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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 Establish a Standard Service Offer Pursuant to Section 4928.143. Revised Code, in the Form of an Electric Security Plan.	**Case No. 11-346-EL-SSO** **Case No. 11-348-EL-SSO**
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority.	**Case No. 11-349-EL-AAM** **Case No. 11-350-EL-AAM**

MEMORANDUM CONTRA OF ORMET PRIMARY ALUMINUM CORPORATION TO OHIO POWER COMPANY'S MOTION FOR AMENDMENT TO THE PROCEDURAL SCHEDULE AND REQUEST FOR EXPEDITED TREATMENT

The Commission should deny Ohio Power Company's ("AEP Ohio's")[1] motion to amend the procedural schedule to the extent that it accelerates the already aggressive deadline for the intervenors to submit testimony regarding AEP Ohio's over 620 page ESP application. AEP Ohio proposes to, among other changes, advance the current May 4, 2012 deadline for submission of intervenor testimony to May 1, 2012.[2] AEP Ohio argues that doing so would

[1] AEP Ohio is a subsidiary of American Electric Power ("AEP"), a company that is publicly traded on the New York Stock Exchange.

[2] As an initial matter, AEP Ohio suggests that pursuant to Ohio Administrative Code section 4901-1-12(C), the Commission may rule on its motion without considering memoranda contra. That rule allows the Commission to issue an expedited ruling without waiting for memoranda contra where: a) the movant merely requests an extension of time of less than five days; or b) where the movant seeks something more than a mere less-than-five-day extension, asks the other parties' permission, and they do not object. AEP Ohio's motion does not fit within this rule. First, AEP Ohio's motion does not merely request an extension of time of five days or less;

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further AEP Ohio's unique goal of reaching a Commission decision as close to June 1, 2012 as possible. The Commission should not grant AEP Ohio's motion in this respect for two reasons. First, AEP Ohio has failed to present the Commission with any credible reason to rush the already accelerated process. Contrary to its two claims allegedly justifying modification to the schedule, AEP Ohio is in a strong fiscal position, and the intervenors have had very little time to analyze the application. Second, the intervenors are already faced with significant time constraints to prepare their testimony and should not be further limited. Addressing each of these issues in turn, Ormet respectfully suggests that the Commission should deny AEP Ohio's motion to the extent it seeks to shorten the time intervenors have to prepare their testimony.

AEP Ohio first seeks to justify accelerating the Commission's procedural schedule based on the false pretense of its financial hardship and need for new rates to be imposed by its July billing cycle.[3] In reality, no such hardship exists as AEP Ohio has enjoyed net income of over $1 billion over the last two calendar years.[4] It also earned a Return on Equity ("ROE") of 12.06 percent in 2011,[5] a rate higher than any ROE approved for an electric utility in the country in

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rather, it seeks to shorten the intervenors' time to prepare testimony. Second, AEP Ohio "fails to certify that no party has any objection, [so] any party may file a memorandum contra." O.A.C. § 4901-1-12(C). Third, Ormet never said it would not object to AEP Ohio's motion; in fact, it does. Fourth, the rule says only that the Commission "may" rule without receiving memoranda contra if the rule's requirements are satisfied, not that the Commission need not consider memoranda contra filed before the Commission rules.

[3] AEP Ohio Mem. in Support of Mot. for Amendment to the Procedural Schedule at pp. 4-5 (Apr. 4, 2012).

[4] *See* American Electric Power's Annual 10-K Report at p. 189 (Feb. 28, 2012), *available at* http://www.aep.com/investors/financialfilings andreports/edgar/filings.aspx?section=Ohio PowerFilings.

[5] Direct Testimony of William A. Allen in Support of AEP Ohio's Modified Electric Security Plan at 14 (Mar. 30, 2012).

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2011.[6] In fact, AEP's CEO recently addressed the impact of AEP Ohio having to continue its 2011 rates and effectively told AEP's shareholders that the company *does not* have a financial need to accelerate the schedule in this case. He said to a bank analyst, specifically with regard to the financial impact of the possibility that AEP Ohio would be forced to continue to operate under 2011 rates: "I don't think that would be a big issue at all if that's the way it ends up . . . we'll just continue on with where we are and that's not a bad news story for us at all."[7] AEP is now collecting rates that are even higher than it did in 2011. In light of AEP Ohio's industry-leading ROE, its billion dollar net income over two years, and the AEP CEO's representations that continuing the 2011 rates would not harm AEP, AEP Ohio's suggested need to implement changes by the July billing cycle strain credulity.

