

**FILE**

**BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO**

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In the Matter of the Application of Columbus )  
Southern Power Company for the Approval of )  
its Electric Security Plan; and Amendment to )  
Its Corporate Separation Plan; and the Sale or )  
Transfer of Certain Generation Assets )

Case No: 08-917-EL-SSO

In the Matter of the Application of Ohio Power )  
Company for Approval of its Electric Security )  
Plan, and an Amendment to its Corporate )  
Separation Plan )

Case No. 08-918-EL-SSO

**COLUMBUS SOUTHERN POWER COMPANY'S  
AND OHIO POWER COMPANY'S  
REPLY MEMORANDUM TO IEU-OHIO'S MEMORANDUM CONTRA  
MOTION TO APPROVE SECTION V.E.  
OF ELECTRIC SECURITY PLAN**

On September 24, 2008, Columbus Southern Power Company and Ohio Power Company (the Companies) filed a motion asking the Commission to approve Section V.E. of their Electric Security Plan (ESP). That section, as discussed in the Companies' motion, provides a mechanism to address the situation of the Commission being unable to issue its order in this case in accordance with the 150-day time requirement set out in §4928.143 (C) (1), Ohio Rev. Code. The Companies argue that granting their motion is an appropriate complement to the continuance of the commencement of the hearing in this proceeding to November 17, 2008.

On October 1, 2008 Industrial Energy Users-Ohio (IEU) filed a memorandum contra the Companies' motion. IEU is the only intervenor, from among nearly thirty intervenors, to oppose the Companies' motion.

IEU does not quarrel with the Companies' representation regarding the 150-day provision of §4928.143 (C) (1), Ohio Rev. Code; nor does IEU dispute the Companies'

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assertion that with the delay in the hearing it is unlikely that the Commission will be able to issue its order in this case by December 28, 2008 – the expiration of the 150 days. Instead, IEU argues that the Commission is precluded from ruling on any individual component of the Companies' ESP outside the context of the entire ESP.

IEU's argument is unpersuasive. Section V.E. of the ESP application does not affect the substance of the ESP. It addresses the potential of the Commission being unable to complete its deliberations in this proceeding within the 150-day time period established by the General Assembly. Section V.E. of the application merely puts the Companies in the position they otherwise would be if the Commission's order were issued within the statutory 150-day time period. All parties can continue to present their positions on the merits of all substantive issues and the Commission will reserve judgment on all of those issues until its decision is issued. Therefore, advanced approval of Section V.E. of the application will not hinder either the parties' ability to present positions or the Commission's ability to judge the substance of the ESP. IEU's argument in this regard should be rejected.

Even if IEU's position regarding §4928.143 (C) (1), Ohio Rev. Code, had merit, the Commission still has not only the general authority, but the statutory obligation to put the parties in the position they would have been in had the Commission been able to implement the 150-day time period for ruling on the Companies' ESP application. The Commission has authority to control its proceedings. Given that the 150-day time period for issuing its order is in jeopardy, the Commission can take appropriate action to put all parties in the position they would be in if the statutory requirement were met. When coupled with the statutory requirement to rule on the application within 150 days of the

filing of the application, it is evident that the Commission has the authority, even independent of Section V.E. of the application, to grant the relief sought by the Companies. That is, the Commission can declare that its ultimate order will be applied in a manner that makes the Companies whole, as if that order had issued no later than December 28, 2008.

Of the nearly thirty intervenors, only one intervenor opposed the Companies' motion. Several intervenors, in their motion to postpone the hearing have indicated that the Companies' proposal in Section V.E. of their application is reasonable and should be acceptable to all parties. For these reasons, and those reasons set out in Companies' motion, the Commission should grant their motion.

Respectfully submitted,



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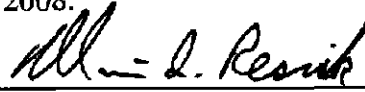
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Company and Ohio Power Company

## CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Reply Memorandum to IEU-Ohio's Memorandum Contra Motion to Approve Section V.E. of Electric Security Plan was served by electronic mail upon the individuals listed below this 6<sup>th</sup> day of October, 2008.



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