

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)
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 July 1, 2011, AEP-Ohio filed a motion for a protective order in accordance with the requirements of Rule 4901-1-24, Ohio Administrative Code (O.A.C.). In the motion, AEP-Ohio claims that information in or attached to the supplemental direct testimony of Jay F. Godfrey and Philip J. Nelson contains confidential information. According to AEP-Ohio, the confidential information at issue includes commercial terms and conditions, pricing, payment structure and key terms of the agreement between AEP-Ohio and Turning Point Solar LLC (Turning Point Participation Agreement) and with Isofoton. The Companies assert, as attested to in the attached affidavit of Mr. Godfrey, that the confidential information is not publicly available or ascertainable to others outside of the parties to the contract other than on a confidential basis and AEP-Ohio derives economic value from the information on the basis that it is not generally known to persons who can obtain value from its disclosure. Further, as stated in the affidavit, AEP-Ohio, Turning Point and Isofoton take

all reasonable efforts to protect the information from public disclosure including limiting access to the information within AEP-Ohio, Turning Point and Isofoton to only those persons with a legitimate need to access the information, otherwise protecting the information from disclosure beyond AEP-Ohio, Turning Point and Isofoton and executing confidentiality agreements to protect the information from disclosure by persons outside the companies with a legitimate purpose. AEP-Ohio argues that disclosure of the information will provide Turning Point, Isofoton and AEP-Ohio competitors an unfair competitive advantage causing harm to Turning Point, Isofoton and AEP-Ohio. As such AEP-Ohio request that the information be protected from public disclosure. No memorandum contra AEP-Ohio's July 1, 2011 motion was filed with the Commission.

- (3) The AEP-Ohio, Turning Point and Isofoton information for which AEP-Ohio requests a protective order constitutes confidential, proprietary, competitively sensitive, and trade secret information. Accordingly, the requests for a protective order is reasonable and should be granted.
- (4) On July 19, 2011, motions for admission *pro hac vice* were filed on behalf of Anastasia Polek-O'Brien, to represent Exelon Generation Company, LLC, and on behalf of William Massey, to represent Compete Coalition, in Case Nos. 11-346-EL-SSO and 11-348-EL-SSO. No memoranda contra the motions for admission *pro hac vice* were filed.
- (5) The motions for admission *pro hac vice* are reasonable, comply with Gov. Bar R. XII of the Ohio Supreme Court and, therefore, should be granted.
- (6) Pursuant to the procedural schedule established in these proceedings, as revised by the entry issued July 8, 2011, intervenor testimony was due July 25, 2011. With the filing of intervenor testimony, motions for a protective order were filed by FirstEnergy Solutions Corp (FirstSolutions), the Office of the Ohio Consumers' Counsel (OCC) and Exelon Generation Company, LLC (Exelon) (jointly Movants). No memorandum contra any of the motions for a protective order was filed. On August 2, 2011, AEP-Ohio filed a motion for protective order essentially in support of those filed by Movants.

- (7) In the motions, AEP-Ohio and the Movants state that certain of the information in or attached to the direct testimony of Jonathan A. Lesser, Michael M. Schnitzer, Anthony J. Yankel and Joseph Dominguez contain competitively sensitive, proprietary and confidential, trade secret information pursuant to Section 1333.61, Revised Code, that requires protection from public disclosure according to AEP-Ohio. Pursuant to a confidentiality agreement between AEP-Ohio and each of the Movants, the Movants are obligated to seek confidential treatment of the designated information.¹ The testimony submitted by the Movants includes information which may be generally summarized as follows: projected forecast for fuel expenditures and related analyses; projected proposed rider rates analyses; environmental compliance timeline and projected capacity rate projections; estimates of the impact of the termination or modification of certain provisions of the Pool Agreement; projected earnings and margins from off-system sales; the projected capacity factor of the Turning Point Solar facility; details of offerings for energy and capacity; reserve margins through 2029; planned retirements; and projected sales and load data. The Companies assert that the information has been kept confidential and as a result retains substantial economic value to the Companies. AEP-Ohio asserts that public access to the information would allow third parties to replicate the constrained option model at little or no cost and significantly reduce the value of the information causing harm to AEP-Ohio. Thus, AEP-Ohio requests that the confidentiality of the information be maintained consistent with Section 149.43, Revised Code, and Rule 4901-1-24, O.A.C.
- (8) The information for which AEP-Ohio and the Movants request a protective order constitutes confidential, proprietary, competitively sensitive and trade secret information. Accordingly, the requests for a protective order are reasonable and should be granted.
- (9) Pursuant to Rule 4901-1-24(F), O.A.C., the information filed under seal in this matter shall be granted protective treatment for 18 months from the date this entry is issued. Any request to extend a protective order must be filed at least 45 days before the order expires.

¹ OCC specifically indicates its intention to reserve the right to initiate the process to determine if confidential treatment of the redacted information is appropriate.

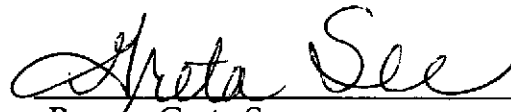
It is, therefore,

ORDERED, That the motions for protective order filed by AEP-Ohio, FirstSolutions, OCC and Exelon are granted pursuant to findings (3), (8) and (9). It is, further,

ORDERED, That the motions *pro hac vice* be granted as discussed in finding (5). It is, further,

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

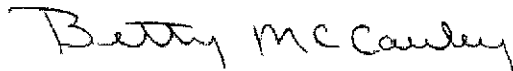
THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Greta See
Attorney Examiner

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Entered in the Journal
AUG 04 2011



Betty McCauley
Secretary