

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ohio Edison)
Company, The Cleveland Electric Illuminating)
Company, and The Toledo Edison Company) Case No. 07-796-EL-ATA
For Approval of a Competitive Bidding Process) Case No. 07-797-EL-AAM
For Standard Service Offer Electric Generation)
Supply, Accounting Modifications Associated)
With Reconciliation Mechanism and Phase In,)
And Tariffs for Generation Service)

**Reply Memorandum in Support of Motion to Intervene of
Columbus Southern Power Company
and Ohio Power Company**

Columbus Southern Power Company and Ohio Power Company (collectively, AEP Ohio) respectfully submit this reply memorandum in support of their August 16, 2007 motion requesting that the Public Utilities Commission of Ohio (Commission) grant AEP Ohio intervention in the above-captioned proceedings pursuant to §4903.221, Ohio Rev. Code, and §4901-1-11, Ohio Admin. Code. The Office of Consumers' Counsel (OCC) filed a memorandum in opposition to AEP Ohio's motion to intervene on August 31, 2007. In its memorandum in opposition, the OCC concludes as follows:

The Commission should deny AEP's motion to intervene on the basis that AEP's interest in this case is merely based on affecting precedent. Instead, AEP can consider filing its own application under R.C. 4928.14 to propose what it states to be its interest in a common competitive bid for all of Ohio's electric utilities.

OCC Memorandum in Opposition at 5. As further discussed below and in its motion, AEP Ohio disagrees with OCC's characterization of AEP Ohio's request and submits that it does meet the prerequisites for intervention because (a) AEP Ohio has a real and substantial interest in these proceedings that may be adversely affected; (b) no other party can adequately represent those

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interests; (c) the granting of this intervention will not unduly prolong or delay the proceedings; and (d) AEP Ohio's participation in these proceedings will significantly contribute to the full development and equitable resolution of the factual issues.

In support of its opposition to AEP Ohio's intervention, OCC alleges that the issues in these cases involve FirstEnergy's provision of generation service to its customers and do not include the manner in which AEP Ohio will provide generation service to its customers. OCC Memorandum in Opposition at 2. This argument misses the point of AEP Ohio's proposal. If the Commission entertains AEP Ohio's proposal to consider an expanded CBP, it could not be disputed that AEP Ohio's use of a common CBP would be an issue in these proceedings and that AEP Ohio and its participation would necessarily contribute to a full development and equitable resolution of those issues.

Contrary to OCC's suggestion, AEP Ohio's interest in this proceeding goes beyond an interest in the precedent value of the outcome. As stated in its comments in this proceeding, AEP Ohio has pledged to abide by the Commission's decision in this case adopting a common CBP for use by Ohio's electric distribution utilities (EDUs) which, based on current law, will implement market-based rates at the conclusion of their current rate stabilization plans – including AEP Ohio. To that extent, AEP Ohio's motion to intervene is linked to its substantive underlying request that the Commission consider an expanded CBP. In this regard, OCC merely responds that AEP Ohio should file its own application.

In its motion to intervene, AEP Ohio had already indicated that, even with the adoption of a common CBP, there are EDU-specific issues that, for EDUs other than FirstEnergy, should be considered and established outside the context of this proceeding. And AEP Ohio discussed its plan to file a separate application under Chapter 4901:1-35, Ohio Admin. Code, to address

those matters. In that separate application, AEP Ohio would: (1) incorporate the FirstEnergy CBP platform to be approved in this case, while recognizing that certain aspects of the CBP need to be changed for an auction involving AEP Ohio's SSO load, and (2) set forth AEP Ohio's proposals for non-CBP matters such as economic development initiatives, a reconciliation mechanism, the method for translating auction clearing prices to retail rate schedules, the moderation of residential rate impacts (including any associated accounting mechanisms), *etc.*

Thus, AEP Ohio recognized that it would need to file an application under Chapter 4901:1-35, Ohio Admin. Code, if it wishes to proceed with a CBP. OCC's response that AEP Ohio can file its own application does not resolve or otherwise affect AEP Ohio's interest in this proceeding. AEP Ohio's proposal is to pursue an expanded CBP in this proceeding and conduct a parallel proceeding to consider AEP Ohio's application relative to the AEP-specific CBP matters and all of the non-CBP matters.

Based on the Commission-ordered schedule for this proceeding, AEP Ohio requested intervention so that the Commission and stakeholders could timely consider an expanded CBP. As explained in its motion to intervene and in its initial comments, AEP Ohio submits that this is an efficient and effective manner to proceed and it will allow consideration of an expanded CBP without any delay in the schedule established by the Commission in this proceeding. It is timely and appropriate for the Commission to consider an expanded CBP in this proceeding and allow AEP Ohio's intervention on that basis.

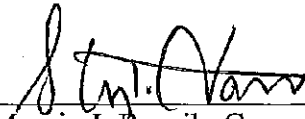
OCC also suggests that AEP Ohio should not be concerned that this case will establish precedent that it will dislike, given that AEP Ohio supports FirstEnergy's application. OCC Memorandum in Opposition at 4. This argument is misguided and has no statutory or decisional basis. The fact that a party supports or opposes an application is not relevant to whether the

party has an interest in the proceeding. An interest can be affected by the *outcome* of the case even where the initial application is consistent with the intervenor's interest; the Commission has never required that a movant oppose an application in order to be granted intervention and doing so would violate §4903.221, Ohio Rev. Code.

Conclusion

For the foregoing reasons, the Commission should grant AEP Ohio's intervention.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. I. Resnik", written over a horizontal line.

Marvin I. Resnik, Counsel of Record

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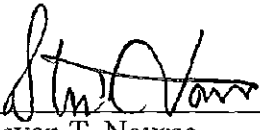
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Reply Memorandum in Support of Motion to Intervene of Columbus Southern Power Company and Ohio Power Company was served by regular U.S. Mail, postage prepaid and electronic mail, upon each of the following parties this 7th day of September, 2007.


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