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BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of )  
Columbus Southern Power Company )  
for Approval of its Program Portfolio )  
Plan and Request for Expedited )  
Consideration )

Case No. 09-1089-EL-POR

In the Matter of the Application of )  
Ohio Power Company for Approval )  
of its Program Portfolio Plan and )  
Request for Expedited Consideration )

Case No. 09-1090-EL-POR

**MEMORANDUM IN RESPONSE TO IEU-OHIO'S MOTION TO INTERVENE**

Columbus Southern Power Company (CSP) and Ohio Power Company (OP) (collectively "AEP Ohio" or the "Companies") filed an application to initiate these cases on November 12, 2009. On that same date, a number of Signatory Parties joined AEP Ohio in submitting a Stipulation and Recommendation (Stipulation) to resolve all the issues raised in the application. The Industrial Energy Users- Ohio (IEU-Ohio), which is not a Signatory Party, has now filed a motion to intervene in these cases. In its motion, IEU-Ohio (at 1) characterized the Companies' application as seeking approval of energy efficiency and peak demand reduction portfolio plans "to comply with the requirements of Am. Sub. S.B. 221" and stated that the application includes a request for expedited consideration. Contemporaneous with its motion to intervene, IEU-Ohio also filed a pleading styled as a memorandum contra AEP Ohio's request for expedited consideration. While AEP Ohio's application and the Stipulation asked that the Commission expeditiously approve the application and establish rider rates effective with the first billing cycle of January 2010, AEP Ohio does not believe that such requests (prayer for relief in an application and terms of a stipulation) are properly considered as a motion that includes a request for expedited ruling under Ohio Admin. Code 4901-1-12(C). In any case, IEU-Ohio's two

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pleadings are closely related and its memorandum contra amplifies the purposes for which it seeks intervention and reflects IEU-Ohio's planned approach in these proceedings. Accordingly, AEP Ohio is responding to the motion to intervene in the context of IEU-Ohio's memorandum contra.

IEU-Ohio's motion to intervene states (at 2) that its participation will not unduly prolong or delay these proceedings. Yet, in its memorandum contra (at 3), IEU-Ohio (apparently relying on Rule 4901:1-39-04(D) adopted in Case No. 08-888-EL-ORD) stated that any person may file objections to the application within 60 days and indicated that IEU-Ohio plans to file comments within 60 days. IEU-Ohio fails to acknowledge that adopted Rule 4901:1-39-04(D) is not yet effective and does not govern the application filed to initiate these proceedings. Ultimately, IEU-Ohio indicates that it will file comments later and suggests that the proceedings should be held up until it does so.

While the Companies and the Signatory Parties to the Stipulation did not presume to suggest a specific procedural schedule for the Commission's handling of these cases, the Companies and the Signatory Parties did ask for expedited consideration of the application and requested rates be established effective with the first billing cycle of January 2010. Thus, it is clear that the Companies and the Signatory Parties were asking the Commission to establish a procedural schedule designed to achieve that goal. If the new rider rates are not established effective with the first billing cycle, the Companies' compliance costs will only continue to accrue and need to be collected over a shorter period of time – only serving to make the rate impact more significant. Therefore, the Commission should proceed to establish an expedited procedural schedule to consider the application and Stipulation and only allow IEU-Ohio's participation as an intervenor to the extent that such participation does not unduly delay or

prolong the proceeding. Specifically, IEU-Ohio should file any comments it wishes on an expedited basis in light of the Signatory Parties' request.

In an apparent attempt to undermine the Stipulation, IEU-Ohio would also have the Commission believe that there is "more of an agreement to disagree than a document that recommends a resolution of all the issues." Memorandum Contra at 2. That position glosses over the substantial effort undertaken by the Signatory Parties to resolve the issues presented in these cases. The Stipulation definitively recommends detailed and clear resolution of all of the issues presented in this case and is supported by an abundance and diverse group of Signatory Parties (including broad industrial customer supporters represented by the Ohio Energy Group and Ohio Manufacturers Association and the Ohio Hospital Association). The examples given by IEU-Ohio as areas of non-agreement are superfluous to the Stipulation. The fact that the Signatory Parties reserved rights to take positions in separate dockets and in relationship to future filings is neither unusual nor surprising. Moreover, it is not uncommon for parties that strike a reasonable compromise to disclaim the effect of such an agreement as being a precedent. Finally, it is a well-established practice in the context of settlement to withdraw opposition to a proposal without affirmatively endorsing it. While IEU-Ohio has engaged in these reasonable practices in the context of other cases, it now seeks for convenience to portray these practices as somehow being unusual or suspect.

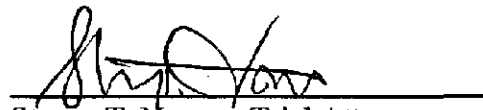
Similarly, IEU-Ohio attempts to delay this proceeding by invoking the cliché that "haste makes waste" and vaguely referring to the experience in recent FirstEnergy cases (Case Nos. 09-580-EL-EEC, 09-581-EL-EEC and 09-582-EL-EEC). Those cases involved unique issues that are not applicable to AEP Ohio's application and whatever lessons were learned from those cases were applied by the Signatory Parties who signed the Stipulation in this case after the

“experience” in the FirstEnergy cases had already occurred. The Commission should honor the substantial collaboration and successful settlement reached by the diverse group of Signatory Parties in these cases by expeditious consideration of the Stipulation and not allow IEU-Ohio’s intervention request to delay and prolong these proceedings. The Commission made a quick decision to resolve the issues in the FirstEnergy cases and should also do so here.

### **CONCLUSION**

If granted, IEU-Ohio’s intervention should be subject to the conditions outlined above.

Respectfully submitted,



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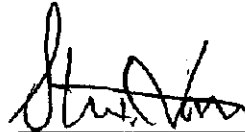
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## CERTIFICATE OF SERVICE

I hereby certify that a copy Columbus Southern Power Company's and Ohio Power Company's Memorandum was served by U.S. Mail upon the individuals listed below this 3<sup>rd</sup> day of December, 2009.



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