

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.)

ENTRY

The Attorney Examiner finds:

- (1) On January 27, 2011, Columbus Southern Power Company (CSP) and Ohio Power Company (OP) (jointly, AEP-Ohio or the Companies) filed an application for a standard service offer (SSO) pursuant to Section 4928.141, Revised Code. The application is for an electric security plan (ESP) in accordance with Section 4928.143, Revised Code.
- (2) On April 22, 2011, Ormet Primary Aluminum Corporation (Ormet) filed a motion seeking a formal consolidation of the above-captioned four cases. Ormet states that formal consolidation would permit Ormet's *pro hac vice* counsel to represent Ormet in all four cases without contravening Gov. Bar R. XII of the Ohio Supreme Court, which provides that each *pro hac vice* attorney may appear in no more than three cases in Ohio per calendar year. According to Ormet, the Ohio Supreme Court will not recognize the four dockets as one consolidated docket without a formal consolidation order of the Commission. Ormet points out that, without formal consolidation, no single *pro hac vice* attorney can be admitted to all four cases.
- (3) On April 29, 2011, AEP-Ohio filed a memorandum contra Ormet's motion to consolidate the four cases. Citing Civ. R. 42(A), AEP-Ohio states that consolidation is only warranted where four factors are demonstrated. AEP-Ohio contends that

Ormet has not attempted to establish that consolidation is appropriate under those factors, but rather that Ormet merely seeks consolidation to avoid the Ohio Supreme Court's limitation on *pro hac vice* admission. AEP-Ohio asserts that the four cases consist of three individual applications, properly filed by two different legal entities, which do not share common questions of fact or law. Finally, AEP-Ohio notes that it followed the Commission's docketing procedures and case purpose codes to identify and file separate applications seeking approval of changes to its distribution rates, tariffs, and accounting methods.

- (4) On May 6, 2011, Ormet filed a reply memorandum. Ormet states that AEP-Ohio actually filed only a single application in the four dockets and not three separate applications. Ormet points out that AEP-Ohio states in its SSO filing that the application was developed and presented as a single company filing in light of the proposed merger of CSP and OP. Ormet also notes that the parties and pleadings are substantially the same in all four dockets and that a single procedural schedule for all four cases has been set. Ormet represents that formal consolidation of these cases will allow for the most efficient use of the parties' resources.
- (5) The Attorney Examiner denies Ormet's request to consolidate the four cases into a single docket before the Commission to circumvent the Ohio Supreme Court's limitation on *pro hac vice* admission. Accordingly, Ormet's motion to consolidate the above-listed cases is denied.
- (6) By entries issued March 23, 2011, and July 8, 2011, the motions for admission *pro hac vice* filed on behalf of Holly Rachel Smith, and Shannon Fisk, respectively, were granted. Subsequently, motions to correct or revise the scope of Ms. Smith's and Mr. Fisk's participation in these proceedings were filed. Ms. Smith requested that her admission *pro hac vice* be revised and limited to Case No. 11-346-EL-SSO and Mr. Fisk requested that his admission *pro hac vice* be revised and limited to Case Nos. 11-346-EL-SSO and 11-348-EL-SSO.
- (7) On July 6, 2011, as amended July 19, 2011, motions for admission *pro hac vice* were filed on behalf of Scott C. Solberg, Arin C. Aragona, and David M. Stahl to represent Exelon

Generation Company, LLC in Case Nos. 11-346-EL-SSO and 11-348-EL-SSO.

- (8) The Attorney Examiner finds that the motions to revise and limit the admission *pro hac vice* of Ms. Smith and Mr. Fisk are reasonable and should be granted. Further, the motions for admission of Messrs. Solberg, Aragona, and Stahl are reasonable and should be granted.
- (9) On July 8, 2011, AEP-Ohio filed a motion for leave to file inadvertently omitted pages of the testimony of Dr. Chantale LaCasse filed on July 6, 2011. The Companies state that the day after the testimony was filed, it was brought to counsel's attention that five pages had been omitted as a result of clerical error. AEP-Ohio sent the missing pages to the parties in the proceeding by electronic mail on July 7, 2011. The Companies request an expedited ruling on the motion.
- (10) The Attorney Examiner finds the Companies' July 8, 2011, request for leave to incorporate the missing pages into Dr. LaCasse's testimony to be reasonable and, therefore the motion for leave to file inadvertently omitted pages of testimony of Dr. LaCasse's testimony should be granted.

It is, therefore,

ORDERED, That Ormet's motion to consolidate the above-captioned cases be denied in accordance with finding (5). It is, further,

ORDERED, That the motions *pro hac vice* be granted as discussed in finding (8). It is, further,

ORDERED, That AEP-Ohio's motion for leave to file inadvertently omitted pages of Dr. LaCasse's testimony be granted. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Greta See
Attorney Examiner

SJ
vrm

Entered in the Journal

JUL 22 2011

Betty McCauley

Betty McCauley
Secretary