Before

**The Public Utilities Commission Of Ohio**

In the Matter of the Application of )

Ohio Power Company for Approval of ) Case No. 11-5333-EL-UNC

An Amendment to Its Corporate )

Separation Plan )

#### REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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**December 29, 2011 On Behalf of Industrial Energy Users-Ohio**

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#### REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

1. **INTRODUCTION**

On September 30, 2011, Ohio Power Company (“AEP-Ohio”) filed an Application for Approval of an Amendment to its Corporate Separation Plan and requested approval to transfer generating assets to an unregulated affiliate (hereinafter, “Application”). The Public Utilities Commission of Ohio (“Commission”) issued an Entry on December 2, 2011, requesting that interested parties file comments regarding the Application. The Industrial Energy Users-Ohio (“IEU-Ohio”), Commission Staff (“Staff”), Duke Energy Commercial Asset Management (“Duke”), FirstEnergy Solutions (“FES”), Office of the Ohio Consumers’ Counsel (“OCC”), Buckeye Power, Inc. (“Buckeye”), and Exelon[[1]](#footnote-1) Generation Company, Inc. (“Exelon”) filed Comments.

IEU-Ohio agrees with the Comments submitted by FES, Duke, and OCC, that the Application is deficient as filed. IEU-Ohio is submitting Reply Comments to address issues raised by Staff.

1. **REPLY COMMENTS**
2. **Staff’s Comments**

Staff has identified that permitting AEP-Ohio to structurally separate its generation assets may affect competitive conditions in the electricity market.[[2]](#footnote-2) Staff has also identified that AEP-Ohio’s Application fails to provide the information required by statute and rule and that there are “a host of details that will need to be addressed during the steps to the new corporate structure.”[[3]](#footnote-3) Without a more complete record, the Commission cannot determine whether the Application complies with Sections 4928.17 or 4928.02, Revised Code, or Rule 4901:1-37, Ohio Administrative Code, with respect to transfers of generation and corporate separation plans.

 While Staff recognizes that the Application does not contain the required information, Staff recommends approving the Application.[[4]](#footnote-4) Because the Application does not contain the necessary information, the Commission cannot determine that the Application is just, reasonable and in the public interest. Thus, the Commission must direct AEP-Ohio to supplement the Application and set the matter for hearing.

As Staff noted, there will be future proceedings at the Federal Energy Regulatory Commission (“FERC”).[[5]](#footnote-5) Given that those proceedings will impact AEP-Ohio’s corporate separation plan and generation assets transfer, the Commission must not approve the Application until it is clear how those proceedings will be resolved. Moreover, the Commission will be in a better position to influence proceedings at FERC if it does not approve the Application and lock itself into a position.

IEU-Ohio also agrees with Staff’s recommendation that AEP-Ohio file a separate application to transfer its generation assets because the Application does not contain the market value of AEP-Ohio’s generation or terms and conditions regarding the transfer. But the Commission must not approve the present Application without first reviewing the details surrounding the transfer of the generation; otherwise, the Commission will not be able to determine whether the resulting corporate separation plan is just, reasonable, and in the public interest.

1. **CONCLUSION**

AEP-Ohio has not provided the information that is necessary for the Commission to properly review the Application. As a result, it is premature for the Commission to approve the Application at this time. The Commission should direct AEP-Ohio to fill in the holes in the Application identified by IEU-Ohio, FES, OCC, Duke, and Staff and set the matter for hearing.

 Respectfully submitted:

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 **On Behalf of Industrial Energy Users-Ohio**

#### Certificate of Service

I hereby certify that a copy of the foregoing *Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 29th day of December 2011, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

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1. Exelon’s Comments merely reiterate arguments that it made in the Joint Motion to Consolidate and Joint Motion for Waiver, filed on September 30, 2011 and October 18, 2011, respectively. [↑](#footnote-ref-1)
2. Staff Comments at 4.

 [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. Staff Comments at 8. [↑](#footnote-ref-4)
5. Staff Comments at 5-6, 8. [↑](#footnote-ref-5)