, as discussed more below, the Staff's suggestion that all of the testimony of all parties (not just supplemental POLR testimony) be extended is unwarranted and unduly re-opens the long-established procedural schedule in these cases. Moreover, the Staff's motion also does not address discovery issues, which are vital to any amendment of the procedural schedule. Thus, while the Companies have no objection to giving Staff a reasonable amount of additional time to formulate their testimony, the Companies object in part to the Staff's proposal and instead set forth a more comprehensive and balanced set of changes to the procedural schedule.

AEP Ohio submits that there is no reason to extend the intervenors' testimony deadlines and the Commission should not do so. No intervenor has moved the Commission to extend their deadline, let alone demonstrated a need to do so. Solving Staff's need for additional time (a matter that the Companies do not oppose) should not be

used to create a windfall of extra time for the intervenors. The existing deadline and discovery schedule has been in place for months and the remand proceeding does not affect the vast majority of issues involved in the ESP cases.

More importantly, the Companies filed their ESP application early in an attempt to avoid any delayed decision-making problems in the initial ESP cases -- and oppose any request that jeopardizes a timely decision under the ESP statute and the Commission's rules. Pushing back the whole case for such a significant period of time seems unnecessary and could jeopardize a timely decision. That said, the Companies have also previously mentioned that they would like an opportunity to update their POLR testimony in the ESP proceeding to synchronize their positions in the 2012 ESP and 2009 ESP remand proceedings. *See e.g.* AEP Ohio Initial Merit Filing (ESP remand case) at 30. That approach, however, should not involve delaying the testimony deadline for all other subjects that are to be addressed in connection with the ESP cases. While the POLR charge is an important issue, it is narrow and discrete compared to the ESP as a whole. Thus, adjusting the schedule in order to update testimony relating to the POLR charges does not need to involve a complete overhaul of the long-established testimony deadlines.

Under any scenario, the deadline for discovery requests served on the Companies (except as it relates to supplemental POLR testimony) should not be extended beyond June 16. The Companies have responded to nearly 1,400 discovery requests (many of which have subparts that are equivalent to a dozen or more questions within a single request, in addition to voluminous attachments and supporting materials) and it would be unfair to arbitrarily extend the discovery process after the procedure has run its course.

Whereas, if the written discovery deadline is left as is in general and Staff and intervenors file testimony later, then the Companies will have no opportunity to conduct discovery on the parties and that would violate the Companies' due process rights. Thus, if the Staff and Intervenors testimony deadlines are substantially extended, the Companies should be permitted to conduct discovery upon the parties after the testimony is filed (they have an opportunity to do so under the current schedule); but discovery requests from parties to the Companies after June 16 must be limited to requests relating to the supplemental POLR testimony (assuming the Companies are permitted to file supplemental POLR testimony).

Notwithstanding the foregoing, and as a compromise to accommodate competing interests in the procedural schedule as part of an expedited request, AEP Ohio sets forth an alternative amended procedural schedule below order to coordinate the schedule for AEP Ohio's 2012 ESP with the Remand phase of their 2009 ESP; provide AEP Ohio with an opportunity to supplement their testimony in support of their 2012 ESP's proposed POLR charges; allow Intervenors additional time to prepare and file testimony in response to AEP Ohio's supplemental POLR testimony; and permit the Staff additional time to prepare and file its testimony:

June 16 - Existing discovery cutoff stays in place for 2012-2014 ESP (except for intervenor requests related to supplemental POLR testimony and Company requests to intervenors regarding their yet-to-be-filed testimony)

June 23 – Intervenor ESP remand testimony\*

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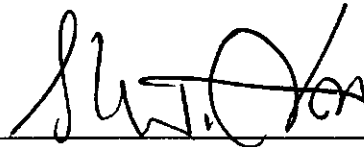
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All other deadlines established by the Commission's May 25 Entry in the Remand phase of AEP Ohio's 2009 ESP and its scheduling Entries in the 2012 ESP would remain the same.

### **CONCLUSION**

In sum, AEP Ohio should be given an opportunity to update its POLR testimony in light of the Supreme Court decision and pending remand proceeding – and it recognizes that related modifications to the procedural schedule are appropriate to allow for Staff and Intervenors to respond to the supplemental POLR testimony. AEP Ohio also recognizes and supports the notion that Staff may need additional time to formulate its testimony and possibly involve a brief delay in the evidentiary hearing. But the Company has a vital interest in receiving a timely decision on its 2012 ESP and is concerned that Staff's motion is overbroad in solving the stated problem, while unduly narrow in ignoring the Company's opportunity to update its POLR position. To the extent that the Commission is inclined to extend Intervenors testimony deadline in general (as opposed to a more tailored response of allowing extra time to respond to supplemental POLR testimony only), the Company submits that the more comprehensive and balanced proposal set forth above should be adopted.



Respectfully submitted,

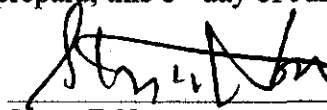
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Columbus Southern Power Company's and Ohio Power Company's Motion and Request for Expedited Ruling and Memorandum in Partial Opposition has been served upon the below-named counsel via First Class mail, postage prepaid, this 8<sup>th</sup> day of June, 2011.



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