

**BEFORE THE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission Review of	)	
the Capacity Charges of Ohio Power	)	Case No. 10-2929-EL-UNC
Company and Columbus Southern Power	)	
Company.	)	

---

**FIRSTENERGY SOLUTIONS CORP.'S MOTION TO EXTEND THE  
DEADLINE FOR TESTIMONY OR IN THE ALTERNATIVE FOR EXPEDITED  
DISCOVERY AND REQUEST FOR EXPEDITED RELIEF**

---

On March 14, 2012, the Attorney Examiner issued a procedural entry (the "Entry") which permitted AEP Ohio to "revise or update [AEP Ohio's] testimony" and required AEP Ohio to file its testimony by March 23, 2012. The Entry also provided that intervenor testimony is due on March 30, 2012, seven days after AEP Ohio's testimony is due. This Entry also provided for a ten-day discovery response period, making it impossible to issue discovery in response to AEP Ohio's testimony and incorporate that discovery in intervenor testimony.

In order to develop a complete record in this case, FirstEnergy Solutions Corp. ("FES") requests that the procedural schedule for this case be changed in order to permit discovery in response to AEP Ohio's testimony. If the Commission retains the 10-day discovery response period, FES requests that intervenor testimony be filed by Monday, April 9, 2012. In the alternative, FES requests that the discovery response period be shortened to three days.

FES further requests, pursuant to Rule 4901-1-12 of the Ohio Administrative Code, that an expedited ruling be issued. A memorandum in support of this motion is attached hereto and incorporated herein.

Respectfully submitted,

s/ N. Trevor Alexander

---

Mark A. Hayden (0081077)  
FIRSTENERGY SERVICE COMPANY  
76 South Main Street  
Akron, OH 44308  
(330) 761-7735  
(330) 384-3875 (fax)  
haydenm@firstenergycorp.com

James F. Lang (0059668)  
Laura C. McBride (0080059)  
N. Trevor Alexander (0080713)  
CALFEE, HALTER & GRISWOLD LLP  
1400 KeyBank Center  
800 Superior Ave.  
Cleveland, OH 44114  
(216) 622-8200  
(216) 241-0816 (fax)  
jlang@calfee.com  
lmcbride@calfee.com  
talexander@calfee.com

David A. Kutik (0006418)  
JONES DAY  
901 Lakeside Avenue  
Cleveland, OH 44114  
(216) 586-3939  
(216) 579-0212 (fax)  
dakutik@jonesday.com

Allison E. Haedt (0082243)  
JONES DAY  
P.O. Box 165017  
Columbus, OH 43216-5017  
(614) 469-3939  
(614) 461-4198 (fax)  
aehaedt@jonesday.com  
*Attorneys for FirstEnergy Solutions Corp.*

**BEFORE THE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission Review of	)	
the Capacity Charges of Ohio Power	)	Case No. 10-2929-EL-UNC
Company and Columbus Southern Power	)	
Company.	)	

---

**MEMORANDUM IN SUPPORT OF FIRSTENERGY SOLUTIONS CORP.'S MOTION  
TO EXTEND THE DEADLINE FOR TESTIMONY OR IN THE ALTERNATIVE FOR  
EXPEDITED DISCOVERY AND REQUEST FOR EXPEDITED RELIEF**

---

In the March 14, 2012 Entry (the "Entry"), the Attorney Examiner set a procedural schedule relating to AEP Ohio's capacity charge application. In this Entry, the Attorney Examiner directed the parties to "develop an evidentiary record on the appropriate capacity cost pricing/recovery mechanism including, if necessary, the appropriate components of any proposed capacity cost recovery mechanism."<sup>1</sup> In order to develop this evidentiary record, the Attorney Examiner permitted AEP Ohio to file new testimony by March 23, 2012, and ordered an expedited ten-day discovery response period.<sup>2</sup> Unfortunately, the procedural schedule contained in the Entry does not permit any discovery in response to this new AEP Ohio testimony before intervenor testimony is due on March 30, 2012. This procedural schedule, if not modified, would significantly prejudice the intervenors contesting AEP Ohio's attempt to move away from market-based pricing in violation of due process.

