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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) Case No. 11-346-EL-SSO
Establish a Standard Service Offer Pursuant) Case No. 11-348-EL-SSO
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.)

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***THE OHIO SCHOOLS'
MEMORANDUM CONTRA OHIO POWER COMPANY'S MOTION TO STRIKE***

By motion filed May 11, 2012, Ohio Power Company ("AEP Ohio") moved to strike the direct testimony of Ohio Schools'¹ witness Dr. Howard B. Fleeter, filed in these proceedings on May 4, 2012, on the basis that such testimony is irrelevant. AEP Ohio asserts that Dr. Fleeter's testimony is irrelevant because it discusses "the impact of the State's 2012-2013 budget on Ohio's public schools" and "makes no reference to the any of the Company's proposals in this case." AEP Ohio Motion to Strike at 8.

AEP Ohio conveniently ignores that the overriding issue in these proceedings is the reasonableness of the rates and pricing contained in its proposed electric security plan ("ESP"). See, e.g., Sections 4928.02(A) and 4928.143(C)(1), Ohio Rev. Code. At the public hearings already held in these proceedings, public school officials have testified – with no objection from AEP Ohio – as to the hardships caused by the recent funding cuts to Ohio's public schools, and

¹ Joint intervenors Ohio Association of School Business Officials, Ohio School Boards Association, Buckeye Association of School Administrators, and Ohio Schools Council are referred to herein as the "Ohio Schools."

to the unreasonableness of increasing schools' rates in this difficult economic environment. See, e.g., Transcript, Columbus Local Hearing, April 30, 2012, at 54-56.

In addition, Ohio Schools' witness Frye, in his direct testimony filed May 4, 2012, testifies as to the schools' financial plight caused by the lack of traditional revenue sources. To support his position, Mr. Frye relies, in part, on Dr. Fleeter's testimony as to the enormity of the state and federal funding cuts. See Ohio Schools' witness Frye's direct testimony, at 5 and 18-19. Significantly, AEP Ohio has not moved to strike Mr. Frye's testimony.

Ohio Schools' witness Dr. Fleeter's testimony is relevant, as it corroborates the school officials' testimony at the local hearing and Mr. Frye's testimony at the evidentiary hearing, and provides the amounts of the funding cuts involved. Dr. Fleeter testifies at page 5 of his testimony:

Total funding losses from both state and federal sources over the biennium will mean that Ohio school districts will receive about **\$2.8 billion** less in total State and federal funds over the two year period than they would have received under a continuation of fiscal year 2011 funding levels.

Moreover, it is the Ohio Schools' position in these proceedings that schools should be provided special rate treatment in the ESP. The Ohio Supreme Court has found that schools may be given such special treatment "because of (1) their unique status, (2) their unique needs, (3) their inability to pass on costs, and (4) their financial plight. See *County Comm'rs Assn. v. Pub. Util. Comm.* (1980), 63 Ohio St.2d 243, 246. This treatment is particularly applicable in an ESP proceeding in which the standard of review is whether the ESP is more favorable in the aggregate than the market rate option, considering both quantifiable and non-quantifiable benefits. See 4928.143(C)(1), Ohio Rev. Code. Not increasing the electric rate burden on schools will provide significant benefits to all Ohioans by ensuring that taxpayer dollars remain

in the classroom, thus providing Ohio with a well-educated work force to compete in the global economy.

Finally, although Dr. Fleeter's testimony clearly is relevant, the Ohio Schools must note that the Commission "is not strictly confined by the Rules of Evidence." See *Cincinnati Bell Tel. Co. v. Pub. Util. Comm.* (1984), 12 Ohio St. 3d 280. Commission proceedings are not tried before a jury, but before an Attorney Examiner who has broad discretion in the conduct of proceedings and the expertise to provide proper weight to the evidence admitted.

Wherefore, the Ohio Schools respectfully request that AEP Ohio's motion to strike Dr. Fleeter's testimony be denied.

Respectfully submitted,

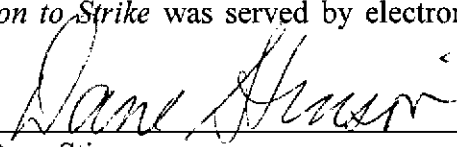
A handwritten signature in black ink, reading "Dane Stinson", is written over a horizontal line.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing the *Ohio Schools' Memorandum Contra Ohio Power Company's Motion to Strike* was served by electronic mail this 16th day of May 2012, upon the following.


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