

**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 §4928.143, Ohio Rev. 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.	)	

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**OHIO POWER COMPANY’S REPLY MEMORANDUM TO THE  
JOINT MEMORANDUM CONTRA  
OHIO POWER COMPANY’S REQUESTS FOR WAIVERS**

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**INTRODUCTION**

Ohio Power Company (Ohio Power or Company) files memorandum contra the Joint Memorandum Contra filed by the Industrial Energy Users-Ohio (IEU), First Energy Solutions Corp’s (FES), and Appalachian Peace and Justice Network (collectively Opposing Parties) filed on April 10, 2012. Ohio Power supports its initial filing supporting the specific waivers requested and urges the Commission to recognize the grant of those waivers to move forward in this modification phase of the Ohio Power Electric Security Plan (ESP) efficiently and expeditiously. The Attorney Examiner already ruled in a March 23, 2011 Entry granted the waiver of information related to O.A.C. 4901:1-35-03(C)(3) and 4901:1-35(C)(9)(b). The Commission approved recognizing its right to later require the information if it was necessary to process the application.

Ohio Power filed a modified request to establish a Standard Service Offer (SSO) as part of its ESP on March 30, 2012. As part of that modification, Ohio Power included some waiver requests to expedite the process and conform to the Commission's orderly deliberations on Ohio Power's request to establish a SSO first filed in January of 2011. The Company sought waivers related to administrative code rules dealing with rate impacts of the Turning Point project (not sought for final approval in the modified application), certain information related to the Turning Point project if recovered as a non-bypassable surcharge, and a general request for any other waivers deemed necessary. The modified plan establishes the mechanism without approving the final terms of the Turning Point project, so the information is not necessary for the processing of the modified plan and can once again be provided when needed at a later filing.

### **ARGUMENT**

At the outset, as stated in the modified plan, the filing of this modified plan in this docket does not require compliance with the SSO filing requirement. In an attempt to provide the Commission with the information organized as preferred in the rules, the Company used the filing requirements as the guide for its filing. That effort did involve the need to request certain waivers as they relate to the modified plan. The Company provided the appropriate support for the waivers and asserts that granting of the waivers, to the extent the Commission deems necessary, will provide for an efficient and orderly processing of the modified plan.

The first waiver challenged by the Opposing Parties is the previously granted request concerning the information in O.A.C. 4901:1-35-03(C)(3), dealing with rate impacts. The Opposing Parties improperly use a number of references to the Entry on

Rehearing where the Commission explained its concern with the rate design impacts of the rejected Stipulation as an argument that a waiver of this specific rule previously waived by the Commission should not be waived again. Opposing Parties also ignore the efficiency of the modified application that does not seek final approval of a specific project but just the mechanism and recognition of the need for the project so that a later case can be convened to see if the Commission would like the project to actually be built. This is the exact process preferred by the Commission in the December 14, 2011 Opinion and Order to delay the consideration of the costs and final approval of any project for a later date but to establish the mechanism and the items needed in the ESP proceeding.

There is no reason for the Commission to abandon its well balanced and efficient path to process this case in the last round of the proceeding. The rationale still holds true as the most efficient manner for the Commission to manage its dockets, which is a matter under the Commission's discretion. The waiver and process proposed should be approved by the Commission.

The Opposing Parties also challenge the request for a waiver of O.A.C. 4901:1-35(C)(9)(b) dealing with information related to a generation facility sought for a non-bypassable surcharge. Again the Opposing Parties ignore the attempts at efficiency filed by the Company as previously laid out by the Commission. The details of the Turning Point project will be addressed in a separate RDR case so that the Commission can focus on the exact project and make its determination on the details of the project in a focused manner. The waiver simply recognizes that the request in the modified application is to set up the mechanism for recovery as needed under the statute, not the costs. A number of considerations will go into whether the Turning Point project is a project that would be

recovered in that mechanism and, with Commission authority in this case, that debate and consideration can happen in that later case. As pointed out by the Opposing Parties, the Commission is presently considering the need in Case Nos. 10-501-EL-LTFR and 10-502-EL-LTFR. The Commission can manage its dockets to recognize that decision in this docket and order the next round to consider the costs and other matters specific to the project if desired. The Opposing Parties attempt to assert non-compliance with the rules ignores the request sought in this modified application and should be rejected and the waiver granted.

The Opposing Parties also challenge the request for any other waiver necessary for application of the case. Nothing about this docket can be considered routine. Again the case docket was opened in January of 2011 and has gone through a number of iterations. This waiver was requested in the interest of empowering the Commission to process the case as efficiently and orderly as possible. The general waiver request was intended to provide a request for the Commission to rely upon to exercise its discretion to react to situations that could arise or that it sees in relation to processing a unique modified application for a SSO under an ESP. It is not in the interest of customers or the industry to have some issue arise that could prevent the Commission from making a final determination in this unique case. Thus, the Company urges the Commission to preserve its discretion and grant this waiver request to the extent necessary.

## **CONCLUSION**

As shown in the docket the Commission is interested in an orderly and efficient processing of this proceeding that is well into its second year of consideration. The process thus far has provided the Commission with a clear understanding of the issues

involved and the matter is now focused on the modified application plan filed on March 30, 2011. With that focus comes the logical granting of certain waivers to ensure the issues are clear and focused at hearing and for Commission decision. The specific points raised by Opposing Parties were considered by the Company and previously by the Commission and the focus on those issues will come at a later date. The Company respectfully requests that the Commission maintain its focus and grant the waivers allowing the case to move forward in an orderly and efficient manner as proposed by the Company.

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 Reply Memorandum has been served upon the below-named counsel and Attorney Examiners by electronic mail to all Parties this 13<sup>th</sup> day of April, 2012.

//s// Matthew J. Satterwhite  
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Summary: Memorandum OPC Reply Memorandum to the Joint Memorandum Contra OPC Requests for Waivers electronically filed by Mr. Matthew J Satterwhite on behalf of American Electric Power Service Corporation