As was recognized in the Entry, AEP Ohio seeks to significantly change the state compensation mechanism for capacity pricing in Ohio. AEP Ohio's proposal is based on its purported costs associated with providing capacity, and its calculation of these purported costs is

---

<sup>1</sup> Entry, p. 3.

<sup>2</sup> Id.

very much in dispute by various intervenors, including FES. Therefore, discovery in response to AEP Ohio's calculation of these purported costs is essential in this case.

In order to develop a complete record for the Commission's consideration, FES respectfully requests that intervenor testimony be due on or before April 9, 2012. Even assuming that intervenors issue their discovery requests on Monday, March 26, 2012 (the next business day after AEP Ohio's testimony is filed on Friday, March 23, 2012), this extension would provide intervenors with only one business day to incorporate AEP Ohio's discovery responses into the intervenor testimony.

In the alternative, FES respectfully requests that the discovery response period be changed to three days. Once again, even assuming that discovery requests on this new AEP Ohio testimony are issued the next business day after the testimony is received, this change to the discovery response period would provide intervenors with only one business day to incorporate AEP Ohio's discovery responses into the intervenor testimony due to be filed on March 30, 2012.

In this case AEP Ohio is attempting to change the landscape for customers and CRES providers by imposing massively above-market capacity charges. As recognized in the Entry, the parties have been charged with creating an evidentiary record which encompasses both: (1) the appropriate capacity pricing mechanism; and (2) the appropriate components of a capacity cost recovery mechanism. While the appropriate capacity pricing mechanism is clearly market-based RPM pricing, there is no way to provide intervenor testimony regarding the appropriate components of a cost-based pricing mechanism without knowing what components AEP Ohio seeks to include in this mechanism and how these purported costs have been calculated.

In order to establish a valid evidentiary record, at minimum intervenors should have the opportunity to conduct discovery in response to AEP Ohio's testimony and to incorporate AEP Ohio's discovery responses into the intervenor's testimony. Therefore, FES respectfully requests that the due date for intervenor testimony be changed to April 9, 2012, or the response period for discovery be changed to three days.

Respectfully submitted,

s/ N. Trevor Alexander

Mark A. Hayden (0081077)  
FIRSTENERGY SERVICE COMPANY  
76 South Main Street  
Akron, OH 44308  
(330) 761-7735  
(330) 384-3875 (fax)  
haydenm@firstenergycorp.com

James F. Lang (0059668)  
Laura C. McBride (0080059)  
N. Trevor Alexander (0080713)  
CALFEE, HALTER & GRISWOLD LLP  
1400 KeyBank Center  
800 Superior Ave.  
Cleveland, OH 44114  
(216) 622-8200  
(216) 241-0816 (fax)  
jlang@calfee.com  
lmcbride@calfee.com  
talexander@calfee.com

David A. Kutik (0006418)  
JONES DAY  
901 Lakeside Avenue  
Cleveland, OH 44114  
(216) 586-3939  
(216) 579-0212 (fax)  
dakutik@jonesday.com

Allison E. Haedt (0082243)  
JONES DAY  
P.O. Box 165017  
Columbus, OH 43216-5017

(614) 469-3939  
(614) 461-4198 (fax)  
aehaedt@jonesday.com

*Attorneys for FirstEnergy Solutions Corp.*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *FIRSTENERGY SOLUTIONS CORP.'S MOTION TO EXTEND THE DEADLINE FOR TESTIMONY OR IN THE ALTERNATIVE FOR EXPEDITED DISCOVERY AND REQUEST FOR EXPEDITED RELIEF* was served this 15th day of March, 2012, via e-mail upon the parties below.

s/ N. Trevor Alexander

One of the Attorneys for FirstEnergy Solutions Corp.

