

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbus)	
Southern Power Company for Approval of its)	
Program Portfolio Plan and Request for)	Case No. 09-1089-EL-POR
Expedited Consideration.)	

In the Matter of the Application of Ohio)	
Power Company for Approval of its Program)	
Portfolio Plan and Request for Expedited)	Case No. 09-1090-EL-POR
Consideration.)	

MEMORANDUM IN RESPONSE OF INDUSTRIAL ENERGY USERS-OHIO

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On November 12, 2009 Ohio Power Company ("OP") and Columbus Southern Power Company ("CSP") (collectively, "AEP-Ohio") filed an Application for approval of their respective energy efficiency and peak demand reduction ("EE/PDR") program portfolios. Additionally, a Stipulation and Recommendation ("Stipulation") was submitted concurrently in these cases. Both the Application and the Stipulation requested expedited consideration of AEP-Ohio's Application in order to make the requested EE/PDR Rider rates effective with the first billing cycle of January 2010. Despite the request for expedited treatment, AEP-Ohio did not ask the Public Utilities Commission of Ohio ("Commission") to waive its rules that permit all stakeholders 60 days to file objections on a program portfolio plan filing and then require a hearing on a program portfolio filing.¹

Industrial Energy Users-Ohio ("IEU-Ohio") filed a Memorandum Contra opposing the request for expedited treatment inasmuch as, among other reasons, the request

¹ Rule 4901:1-39-04, Ohio Administrative Code ("O.A.C."). Under the Commission's newly-effective rules, objections are due on January 11, 2010 and a hearing will be set once objections are received.

was unsupported and contrary to the Commission's newly-effective rules. AEP-Ohio filed a Memorandum in Response to IEU-Ohio's Memorandum Contra on December 3, 2009, defending its request for expedited treatment, but again did not file a formal Motion for Waiver from Rule 4901:1-39-04, O.A.C. IEU-Ohio then filed a Reply to AEP-Ohio's Memorandum in Response on December 7, 2009, pointing out that AEP-Ohio's Memorandum in Response still did not articulate the procedural schedule the Commission should adopt in this proceeding.²

IEU-Ohio filed its Initial Objections and Recommendations to AEP-Ohio's program portfolio proposal on December 11, 2009, an entire month in advance of the deadline contained in the Commission's rules.³ AEP-Ohio filed Reply Comments arguing against IEU-Ohio's Initial Objections on December 23, 2009. IEU-Ohio does not intend to respond to AEP-Ohio's argument presented in its December 23 Reply Comments as these are issues that should be pursued during the evidentiary hearing. However, in the conclusion to its reply comments, AEP-Ohio "submits that there is no need for an evidentiary hearing and the Commission should proceed to decide this case."⁴

AEP-Ohio provides no reason for skipping the evidentiary hearing required by the Commission's rules. AEP-Ohio has not demonstrated good cause (nor does good cause exist) for a waiver of Rule 4901:1-39-04(E), O.A.C., and the Commission should,

² In contrast, FirstEnergy has requested a waiver of Rule 4901:1-39-04, O.A.C., and provided a proposed procedural schedule that actually gives some guidance of what timeframe it would like an expedited consideration of its Application to proceed. See *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanisms*, PUCO Case Nos. 09-1947-EL-POR, *et al.*, Application at 11-12 (December 15, 2009).

³ See Initial Objections and Recommendations of The Industrial Energy Users-Ohio (December 11, 2009). IEU-Ohio filed its objections early in a good-faith showing that it only seeks a vigorous review of AEP-Ohio's portfolio plan and does not (as accused by AEP-Ohio) intend to unduly delay this proceeding. See IEU-Ohio's Reply to AEP-Ohio's Memorandum in Response at 3 (December 7, 2009).

⁴ AEP-Ohio's Reply Comments in Response to IEU-Ohio's Initial Objections at 8 (December 23, 2009).

in accordance with its rules, proceed to set this matter for hearing. To the extent that AEP-Ohio's request might be considered a Motion for Waiver of Rule 4901:1-39-04(E), O.A.C., IEU-Ohio objects as a hearing is necessary in this proceeding to fully consider the objections raised by IEU-Ohio and IEU-Ohio's recommended changes to AEP's portfolio plan.

Respectfully submitted,

/s/ Joseph M. Clark

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Memorandum in Response of Industrial Energy Users-Ohio* was served upon the following parties of record this 30th day of December 2009, via first class mail, postage prepaid.

/s/ Joseph M. Clark

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Summary: Memorandum in Response of Industrial Energy Users-Ohio electronically filed by
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