

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|--|---|-------------------------|
| In the Matter of the Ohio Power |) | |
| Company's Request for Authorization to |) | Case No. 13-1427-EL-UNC |
| Suspend its Service Agreement with |) | |
| FirstEnergy Solutions Corp. |) | |
| |) | |

| | | |
|-----------------------------------|---|-------------------------|
| In the Matter of the Complaint of |) | |
| FirstEnergy Solutions Corp., |) | |
| |) | |
| Complainant, |) | Case No. 13-1439-EL-CSS |
| |) | |
| v. |) | |
| |) | |
| Ohio Power Company, |) | |
| |) | |
| Respondent. |) | |

FIRSTENERGY SOLUTIONS CORP.'S MOTION TO STAY AND CONSOLIDATE

Pursuant to O.A.C. 4901-1-12, FirstEnergy Solutions Corp. ("FES") hereby respectfully requests that the Commission stay its determination of Ohio Power Company's ("AEP Ohio") Request to Suspend AEP Ohio's Electric Distribution Company/Competitive Retail Electric Service Provider Agreement with FES in Case No. 13-1427-EL-UNC pending a determination of the reasonableness of AEP Ohio's credit requirements, as is at issue in Case No. 13-1439-EL-CSS. The two proceedings also should be consolidated. Before the Commission can resolve AEP Ohio's Request to Suspend and determine FES' (and other CRES providers') rights and obligations thereunder, the Commission must assess the reasonableness of AEP Ohio's credit requirements. Indeed, AEP Ohio's Request to Suspend is based solely on AEP Ohio's unreasonable credit requirements. Therefore, in the interests of efficiency and in order to

provide the Commission with the information necessary to resolve the parties' disputes, AEP Ohio's request for an automatic suspension should be stayed so that the parties' arguments can be more fully determined.

A Memorandum in Support of this Motion is attached hereto and incorporated herein by reference.

Respectfully submitted,

/s/ Mark A. Hayden

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| |) | |
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MEMORANDUM IN SUPPORT OF
FIRSTENERGY SOLUTIONS CORP.'S MOTION TO STAY AND CONSOLIDATE

On June 18, 2013, Ohio Power Company ("AEP Ohio") filed a request for Commission authorization to suspend AEP Ohio's Electric Distribution Company/Competitive Retail Electric Service Provider Agreement (the "Agreement") with FirstEnergy Solutions Corp. ("FES") claiming that FES has not satisfied certain obligations regarding the posting of collateral. *See* Case No. 13-1427-EL-UNC. For the reasons more fully set forth in FES' contemporaneously filed Response to AEP Ohio's Request to Suspend, AEP Ohio's implementation of its credit requirements and its calculation of its risk are flawed and prejudicial. Thus, its Request to Suspend also is improper. On June 19, 2013, FES filed a separate Complaint against AEP Ohio seeking the Commission's determination that AEP Ohio's credit requirements are unjust, unreasonable, and should be rejected. *See* Case No. 13-1439-EL-CSS. The issues in the two proceedings are inextricably intertwined. Before the Commission can consider AEP Ohio's

Request to Suspend its Agreement with FES based upon an alleged failure to comply with credit requirements (Case No. 13-1427-EL-UNC), it must first determine if the credit requirements are reasonable and proper (Case No. 13-1439-EL-CSS). Accordingly, FES requests that the Commission consolidate the two proceedings to allow for a full and proper determination of the issues presented by AEP Ohio's credit requirements.

Revised Code § 4901.13 grants the Commission broad discretion in the conduct of its proceedings. *Duff v. Pub. Util. Comm.* (1978), 56 Ohio St. 2d 367, 379. Moreover, “[i]t is well-settled that pursuant to R.C. 4901.13, the commission has the discretion to decide how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay and eliminate unnecessary duplication of effort.” *Toledo Coal. for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St. 2d 559, 560 (1982); *see also Weiss v. Pub. Util. Comm.*, 90 Ohio St. 3d 15, 19 (2000). The Commission has granted consolidation where the consolidated proceedings involved similar issues and parties. *See In the Matter of the Application of Ohio Power Company for Approval of a Special Contract Arrangement with Ormet Primary Aluminum Corporation*, Case No. 96-999-EL-AEC, Entry (Dec. 23, 2005); *In the Matter of the Complaint of CoreComm Newco, Inc.*, Case No. 01-1528-TP-CSS, Entry (Aug. 27, 2001). Here, the issues and the parties are exactly overlapping. Both proceedings involve AEP Ohio and FES and both proceedings necessitate a determination of whether AEP Ohio's credit requirements are reasonable. Consolidation would avoid duplication of the Commission's and the parties' resources and would ensure consistency in the proceedings and the Commission's resulting determination.

Therefore, pursuant to R.C. § 4901.13 and in the interest of efficiency and economy, FES requests that the Commission stay AEP Ohio's request for an automatic suspension to eliminate

the automatic suspension after 10 business days provided for by AEP Ohio's Supplier Tariff and consolidate Case No. 13-1427-EL-UNC with Case No. 13-1439-EL-CSS in order to examine the reasonableness of AEP Ohio's credit requirements and determine CRES providers' rights and obligations thereunder.

Respectfully submitted,

/s/ Mark A. Hayden

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *FirstEnergy Solutions Corp. 's Motion to Stay and Consolidate* and the *Memorandum in Support* thereof were served this 21st day of June, 2013, via electronic mail upon the parties below.

/s/ Laura C. McBride
One of the Attorneys for FirstEnergy Solutions Corp.

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Summary: Motion to Stay and Consolidate electronically filed by Ms. Laura C. McBride on behalf of FirstEnergy Solutions Corp.