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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 to Amend its Emergency)	
Curtailment Service Riders)	Case No. 10-343-EL-ATA
In the Matter of the Application)	Case No. 10-344-EL-ATA
of Ohio Power Company)	
to Amend its Emergency Curtailment)	
Service Riders)	

**MOTION FOR LEAVE TO INTERVENE OF
CONSTELLATION NEWENERGY, INC.**

Now comes Constellation NewEnergy, Inc. ("CNE"), who, pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, moves for intervention in the above styled proceeding as a full party of record. The reasons supporting the intervention are contained in the accompanying Memorandum in Support.

In addition, by separate motion, CNE has requested admission *Pro Hac Vice* for Cynthia Fonner Brady, Senior Counsel for CNE. CNE asks that if approved she be added to the official service list along with David Fein who is a representative corporate officer. Contact information for the additional counsel and corporate representative are provided in the attached Memorandum in Support.

WHEREFORE, CNE for the reasons detailed in the accompanying Memorandum in Support respectfully requests that the Commission grant this joint motion for leave to intervene and that Constellation NewEnergy, Inc. be made a full party of record.

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Respectfully Submitted,



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**MEMORANDUM IN SUPPORT OF
THE MOTION TO INTERVENE OF
CONSTELLATION NEWENERGY, INC.**

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record.

Rule 4901-1-11 of the Ohio Administrative Code states in part:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

* * *

(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio (the "Commission") considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. (See also R.C. 4903.221(B) upon which the above rule is authorized). A review of these factors in light of following facts supports granting Constellation's intervention.

Constellation NewEnergy, Inc. ("CNE") provides electricity and energy-related services to retail customers in Ohio as well as in 15 other states, the District of Columbia and two Canadian provinces and serves over 15,000 megawatts of load and over 10,000 customers. CNE holds a certificate as a competitive retail electric supplier ("CRES") from the Commission to engage in the competitive sale of electric service to retail customers in Ohio. CNE currently

provides service to retail electric customers in Ohio, including demand response products and services.

In the instant matter, the Columbus Southern Power Company and the Ohio Power Company (collectively, "AEP") filed an application (the "Application") seeking approval of the AEP's Emergency Curtailment Service Riders and a Second demand response program involving conditional approval of retail participation in PJM Demand Response Programs.

CNE has business interests in the State that will be affected by the outcome of the proceeding. As a provider of demand response products and services within the State, CNE has an interest in the instant proceeding as AEP attempts to limit customers' access to demand response programs at the regional level, and their ability to choose a provider other than AEP for demand response products and services. Such a limitation will adversely affect customers' ability to avail themselves of an economic opportunity that is of value to their business, and that contributes to the reliability of the electric grid.

This motion for intervention precedes all discovery or other procedural termination dates. The motion is also being filed more than five days before the hearing deadline established in Rule 4901-1-29. Thus, the intervention is timely and should not unduly delay the instant proceedings. Finally, because of its unique expertise and participation in the competitive retail and wholesale markets in Ohio and across the country, CNE will be able to assist in the development of a full and complete record to assist the Commission in its consideration of the Application.

WHEREFORE, CNE respectfully requests that the Commission grant this joint motion for leave to intervene and that CNE be made a full party of record. For purposes of receiving

service in the proceeding, in addition to the undersigned, CNE requests that the following persons be placed on the official service list:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 30th day of March, 2010 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.



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