AEP Ohio also inaccurately claims that the intervenors have had months to prepare their testimony based on "the previous phases of this proceeding."[8] That is misleading. AEP Ohio itself admits that its newly proposed ESP presents an entirely different application since it expressly intends for the application to be considered as a "balanced package of terms."[9] In fact, AEP Ohio dedicates many pages of its application simply to summarize how the other sections of the application are different from its previous filings. For example, the stated purpose of Mr. Dias' testimony is to explain the "major differences between the original ESP II (filed January

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[6] *See* Exhibit A attached, *available at* http://www.fortnightly.com/exclusive.cfm?o_id=70 by selecting "electric" as the utility type with a date range of all months in 2011 and sorting by "ROE Rate Newly Authorized."

[7] AEP-Q2 2011 American Electric Power Earnings Conference Call, July 29, 2011, transcript available from SeekingAlpha, *available at* http://seekingalpha.com/article/283262-american-electric-power-s-ceo-discusses-q2-2011-results-earnings-call-transcript?part=qanda (last accessed Sept. 27, 2011).

[8] AEP Ohio Mem. in Support of Mot. for Amendment to the Procedural Schedule at 5 (Apr. 4, 2012).

[9] Direct Testimony of Robert P. Powers in Support of AEP Ohio's Modified Electric Security Plan at 5:2-4 (Mar. 30, 2012).

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2011)" and the current, "modified ESP II plan."[10] AEP Ohio stresses through Mr. Dias' testimony that this application is different because, among other things, it eliminates the Market Transition Rider and the Load Factor Rider while presenting entirely new riders.[11] That the application is a new package with "major" changes requires reviewing it anew to understand how all the pieces fit together. Furthermore, the Commission expressly allowed for new intervenors to join the case when it set the procedural schedule at issue.[12] Since then, several new parties have intervened, and they have not had months to prepare their testimony.[13] For AEP Ohio to now argue that the intervenors have had months to prepare testimony relevant to the current, "modified ESP II plan" is not accurate.

That AEP Ohio needed many pages simply to highlight the differences between this over 620 page application and its previous application highlights the extraordinary complexity of reaching just and reasonable rates in this case. It equally highlights the need for a full and complete record before the Commission. Accordingly, the Commission should reject AEP Ohio's invitation to rush to judgment.

AEP Ohio fails to present any reason to grant its motion other than its claim of financial need, which contradicts many publicly available facts, and its false claim about how long the intervenors have had to consider AEP Ohio's application. Conversely, Ormet and the other intervenors present good reasons that they need all the time that was originally allotted to them to consider the new application before submitting testimony. AEP Ohio's application contains myriad assumptions and unexplained figures that are relied upon by AEP Ohio to justify its

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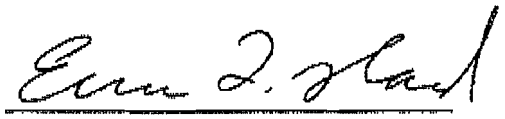
[10] Direct Testimony of Selwyn J. Dias in Support of AEP Ohio's Modified Electric Security Plan at 3:9-14 (Mar. 30, 2012).
[11] *Id.* at 9:1-2.
[12] Entry Ordering Procedural Schedule at ¶8(b) (April 2, 2012).
[13] *See, e.g.*, Mot. to Intervene and Mem. in Supp. of Ohio Restaurant Ass'n (April 4, 2012); Mot. to Intervene and Mem. in Supp. of the Ohio Construction Materials Coalition (April 3, 2012).

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claims. To properly analyze AEP Ohio's application requires understanding AEP Ohio's assertions and the reasonableness of the assumptions on which they are based. Doing so requires carefully deconstructing the application and analyzing it in its entirety. Conducting such a review takes time, but benefits every party involved, including AEP Ohio, and especially the Commission and the ratepayers of Ohio.

The rush to judgment that AEP Ohio requests would deprive the Commission of evidence and clarity that it needs to engage in meaningful review of AEP Ohio's application for its justness and reasonableness. Accordingly, for all the foregoing reasons, the Commission should consider Ormet's Memorandum Contra and deny AEP Ohio's motion to the extent it seeks to shorten the time allotted for the intervenors' preparation of testimony.

