

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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|---|---|------------------------|
| 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 §4928.143, Ohio Rev. Code, |) | |
| in the Form of an Electric Security Plan. |) | |

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| 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. |) | |

**OHIO POWER COMPANY’S MOTION FOR AMENDMENT TO THE
PROCEDURAL SCHEDULE AND REQUEST FOR EXPEDITED TREATMENT**

Ohio Power Company (“Ohio Power” or “Company”) files this request pursuant O.A.C. 4901-1-12 asking the Commission for a change in the procedural schedule in these dockets and request for expedited consideration. In particular, Ohio Power requests that the Commission adapt the schedule to get closer to a decision by June 1, 2012.

In an effort to reach that goal, Ohio Power requests the Commission to consider finding opportunities to amend the schedule to facilitate a quicker decision. The Company offers to assist in the processing of a faster briefing schedule through the filing of the hearing transcripts in the public record to ensure the start of briefing right after the hearing. This effort will enable oral arguments to be held after the Commission meeting on June 13, 2012.

Ohio Power also requests that the Examiner amend the schedule to allow for written discovery by the Company. The Examiner could change the date for supplemental Ohio Power testimony to April 23, 2012 and move the Intervenors due date up to May 1, 2012.

This would allow the Commission to compress the remaining schedule leading up to hearing and also allow an opportunity for Ohio Power to conduct written discovery commensurate with the rights of the Intervenors in the case on the testimony. If accepted, the procedural schedule would read:

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| -Supplemental Testimony of AEP | <i>Monday, April 23, 2012</i> |
| -Testimony of Intervenors | <i>Tuesday, May 1, 2012</i> |
| -Discovery Cutoff (except notices of depo) | Friday, May 4, 2012 |
| -Testimony of Staff | Friday, May 4, 2012 |
| -Prehearing Conference | Monday, May 7, 2012 |
| -Hearing | Monday, May 14, 2012 |
| -Oral Argument | <i>Wednesday June 13, 2012</i> |

In the alternative, on the discovery matter, the Examiner could move the date for Ohio Power to conduct written discovery on the Intervenors a business day from Friday, May 4, 2012 to Monday, May 7, 2012 and require answers to be due prior to the start of the hearing. Ohio Power respectfully requests that the Examiner make this simple adjustment to the schedule to ensure Ohio Power has the rights similar to the Intervenors in the case to issue written discovery on the Intervenors' prefiled testimony, to prepare

for the hearing. The Company also requests expedited consideration of this motion.

These points are further developed in the attached memorandum in support.

Respectfully Submitted,

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**MEMORANDUM IN SUPPORT OF OHIO POWER COMPANY'S
MOTION FOR AMENDMENT TO THE PROCEDURAL SCHEDULE AND
REQUEST FOR EXPEDITED TREATMENT**

On April 2, 2012, the Examiner established a procedural schedule in these cases and laid out, among other things, the filing of testimony, the discovery parameters, and hearing dates. Of particular interest the Examiner determined:

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| -Testimony of AEP | April 27, 2012 |
| -Discovery (except notices of depo) | May 4, 2012 |
| -Testimony of Intervenors/Staff | May 4, 2012 |
| -Prehearing Conference | May 7, 2012 |
| -Hearing | May 14, 2012 |
| -Oral Argument | July 3, 2012 |

The Company is concerned that the oral argument is scheduled too far after the hearing date, making a decision in June impossible. The hearing is scheduled for May 14, 2012, and the oral argument is not set until almost two months later. That is a

concern for Ohio Power, which agreed to not withdraw from the distribution settlement in 11-351 *et. al* last month and to maintain the \$15 million credit for residential customers and PWO funding even absent the collection of the DIR. That commitment was made with an expectation that this case would be processed as expeditiously as possible. As stated in that case, “[a]bsent any other factors that could change the facts, the Company will commit to not withdraw from the Stipulation and focus its efforts on an efficient processing of the modified ESP proceeding and litigation of the Capacity Charge Case (10-2929).” See Case No. 11-351 *et al.*, March 15, 2012, Ohio Power Motion for Clarification at 8. The Examiner stated the Commission’s goal of resolving these issues by June 1, 2012, but stated that the complexity of the application and the process dictates the ordered schedule in the Procedural Entry. It should be noted that many of the issues involved in the modified case have been considered by the parties and the Commission in the previous phases of this proceeding. The fact that this is a modified filing is one reason that a change to the schedule is now justified.