Steven T. Nourse  
Matthew J. Satterwhite  
Anne M. Vogel  
American Electric Power Corp.  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
stnourse@aep.com  
mjsatterwhite@aep.com  
amvogel@aep.com

Dorothy K. Corbett  
Amy Spiller  
Duke Energy Retail Sales  
139 East Fourth Street  
1303-Main  
Cincinnati, Ohio 45202  
dorothy.corbett@duke-energy.com  
amy.spiller@duke-energy.com

Daniel R. Conway  
Porter Wright Morris & Arthur  
41 South High Street  
Columbus, Ohio 43215  
dconway@porterwright.com

David F. Boehm  
Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
dboehm@bkllawfirm.com  
mkurtz@bkllawfirm.com

Cynthia Fonner Brady  
David I. Fein  
550 W. Washington Street, Suite 300  
Chicago, IL 60661  
cynthia.a.fonner@constellation.com  
david.fein@constellation.com

Terry L. Etter  
Maureen R. Grady  
Jeffrey L. Small  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
etter@occ.state.oh.us  
grady@occ.state.oh.us  
small@occ.state.oh.us

Richard L. Sites  
Ohio Hospital Association  
155 East Broad Street, 15th Floor  
Columbus, Ohio 43215-3620  
ricks@ohanet.org

Thomas J. O'Brien  
Bricker & Eckler  
100 South Third Street  
Columbus, Ohio 43215-4291  
tobrien@bricker.com

Shannon Fisk  
2 North Riverside Plaza, Suite 2250  
Chicago, IL 60606  
sfisk@nrdc.org

John W. Bentine  
Mark S. Yurick  
Zachary D. Kravitz  
Chester Willcox & Saxbe, LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215  
jbentine@cwslaw.com  
myurick@cwslaw.com  
zkravitz@cwslaw.com

Terrence O'Donnell  
Christopher Montgomery  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215-4291  
todonnell@bricker.com  
cmontgomery@bricker.com

Jesse A. Rodriguez  
Exelon Generation Company, LLC  
300 Exelon Way  
Kennett Square, Pennsylvania 19348  
jesse.rodriguez@exeloncorp.com

Glen Thomas  
1060 First Avenue, Ste. 400  
King of Prussia, Pennsylvania 19406  
gthomas@gtpowergroup.com

Henry W. Eckhart  
2100 Chambers Road, Suite 106  
Columbus, Ohio 43212  
henryeckhart@aol.com

Jay E. Jadwin  
American Electric Power Service Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
jejadwin@aep.com

Michael R. Smalz  
Joseph V. Maskovyak  
Ohio Poverty Law Center  
555 Buttles Avenue  
Columbus, Ohio 43215  
msmalz@ohiopoveritylaw.org  
jmaskovyak@ohiopoveritylaw.org

Lisa G. McAlister  
Matthew W. Warnock  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215-4291  
lmcaster@bricker.com  
mwarnock@bricker.com

William L. Massey  
Covington & Burling, LLP  
1201 Pennsylvania Ave., NW  
Washington, DC 20004  
wmassey@cov.com

Laura Chappelle  
4218 Jacob Meadows  
Okemos, Michigan 48864  
laurac@chappelleconsulting.net

Pamela A. Fox  
Law Director  
The City of Hilliard, Ohio  
pfox@hilliardohio.gov

Christopher L. Miller  
Gregory H. Dunn  
Asim Z. Haque  
Stephen J. Smith  
Schottenstein Zox & Dunn Co., LPA  
250 West Street  
Columbus, Ohio 43215  
cmiller@szd.com  
ahaque@szd.com  
ssmith@szd.com  
gdunn@szd.com

Sandy Grace  
Exelon Business Services Company  
101 Constitution Avenue N.W., Suite 400 East  
Washington, DC 20001  
sandy.grace@exeloncorp.com

Kenneth P. Kreider  
David A. Meyer  
Keating Muething & Klekamp PLL  
One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
kpkreider@kmklaw.com  
dmeyer@kmklaw.com

Holly Rachel Smith  
Holly Rachel Smith, PLLC  
Hitt Business Center  
3803 Rectortown Road  
Marshall, Virginia 20115  
holly@raysmithlaw.com

Gregory J. Poulos  
EnerNOC, Inc.  
101 Federal Street, Suite 1100  
Boston, MA 02110  
gpoulos@enernoc.com

M. Howard Petricoff  
Stephen M. Howard  
Michael J. Settineri  
Lija Kaleps-Clark; Benita Kahn  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
Columbus, Ohio 43215  
mhpeticoff@vorys.com  
smhoward@vorys.com  
mjsettineri@vorys.com  
lkalepsclark@vorys.com  
bakahn@vorys.com