Respectfully submitted,



Emma F. Hand (PHV-1353-2012)
Douglas G. Bonner (PHV-1363-2012)
SNR Denton US LLP
1301 K Street, NW
Suite 600, East Tower
Washington, DC 20005
Tel: 202-408-6400
Fax: 202-408-6399
emma.hand@snrdenton.com
douglas.bonner@snrdenton.com

Attorneys for Ormet Primary Aluminum Corporation

April 9, 2012

EXHIBIT A

UTILITIES ROE SURVEY REPORT

Report (All Results)

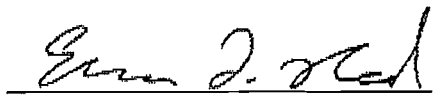
State	Company	Utility Type	Order Date	Previously Authorized ROE Rate	Newly Authorized ROE Rate	ROE Difference
	Loughan Power Co	Electric	8/15/2011	12	12	0.00
	Southern California Edison Co.	Electric	4/14/2011	11.6	11.5	-0.10
	Pacific Gas & Electric Co.	Electric	5/6/2011	11.35	11.35	0.00
	Municipal Light & Power	Electric	8/22/2011		10.93	
	Montana-Dakota Utilities Co.	Electric	6/8/2011		10.75	
	Otter Tail Power Co.	Electric	4/25/2011	10.43	10.74	0.31
	Commonwealth Edison Co.	Electric	5/24/2011	10.3	10.5	0.20
	Southern Indiana Gas & Electric dba Vectren Delivery of Indiana	Electric	4/27/2011	10.4	10.4	0.00
	Interstate Power & Light Co.	Electric	8/12/2011	10.39	10.35	-0.04
	Madison Gas & Electric Co.	Electric	1/12/2011	10.4	10.3	-0.10
	Northern States Power Co.	Electric	7/12/2011		10.3	
	Wisconsin Public Service Corp.	Electric	7/19/2011	10.8	10.3	-0.50
	NorthWestern Energy	Electric	8/26/2011	10.25	10.25	0.00
	Union Electric Co. dba Ameren Missouri	Electric	7/13/2011	10.1	10.2	0.10
	Public Service Co. of Oklahoma	Electric	1/5/2011	10	10.15	0.15
	Texas-New Mexico Power Co	Electric	1/27/2011	10.25	10.125	-0.13
	CenterPoint Energy	Electric	5/12/2011		10	
	Appalachian Power Co. & Wheeling Power Co. dba American Electric Power	Electric	3/30/2011	10.5	10	-0.50
	Delmarva Power & Light Co.	Electric	6/8/2011	10	10	0.00
	Public Service Co. of New Mexico	Electric	7/28/2011		10	
	Interstate Power & Light Co.	Electric	1/10/2011	10.5	10	-0.50
	KCP&L Greater Missouri Operations Co	Electric	6/1/2011		10	
	Kansas City Power & Light Co.	Electric	4/12/2011		10	
	Southwestern Public Service Co.	Electric	3/25/2011	10.25	10	-0.25
	Oklahoma Gas & Electric Co.	Electric	6/17/2011	10.25	9.95	-0.30
	PacifiCorp dba Rocky Mountain Power	Electric	3/28/2011	10.25	9.9	-0.35
	Baltimore Gas & Electric Co.	Electric	3/9/2011		9.85	
	PacifiCorp dba Pacific Power & Light Co	Electric	3/25/2011	10.2	9.8	-0.40
	Utah Energy Systems	Electric	4/28/2011	9.67	9.67	0.00
	Western Massachusetts Electric Co	Electric	1/31/2011	10	9.6	-0.40
	Central Vermont Public Service Co	Electric	4/20/2011	9.59	9.45	-0.14
	Ontario Power Generation Inc.	Electric	3/10/2011	8.57	9.43	0.68
	Niagara Mohawk Power Corp.	Electric	1/24/2011		9.3	
	Orange & Rockland Utilities, Inc.	Electric	6/17/2011	9.4	9.2	-0.20
	Fitchburg Gas & Electric Co.	Electric	8/1/2011	10	9.2	-0.80
	Empire District Electric Co.	Electric	6/1/2011	10.0		
	Delmarva Power & Light Co.	Electric	7/6/2011	10		
	Otter Tail Power Co.	Electric	3/14/2011			
	East Kentucky Power Co-op	Electric	1/14/2011			
	Mid-Kansas Electric Co.	Electric	8/30/2011			
	Wellsboro Electric Co.	Electric	1/13/2011			
	Citizens Electric Co.	Electric	1/13/2011			
	Montana-Dakota Utilities Co.	Electric	7/20/2011	10.25		
	Northern States Power Co	Electric	1/12/2011	10.4		