Ohio Power would ask that the procedural schedule in this case be reconsidered to provide a more timely decision. While it would not provide for a decision by June 1, 2012, one way in which Ohio Power can assist in closing the gap in the current schedule is to provide resources to move the oral argument currently scheduled for July 3, 2012, forward to June 13, 2012, by causing the transcripts of the hearing to be filed in the record upon completion of the evidentiary hearing. Typically a briefing schedule is determined at the end of a proceeding, but the schedule is dependent upon when the daily transcripts will be included in the public record for use on brief by the parties. To ensure that an order can be provided to implement in time for the July billing period, Ohio

Power will agree in advance to facilitate the filing of the daily transcripts in the public record at the end of the hearing to allow for a briefing schedule to begin immediately upon the conclusion of the hearing. This public filing of the transcripts should remove any unnecessary delay in the briefing schedule and allow oral arguments to occur earlier than planned. Ohio Power suggests those arguments take place on June 13, 2012. Again, Ohio Power does this with the expectation that an order will be released to be implemented by the July 2012 billing cycle.

It should also be noted that upon a review of the established schedule it is obvious that Ohio Power will not have any opportunity to conduct any written discovery upon the testimony and witnesses of the Intervenors. With the Intervenor testimony due on May 4th and the written discovery cutoff also due on May 4th, the Company will not have any testimony upon which to prepare written discovery prior to the cutoff.

The Intervenors are receiving over a month to conduct their written discovery on the Company's testimony. In total, the Intervenors will have had since the filing of the modified ESP on March 30, 2012 until May 4, 2012 to prepare and issue discovery on the Company's testimony. By comparison, the only opportunity provided to the Company to engage in written discovery based on prefiled testimony is the chance that an Intervenor will file its testimony earlier in the day so that the Company can turn around written discovery on that same day. The current schedule means that a meaningful opportunity for written discovery is being provided to every party except for Ohio Power, the party with the burden in the case.

The opportunity to do depositions on the witnesses of each Intervenor does not alleviate the burden on the Company. With over twenty six (26) parties in the case, and

the opportunity for more, the establishment of a coherent deposition schedule for all potential witnesses between May 4th and the start of the May 14th hearing would be difficult. But the opportunity to seek a round of written discovery may help alleviate the need for a deposition on every single Intervenor witness.

A relatively minor adjustment to the schedule can accommodate Ohio Power's request. Moving the Intervenor testimony due date to May 1, 2012 can be done in concert with the movement of any supplemental Company testimony. Ohio Power filed its testimony on March 30, 2012, and while it does not expect a need to file supplemental testimony, the Commission could adjust the schedule to allow any updates to Company testimony to be filed by April 23, 2012.¹ Movement of the due date for Intervenor testimony just three days to Wednesday May 1, 2012 (still a full month from the release of the initial procedural schedule) to file its testimony is adequate time to prepare its testimony. Staff would still have until Friday, May 4, 2012. This three day change in the schedule, combined with the change in date of the Ohio Power supplement, allows all other parts of the schedule to remain in place.

Ohio Power encourages the Examiner to consider other times in the procedural schedule to modify to ensure a more timely decision, but at a minimum the changes recommended result in the following schedule:

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| -Supplemental Testimony of AEP | <i>Monday, April 23, 2012</i> |
| -Testimony of Intervenors | <i>Tuesday, May 1, 2012</i> |
| -Discovery Cutoff (except notices of depo) | Friday, May 4, 2012 |
| -Testimony of Staff | Friday, May 4, 2012 |

¹ Ohio Power reserves its right as the party with the burden in this case to file rebuttal testimony if necessary.

