

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**NFIB/OHIO'S MEMORANDUM IN OPPOSITION TO
OHIO POWER COMPANY'S MOTION TO STRIKE TESTIMONY**

The Hearing on AEP-Ohio's modified ESP will determine, notably from NFIB/Ohio's perspective, whether the application includes a thorough discussion of "provisions to address rate design concern for small commercial customers and residential customers in the former CSP service territory using more than 800 kWh in winter months." (Entry dated March 7, 2012 at p. 5) In addition, the Hearing will consider: proposed new rates for customers by class and rate per submitted schedules; standard service offer rate provisions; new nonbypassable riders relating to generation resource and retail stability; a distribution investment rider; the transmission cost recover rider; and, will address a broad range of issues which AEP Ohio claims in its modified ESP application will "have the effect of stabilizing and providing certainty regarding retail electric service which is claimed to be "more favorable in the aggregate" as compared to the expected results that would otherwise apply under §4928.142 of the Revised Code."

NFIB/Ohio represents over 24,000 small-business owners and energy consumers of various size and industry class in Ohio. It intervened in this proceeding because its members have a real and substantial interest in this Commission's decision has upon competition and resulting costs to its members. NFIB/Ohio submitted the direct testimony of Roger R. Geiger, Vice President and Executive Director of the Ohio Chapter of NFIB/Ohio. The stated purpose of Mr. Geiger's testimony is to relay the concerns of NFIB/Ohio's members to the Commission with respect to their AEP-Ohio monthly bills, the impact of a competitive marketplace, and the perspective of NFIB/Ohio's members as to the effects and impact of AEP-Ohio's rates currently under assessment by the Commission. (*See*, Direct Testimony of Roger R. Geiger, pp.3-4). Mr. Geiger testimony includes this rate impact upon three NFIB/Ohio members, owners of small businesses in Bucyrus, Zanesville, and Mansfield, respectively. These are precisely the types of small business customers referenced in the Commission's February 23, 2012, Entry on Rehearing (p.11) discussing the impacts of the proposed, modified ESP in this proceeding.

Despite the Commission's stated concerns, AEP-Ohio claims that the portion of Mr. Geiger's testimony recounting the impact and effect that rate increases have had on these three businesses in particular, and upon small businesses in the AEP-Ohio territory in general, are somehow "irrelevant" to this proceeding. (Motion to Strike, Memo at pp. 1, 2, 7 and 8). The stated "irrelevance" of such testimony is that it is claimed to be "outside the scope of this proceeding" (Id, p. 7) in that these portions of Mr. Geiger's testimony "relate solely to the rate impacts members experienced as a result of retail rates that the Commission initially approved in December 2011, but were subsequently rejected." (Id.) AEP-Ohio states that it is proposing different rates and therefore any testimony discussing old rates, as well as the exhibits attached to Mr. Geiger's testimony, are "irrelevant and should be stricken." (Id.)

Mr. Geiger's testimony provides "real world" context in which the impact of energy costs upon small commercial customers within the AEP Ohio service territory may be considered by this Commission. This is precisely the impact that this Commission has time and again expressed to be of paramount concern to it in this and similar proceedings. The relevance of such testimony and accompanying exhibits, where AEP-Ohio's rates have yet to be determined, could not be more obvious. And in an evidentiary context, surely Mr. Geiger offers testimony having a tendency to make the existence of any fact that is of consequence to the determination of this action more probable or less probable than it would be without the evidence. Ohio Evid. R. 401. The impact of AEP-Ohio's rates upon small business owners and the class of commercial customers served in the AEP-Ohio service territory are certainly facts that are "of consequence" to the determination and outcome of this proceeding, and therefore "relevant."

For all the foregoing reasons, the Motion to Strike the Testimony of Mr. Geiger on the grounds of relevancy (page 5, line 10 through page 6, line 23 through "territory", including the exhibits attached to his testimony), should be denied.

Respectfully submitted,

/s/ Roger P. Sugarman

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NIFB/OHIO'S MEMORANDUM IN OPPOSITION TO OHIO POWER COMPANY'S MOTION TO STRIKE TESTIMONY was served by electronic mail, this 16th day of May, 2012, upon the following parties, or their counsel of record to this action:

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Case No(s). 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Memorandum in Opposition to Ohio Power Company's Motion to Strike Testimony electronically filed by Mr. Roger P. Sugarman on behalf of The National Federation of Independent Business