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Memorandum Contra of Ormet Primary Aluminum Corporation to Ohio Power Company's Motion for Amendment to the Procedural Schedule and Request for Expedited Treatment* was served by U.S. Mail and email upon counsel identified below for all parties of record this 9th day of April, 2012.



Emma F. Hand (PHV-1353-2012)

SERVICE LIST

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

Dorothy K. Corbett
Duke Energy Retail Sales
139 East Fourth Street
1303-Main
Cincinnati, Ohio 45202
Dorothy.Corbett@duke-energy.com

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

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

Samuel C. Randazzo
Joseph E. Oliker
Frank P. Darr
Vicki L. Leach-Payne
Joseph M. Clark
McNees Wallace & Nurick
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
joliker@mwncmh.com
fdarr@mwncmh.com

Terry L. Etter
Maureen R. Grady
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

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

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

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45840
cmooney2@columbus.rr.com

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

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

Michael R. Smalz
Ohio Poverty Law Center
555 Buttles Avenue
Columbus, Ohio 43215
msmalz@ohiopovertylaw.org
jmaskovyak@ohiopovertylaw.org

010 SNR DENTON 04/09/2012 13:31 FAX +12024086399

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

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

Lisa G. McAlister
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
lmcalister@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

United Way of Jefferson County
501 Washington Street
P.O. Box 1463
Steubenville, OH 43952

04/09/2012 13:31 FAX +12024086399 SNR DENTON 011

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

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

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

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

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

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

John H. Jones
Vern Margard
Public Utilities Section
Ohio Attorney General Mike DeWine
180 East Broad Street, 6th Floor
Columbus, Ohio 43215
john.jones@puc.state.oh.us
werner.margard@puc.state.oh.us

Greg Poulos
EnerNOC, Inc.
101 Federal St.
Boston, Massachusetts 02110
gpoulos@enernoc.com

Carolyn S. Flahive
Terrance A. Mebane
Thompson Hine LLP
41 S. High Street, Suite 1700
Columbus, Ohio 43215
Carolyn.Flahive@ThompsonHine.com
Terrance.Mebane@ThompsonHine.com

Leo Antons
1237 Cisler Dr.
Marietta, OH 45750
leoantons@suddenlink.net

04/09/2012 13:31 FAX +12024086399 SNR DENTON 012

E. Camille Yancey
Nolan Moser
Trent A. Dougherty
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
camille@theoec.org
nolan@theoec.org
trent@theoec.org

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

Mark A. Hayden
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
haydenm@firstenergycorp.com

James F. Lang
Laura C. McBride
N. Trevor Alexander
Calfee, Halter & Griswold LLP
1400 KeyBank Center
800 Superior Ave.
Cleveland, OH 44114
jlang@calfee.com
lmcbride@calfee.com
talexander@calfee.com

David A. Kutik
Jones Day
901 Lakeside Avenue
Cleveland, OH 44114
dakutik@jonesday.com

Allison E. Haedt
Grant W. Garber
Jones Day
P.O. Box 165017
325 John H. McConnell Boulevard
Suite 600
Columbus, Ohio 43216-5017

Christopher J. Allwein
1373 Grandview Ave.
Suite 212
Columbus, OH 43212
wein@williamsandmoser.com

J. Kennedy And Associates
570 Colonial Park Drive
Suite 305
Roswell, GA 30075

04/09/2012 13:31 FAX +12024086399 SNR DENTON 013

Jennifer Duffer
Armstrong & Okey, Inc.
222 East Town Street
2nd Floor
Columbus, OH 43215
jduffer@ameritech.net

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

Lija K. Kaieps-Clark
M. Howard Petricoff
Vorys, Sater, Seymour and Pease
52 E. Gay St.
PO Box 1008
Columbus, OH 43216
lkalepsclark@vorys.com
mhpetricoff@vssp.com

