

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking	)	
Approval of Ohio Power Company's	)	
Proposal to Enter into an Affiliate Power	)	Case No. 14-1693-EL-RDR
Purchase Agreement for Inclusion in the	)	
Power Purchase Agreement Rider.	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 14-1694-EL-RDR
Accounting Authority.	)	

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**JOINT MOTION FOR AN EXTENSION OF THE ATTORNEY EXAMINER'S  
PROCEDURAL SCHEDULE**

**BY  
APPALACHIAN PEACE AND JUSTICE NETWORK  
CONSTELLATION NEWENERGY, INC.  
EXELON GENERATION COMPANY LLC  
ELECTRIC POWER SUPPLY ASSOCIATION  
ENVIRONMENTAL DEFENSE FUND  
ENVIRONMENTAL LAW & POLICY CENTER  
OFFICE OF THE OHIO CONSUMERS' COUNSEL  
OHIO ENVIRONMENTAL COUNCIL  
PJM POWER PROVIDERS  
AND  
THE RETAIL ENERGY SUPPLY ASSOCIATION**

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Pursuant to Rules 4901-1-13 and 4901-1-14 of the Ohio Administrative Code, Constellation NewEnergy, Inc., Exelon Generation Company LLC, the Electric Power Supply Association, the Environmental Defense Fund, the Environmental Law & Policy Center, the Office of the Ohio Consumers' Counsel, the Ohio Environmental Council, PJM Power Providers and the Retail Energy Supply Association respectfully move that the Attorney Examiner's procedural schedule established by the December 15, 2015 Entry in this matter be extended for three weeks. The current schedule calls for the last day to serve discovery requests on Christmas Eve, the deadline for filing testimony in opposition to the Stipulation is December 28, and the

Evidentiary Hearing is to begin on January 4. The Stipulation which was filed on December 14th and received by the Joint Movants later that afternoon raises several new issues that were not in the original application nor were addressed at the hearing. An extension of three weeks is necessary to provide the intervenors who oppose the Stipulation adequate time to review the Stipulation and the supporting testimony, to conduct discovery, and to prepare direct testimony and prepare for a hearing. Good causes exists for granting this joint motion for an extension.

WHEREFORE, the Joint Movants respectfully request that the Attorney Examiner's procedural schedule set forth in the Entry of December 15 be extended by three weeks so that the deadline for serving discovery requests, except for notices of deposition, be January 14, 2016, that the deadline for intervenor testimony in opposition to the Stipulation be January 19, 2016, and that the evidentiary hearing commence on January 25, 2016.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF JOINT MOTION FOR AN  
EXTENSION OF THE ATTORNEY EXAMINER'S PROCEDURAL SCHEDULE**

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An evidentiary hearing in these proceedings commenced on September 28, 2015 and concluded on November 3, 2015. At the conclusion of the evidentiary hearing, a briefing schedule was established, with initial and reply briefs due to be filed by the parties on November 24, 2015 and December 9, 2015, respectively.

By Entry dated November 19, 2015, the Attorney Examiner granted Staff's Motion for an Extension of the Briefing Schedule, such that initial and reply briefs were currently due to be filed by December 22, 2015 and January 8, 2016, respectively.

On December 14, 2015, AEP Ohio filed a joint stipulation and recommendation for the Commission's consideration as well as supporting testimony. This stipulation was served on the parties late afternoon, December 14th. On Tuesday, December 15<sup>th</sup>, work papers from the supporting testimony were served in the morning, and at four o'clock the Attorney Examiner issued an Entry establishing a new procedural schedule. This procedural schedule required that discovery requests, except for notices of deposition, be served by December 24, 2015; that testimony in opposition to the stipulation be filed by December 28, 2015; and that an evidentiary

hearing start on January 4, 2016 at 10:00 AM. The Attorney Examiner also directed that responses to discovery requests be provided as soon as possible but not later than seven days after service of the request and that discovery requests and replies be served by hand delivery, email or facsimile. An attorney serving a discovery request was directed to contact the attorney upon whom the discovery request will be served in advance to advise him or her that a request would be forthcoming unless the parties agreed otherwise. The Attorney Examiner also found that the current briefing schedule was to be held in abeyance until otherwise ordered by the Commission.