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|------------------------|--------------------------------|
| -Prehearing Conference | Monday, May 7, 2012 |
| -Hearing | Monday, May 14, 2012 |
| -Oral Argument | <i>Wednesday June 13, 2012</i> |

In the alternative, with respect to the discovery issue, if the Examiner is not inclined to change the schedule as requested above, a change to Ohio Power's ability to serve written discovery is requested. In particular, Ohio Power requests that the Commission allow the Company to issue discovery requests until the end of the very next business day after the Intervenor's file their testimony and require the Intervenor to supply responsive answers by the end of that week in time for consideration in the evidentiary hearing starting May 14, 2012.

A simple one business day adjustment to allow for the Company to prepare written discovery on the Intervenor testimony could assist the Company in organizing the potential myriad of issues that could be proposed or offered by so many different interests. That means *moving the cutoff for discovery on only the Intervenor testimony* from the day that testimony is filed on Friday May 4th to Monday May 7th. This minor change would at least provide the Company the weekend to review the different Intervenor testimony and determine which witnesses could be served written discovery and which may require both written and oral discovery.

With the discovery being so close to the start of the hearing it would also make sense to ensure Intervenor's respond to the written discovery responses by the close of business on Friday, May 11, 2012. While this written discovery will not provide the Company with any responses prior to any depositions conducted that week, as long as the

Intervenors provide responsive answers², it will allow the Company time to review the responses over the weekend prior to the start of the hearing and perhaps conduct fewer depositions in parallel with the hearing.

The alternative schedule dealing with discovery would appear as the following:

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| -Testimony of AEP | April 27, 2012 |
| -Discovery Cutoff (except notices of depo) | May 4, 2012 |
| -Testimony of Intervenors/Staff | May 4, 2012 |
| - <i>Discovery Extension for OP on Testimony filed May 4th*</i> | <i>May 7, 2012</i> |
| -Prehearing Conference | May 7, 2012 |
| -Hearing | May 14, 2012 |
| -Oral Argument | <i>June 13, 2012</i> |

* Responses to Ohio Power Discovery served on May 7, 2012 will be due by the close of business Friday May 11, 2012

Ohio Power appreciates the Commission's willingness to recognize the need to expeditiously resolve this case, and the effort to provide an appropriate schedule to consider the modified filing. In the interest of keeping the schedule moving, Ohio Power seeks the Commission's ruling on this matter on an expedited basis. The alternative change option could also be done without further delay. As indicated in O.A.C. 4901-1-12, "[i]f the motion requests an extension of time to file pleadings or other papers of five days or less, an immediate ruling may be issued without the filing of memoranda." The

² The Company would ask that the Commission instruct Intervenors to take the written discovery seriously and provide quality and responsive answers to ensure efficient use of the parties and the Commission's process.

request in this motion is such a request and could be ruled upon immediately to provide parties notice of the schedule.

Ohio Power respectfully requests that the Commission provide the adjustment to the procedural schedule to provide the Company with the same opportunity that the other twenty six (26) Intervenors in the case enjoy– to conduct written discovery on the testimony and witnesses prefiled by Intervenors and time to utilize those responses in an evidentiary hearing. Ohio Power also asks the Commission to consider the impact of delay in an ultimate decision on issues previously discussed in this docket and that impact the financial situation of the Company with every day that passes.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Ohio Power Company's Motion for Amendment to the Procedural Schedule and Request for Expedited Treatment has been served upon the below-named counsel and Attorney Examiners by electronic mail to all Parties this 4th day of April, 2012.

//s/ Matthew J. Satterwhite
Matthew J. Satterwhite

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Summary: Motion for Amendment to the Procedural Schedule and Request for Expedited Treatment electronically filed by Mr. Matthew J Satterwhite on behalf of Columbus Southern Power Company and Ohio Power Company