Canton Chamber Of Commerce
229 Wells Ave N.W.
Canton, OH 44703-1044

Bill Dingus
Lawrence Economic Development Corporation
P.O. Box 488
South Point, OH 45680-0488

Amy Spiller
Duke Energy Ohio
139 E. Fourth Street, 1303-Main
P.O. Box 961
Cincinnati, OH 45201-0960
Amy.Spiller@Duke-Energy.com

Constellation NewEnergy Inc
Cynthia Fonner Brady
550 W Washington Street
Suite 300
Chicago, IL 60661
Cynthia.Brady@constellation.com

FirstEnergy Solutions Corp
Louis M. D'Alessandris
341 White Pond Drive
Akron, OH 44320
ldalessandris@firstenergy.com

Denis George
Kroger Company
1014 Vine Street-G07
Cincinnati, OH 45202-1100

Ohio Partners For Affordable Energy
David C. Rinebolt
231 West Lima St.
P.O. Box 1793
Findlay, OH 45839-1793
drinebolt@aol.com

04/09/2012 13:31 FAX +12024086399 SNR DENTON 014

Steve Howard
52 East Gay St.
P.O. Box 1008
Columbus, OH 43215
smhoward@.vorys.com

The Sierra Club
50 West Broad Street #2117
Columbus, OH 43215

AEP Retail Energy Partners LLC
Anne M. Vogel
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
amvogel@aep.com

Meigs County Commissioners
Michael Davenport, President
100 East Second Street
Pomeroy, OH 45769

Shawnee State University
940 Second Street
Portsmouth, OH 45662

Tuscarawas County
330 University Drive NE
New Philadelphia, OH 44663

Mark A. Whitt
Carpenter, Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus OH 43215

Paul F. Wight
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005

Jeffrey Small
Jody M. Kyler
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
small@occ.state.oh.us
kyler@occ.state.oh.us

Deb J. Bingaham
Patti Mallarnee
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Jacqueline Lake Roberts
EnerNOC, Inc.
13212 Haves Corner Road SW
Pataskala OH 43062

Philip B. Sineneng
Thompson Hine LLP
41 S. High Street, Suite 1700
Columbus, Ohio 43215
Philip.Sineneng@ThompsonHine.com

Tracy Bradford
City of Hilliard
3800 Municipal Way
Hilliard OH 43026

Vincent Parisi
Scott White
Interstate Gas Supply Inc.
6100 Emerald Parkway
Dublin OH 43016

04/09/2012 13:31 FAX +12024086399 SNR DENTON 015

Tiffany Chetock
Madison Township Trustees
13174 St. Rt. 45
Lisbon OH 44432

Ohio Power Company
Legal Department
1 Riverside Plaza
Columbus OH 43215

Natural Resources Defense Council
50 W Broad Street, Suite 2117
Columbus, OH 453215

Teresa Ringenbach
Direct Energy Business LLC Manager
Government & Regulatory Affairs
9605 El Camino
Plain City OH 43064

Marietta City Council
Paul Bertram III
308 Putnam Street
Marietta OH 45750

Columbus Southern Power Company
Steven T. Nourse
1 Riverside Plaza
Columbus OH 43215

Roger R. Geiger
National Federation of Independent
Business- Ohio
10 West Broad Street,Suite 2450
Columbus OH 43215

Van Wert County Commissioners
120 E. Main Street
Van Wert OH 45891-1704

Chad A. Endsley
Ohio Farm Bureau Federation
280 N. High Street
Columbus OH 43218-2383

Ohio Construction Materials Coalition
Attn: Brian Barger
4052 Holland-Sylvania Road
Toledo, OH 43623
Ph: (419) 885-3000
Fx: (419) 885-1120
bpbarger@bcslawyers.com

Brakey Energy
Matt Brakey
P.O. Box 202720
Cleveland OH 44120-8128

Ohio Restaurant Association
Diem N. Kaelber
Robert Walter
10 West Broad Street, Suite 1300
Columbus, Ohio 43215
(614) 461-5600
(614) 461-5630 (fax)
kaelber@buckleyking.com
walter@buckleyking.com

25501230\V-2

04/09/2012 13:31 FAX +12024086399 SNR DENTON 016