The procedural schedule established by the Attorney Examiner in her December 15, 2015 Entry does not provide adequate time for the parties opposing the stipulation to prepare for a hearing.

The Stipulation proposes several substantive modifications to AEP Ohio's pending application for its customers to fund a power purchase agreement ("PPA") with several coal plants owned by AEP Ohio and its unregulated generation affiliate, AEP Generation Resources. Additionally, the Stipulation introduces a significant number of new proposals which are not related to the Application in any fashion other than to entice intervenors to support the Stipulation. For example, the Ohio Partners for Affordable Energy on a non-bid basis is awarded a \$200,000 contract to provide assistance to the Community Assistance Program. Clearly, this unbid contract bears no relation to the Application which was limited to retail rate stability, and was not the subject of examination at the hearing. An opportunity needs to be provided to find out what the service is that is going to be offered for \$200,000 and why that service contract was not publically bid.

Other changes from the Application which will require enquiry include: (1) extension of AEP Ohio’s current Electric Security Plan (“ESP”) – which was previously approved in February 2015 in Case No. 13-2385 – from its current 2018 expiration date until May 31, 2024, extending the Standard Service Offer auction process and certain existing riders and adding certain pilot programs, Stipulation at 12-13; (2) conversion of two coal-fired units included in the PPA to natural gas co-firing within two years, *id.* at 19; (3) retirement, refueling, or repowering of those two units as well as a third coal-fired unit by December 31, 2029, *id.* at 20-21; (4) a number of purported grid modernization and energy efficiency commitments; (5) development of 900 MW of new renewables based on cost recovery from AEP Ohio customers, *id.* at 30-32; and (6) committing the Commission to a finding that the Stipulation “preserves and advances the positive results of the MRO v. ESP test under R.C. 4928.143(C) as found in the *ESP III Order*.” *Id.* at 34.

This case poses weighty and complex issues for the Commission to consider, and the Stipulation alters and adds to those issues in ways that require significant time and effort in order for the Joint Movants to prepare any effective opposition. Even just the modifications to the PPA proposed in the Stipulation raise substantial new questions that require sufficient time for discovery and expert analysis, and the myriad provisions of the Stipulation that introduce wholly new proposals only add to that need. Meanwhile, there is no apparent rationale justifying this inadequate timeline.

The table below compares the current schedule with the requested schedule of the Joint Movants:

<b>Event</b>	<b>Current Schedule</b>	<b>Requested Schedule</b>
Last day to serve discovery requests, except notices for deposition	December 24, 2015	January 14, 2016
Deadline for opposition testimony	December 28, 2015	January 19, 2016

Evidentiary Hearing	January 4, 2015	January 25, 2016
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On top of the additional material contained in the Stipulation, many of the intervenors who oppose the Stipulation in this case are also opposing a stipulation in the FirstEnergy case, Case No. 14-1297-EL-SSO. Good cause exists for adjusting the procedural schedule by three weeks.

The Commission should recognize the significant difficulties caused by the current procedural schedule. Parties will not be able to retain experts, take and defend depositions, adequately prepare intervenor testimony and cross-examination, and fully evaluate the Stipulation. The Joint Movants, however, have presented multiple reasons why the current schedule causes significant difficulties for numerous parties. Accordingly, the Joint Movants respectfully request that the Commission extend the procedural schedule by three weeks as set forth above.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on December 16, 2015 upon all persons/entities listed below.

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Summary: Motion Joint Motion to Extend the Procedural Schedule and Memorandum in Support electronically filed by Madeline Fleisher on behalf of Constellation NewEnergy, Inc. and Electric Power Supply Association and Exelon Generation Company LLC and Ohio Consumers' Counsel and PJM Power Providers Group and Retail Energy Supply Association and Environmental Law and Policy Center and Ohio Environmental Council and Environmental Defense Fund