Gary A. Jeffries  
Dominion Resources Services, Inc.  
501 Martindale Street, Suite 400  
Pittsburgh, PA 15212-5817  
gary.a.jeffries@aol.com

Steve W. Chriss  
Wal-Mart Stores, Inc.  
2001 SE 10th Street  
Bentonville, Arkansas 72716  
stephen.chriss@wal-mart.com

Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-3927  
barthroyer@aol.com

Werner L. Margard III  
John H. Jones  
William Wright  
Thomas Lindgren  
Assistant Attorneys General  
Public Utilities Section  
180 East Broad Street, 6th Floor  
Columbus, OH 43215  
werner.margard@puc.state.oh.us  
john.jones@puc.state.oh.us  
William.wright@puc.state.oh.us  
Thomas.Lindgren@puc.state.oh.us

Philip B. Sineneng  
Terrance A. Mebane  
Carolyn S. Flahive  
Thompson Hine LLP  
41 S. High Street, Suite 1700  
Columbus, Ohio 43215  
philip.sineneng@thompsonhine.com  
carolyn.flahive@thompsonhine.com  
terrance.mebane@thompsonhine.com

Samuel C. Randazzo  
Joseph E. Olikier  
Frank P. Darr  
McNees Wallace & Nurick  
21 East State Street, 17th Floor  
Columbus, Ohio 43215  
sam@mwncmh.com  
joliker@mwncmh.com  
fdarr@mwncmh.com

John N. Estes III  
Paul F. Wight  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Ave., N.W.  
Washington, DC 20005  
jestes@skadden.com  
paul.wight@skadden.com

Tara C. Santarelli  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212  
tsantarelli@elpc.org

Christopher J. Allwein  
Williams, Allwein and Moser, LLC  
1373 Grandview Avenue, Suite 212  
Columbus, Ohio 43212  
callwein@williamsandmoser.com

Emma F. Hand  
Douglas G. Bonner  
Keith C. Nusbaum  
Clinton A. Vince  
SNR Denton US LLP  
1301 K Street, NW, Suite 600, East Tower  
Washington, DC 20005-3364  
emma.hand@snrdenton.com  
doug.bonner@snrdenton.com  
keith.nusbaum@snrdenton.com  
Clinton.vince@snrdenton.com

Colleen L. Mooney  
David C. Rinebolt  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, Ohio 45840  
cmooney2@columbus.rr.com  
drinebolt@ohiopartners.org

Trent A. Dougherty  
Cathryn Loucas (0073533)  
Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212-3449  
trent@theoeg.org  
cathy@theoec.org

Joel Malina  
Executive Director  
COMPLETE Coalition  
1317 F Street, NW  
Suite 600  
Washington, DC 20004  
malina@wexlerwalker.com

David M. Stahl  
Arin C. Aragona  
Scott C. Solberg  
Eimer Stahl Klevorn & Solberg LLP  
224 South Michigan Avenue, Suite 1100  
Chicago, IL 60604  
dstahl@eimerstahl.com  
aaragona@eimerstahl.com  
ssolberg@eimerstahl.com

Jay L. Kooper  
Katherine Guerry  
Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095  
jkooper@hess.com  
kguerry@hess.com

Robert Korandovich  
KOREnergy  
P. O. Box 148  
Sunbury, OH 43074  
korenergy@insight.rr.com

Allen Freifeld  
Samuel A. Wolfe  
Viridity Energy, Inc.  
100 West Elm Street, Suite 410  
Conshohocken, PA 19428  
afreifeld@viridityenergy.com  
swolfe@viridityenergy.com

Mark A. Whitt  
Carpenter Lipps & Leland LLP  
280 Plaza, Suite 1300  
280 North High Street  
Columbus, Ohio 43215  
whitt@carpenterlipps.com

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**3/15/2012 5:13:19 PM**

**in**

**Case No(s). 10-2929-EL-UNC**

Summary: Motion To Extend The Deadline For Testimony Or In The Alternative For Expedited Discovery And Request For Expedited Relief electronically filed by Mr. Nathaniel Trevor Alexander on behalf of FirstEnergy Solutions Corp.