Before

**The Public Utilities Commission of Ohio**

In the Matter of the Application of Columbus )

Southern Power Company for Amendment )

of the 2009 Solar Energy Resource ) Case No. 09-987-EL-EEC

Benchmark, Pursuant to Section 4928.64(C)(4), )

Ohio Revised Code. )

In the Matter of the Application of Ohio Power )

Company for Amendment of the 2009 Solar ) Case No. 09-988-EL-EEC

Energy Resource Benchmark, Pursuant to )

Section 4928.64(C)(4), Revised Code. )

# MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT

# OF INDUSTRIAL ENERGY USERS-OHIO

 Samuel C. Randazzo (Counsel of Record)

 Lisa G. McAlister

 Joseph M. Clark

 McNees Wallace & Nurick LLC

 21 East State Street, 17TH Floor

 Columbus, OH 43215

 Telephone: (614) 469-8000

 Telecopier: (614) 469-4653

 sam@mwncmh.com

 lmcalister@mwncmh.com

 jclark@mwncmh.com

November 24, 2009 Attorneys for Industrial Energy Users-Ohio

Before

**The Public Utilities Commission of Ohio**

In the Matter of the Application of Columbus )

Southern Power Company for Amendment )

of the 2009 Solar Energy Resource ) Case No. 09-987-EL-EEC

Benchmark, Pursuant to Section 4928.64(C)(4), )

Ohio Revised Code. )

In the Matter of the Application of Ohio Power )

Company for Amendment of the 2009 Solar ) Case No. 09-988-EL-EEC

Energy Resource Benchmark, Pursuant to )

Section 4928.64(C)(4), Revised Code. )

# MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO

Industrial Energy Users-Ohio (“IEU-Ohio”) hereby respectfully moves the Public Utilities Commission of Ohio (“Commission”), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matters with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

On October 26, 2009, Columbus Southern Power Company (“CSP”) and Ohio Power Company (“OP”) (collectively, “AEP-Ohio” or “Companies”) filed an Application for a *force majeure* determination related to their 2009 solar energy resource requirements under Section 4928.64, Revised Code.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceedings, and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay these proceedings and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in these proceedings. The interests of IEU-Ohio will not be adequately represented by other parties to the proceedings and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

 Respectfully submitted,

 /s/ Joseph M. Clark

 Samuel C. Randazzo (Counsel of Record)

 Lisa G. McAlister

 Joseph M. Clark

 McNees Wallace & Nurick LLC

 21 East State Street, 17TH Floor

 Columbus, OH 43215

 Telephone: (614) 469-8000

 Telecopier: (614) 469-4653

 sam@mwncmh.com

 lmcalister@mwncmh.com

 jclark@mwncmh.com

 **Attorneys for** **Industrial Energy Users-Ohio**

Before

**The Public Utilities Commission of Ohio**

In the Matter of the Application of Columbus )

Southern Power Company for Amendment )

of the 2009 Solar Energy Resource ) Case No. 09-987-EL-EEC

Benchmark, Pursuant to Section 4928.64(C)(4), )

Ohio Revised Code. )

In the Matter of the Application of Ohio Power )

Company for Amendment of the 2009 Solar ) Case No. 09-988-EL-EEC

Energy Resource Benchmark, Pursuant to )

Section 4928.64(C)(4), Revised Code. )

# MEMORANDUM IN SUPPORT

In support of this Motion to Intervene, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at <http://www.ieu-ohio.org/member_list.aspx>. IEU-Ohio members purchase substantial amounts of electric and related services from AEP-Ohio, which is a public utility subject to the jurisdiction of the Commission.

IEU-Ohio members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end IEU-Ohio has worked, including actively participating in the legislative process related to Amended Substitute Senate Bill 221 and will continue to work, to produce legislative, regulatory, and market outcomes that are consistent with the state policy contained in Section 4928.02, Revised Code.

Many IEU-Ohio member companies are served by AEP-Ohio and may be affected by AEP-Ohio’s request for a *force majeure* determination related to its 2009 renewable energy resource compliance obligation under Section 4928.64, Revised Code. IEU-Ohio has a real and substantial interest in these proceedings, specifically in the provision of electric service to IEU-Ohio members’ manufacturing facilities. Specifically, IEU-Ohio’s direct interest in these proceedings is the result of the effect that these proceedings shall have upon the price, adequacy, and reliability of the electric supply and related services within Ohio, including the areas presently served by AEP-Ohio.

 Respectfully submitted,

 /s/ Joseph M. Clark

 Samuel C. Randazzo (Counsel of Record)

 Lisa G. McAlister

 Joseph M. Clark

 McNees Wallace & Nurick LLC

 Fifth Third Center

 21 East State Street, 17th Floor

 Columbus, OH 43215-4228

 Telephone: (614) 469-8000

 Telecopier: (614) 469-4653

 sam@mwncmh.com

 lmcalister@mwncmh.com

 jclark@mwncmh.com

 **Attorneys for** **Industrial Energy Users-Ohio**

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene and Memorandum in Support of Industrial Energy Users-Ohio* was served upon the following parties of record this 24th day of November 2009, via first class mail, postage prepaid.

/s/ Joseph M. Clark

Joseph M. Clark

Steven Nourse

Marvin Resnik

American Electric Power Service Corp.

1 Riverside Plaza, 29th Floor

Columbus, OH 43215

stnourse@aep.com

miresnik@aep.com

**On Behalf of Columbus Southern Power Company and Ohio Power Company**

David Boehm

Michael Kurtz

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, OH 45202

dboehm@BKLlawfirm.com

mkurtz@BKLlawfirm.com

**On Behalf of The Ohio Energy Group**

David Rinebolt

Colleen Mooney

Ohio Partners for Affordable Energy

P.O. Box 1793

Findlay, OH 45839-1793

drinebolt@aol.com

cmooney2@columbus.rr.com

**On Behalf of Ohio Partners for Affordable Energy**

Janine L. Migden-Ostrander

Consumers’ Counsel

Terry Etter, Counsel of Record

Gregory Poulos

Assistant Consumers’ Counsel

Office of the Ohio Consumers’ Counsel

10 West Broad Street, Suite 1800

Columbus, OH 43215-3485

etter@occ.state.oh.us

poulos@occ.state.oh.us

**On Behalf of the Office of the Ohio Consumers’ Counsel**

Michael Heintz

Environmental Law & Policy Center

1207 Grandview Avenue, Suite 201

Columbus, OH 43212

mheintz@elpc.org

**On Behalf of the Environmental Law & Policy Center**