

FILE**FAX**

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Fuel)	
Adjustment Clauses of Columbus Southern)	Case No. 09-872-EL-UNC
Power Company and Ohio Power Company.)	Case No. 09-873-EL-UNC

**OHIO PARTNERS FOR AFFORDABLE ENERGY'S
MOTION TO INTERVENE
AND MEMORANDUM IN SUPPORT
AND MOTION TO PRACTICE PRO HAC VICE
BEFORE THE COMMISSION**

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Ohio Partners for Affordable Energy ("OPAE") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above-captioned matters pursuant to R.C. §4903.221 and Section 4901-1-11 of the Commission's Code of Rules and Regulations, for the limited purpose described herein. The reasons for granting this motion are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,



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MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

Ohio Partners for Affordable Energy ("OPAE") should be permitted to intervene in these matters pursuant to Section 4903.22.1, Revised Code, and the Commission's Rules and Regulations contained in Rule 4901-01-11 of the Ohio Administrative Code. The above-referenced matters concern the review of the fuel adjustment clauses of Columbus Southern Power Company and Ohio Power Company (together, "Companies"). Although the hearing in these cases has already concluded, OPAE should be granted intervention because OPAE is an intervenor in Case No. 10-1261-EL-UNC, the docket concerning the annual Significantly Excessive Earnings Test ("SEET") made pursuant to Revised Code Section 4928.143(F) and Rule 4901:1-35-10, Ohio Administrative Code. On November 30, 2010, AEP-Ohio, the Staff of the Public Utilities Commission of Ohio, the Ohio Hospital Association, the Ohio Manufacturers Association, the Kroger Company ("Kroger"), and Ormet filed a stipulation and recommendation purporting to resolve the issues in the SEET docket as well as the issues in the two FAC dockets. OPAE opposes this stipulation and recommendation and therefore requests intervention in the above-reference dockets that were included in the stipulation and recommendation.

In determining whether to permit intervention, the following criteria are to be considered: the nature of the person's interest; the extent to which that interest is represented by existing parties; the person's potential contribution to a just and expeditious resolution of the proceeding; and, whether granting the intervention will

unduly delay or unjustly prejudice any existing party. OPAE meets all four criteria for intervention in these matters.

OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans; as such, OPAE has a real and substantial interest in these proceedings, which concern the fuel adjustment clauses of the Companies. Additionally, OPAE includes as members non-profit organizations located in the service areas that will be affected by these proceedings.¹ Moreover, many of OPAE's members are community action agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, community action is charged with advocating for low-income residents of their communities.²

¹ A list of OPAE members can be found on the website: www.ohiopartners.org.

² See 42 U.S.C. 672:

The purposes of this subtitle are--

(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(2) to accomplish the goals described in paragraph (1) through--

(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and

(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for--

(i) private, religious, charitable, and neighborhood-based organizations; and

(ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

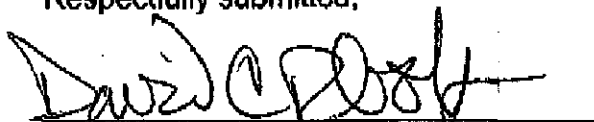
OPAE also provides essential services in the form of bill payment assistance programs and weatherization and energy efficiency services to low income customers of the Companies. OPAE members are also ratepayers of the Companies. Further, OPAE has been recognized by the Commission in the past as an advocate for consumers and particularly low-income consumers, all of whom will be affected by the outcome of these proceedings.

OPAE's primary interest in this case is to protect the interests of low and moderate income Ohioans and OPAE members whose provision of electric service will be affected by these proceedings. Although the hearing in these matters has concluded, OPAE should be granted intervention for the limited purpose of opposing the stipulation and recommendation filed in these dockets on November 30, 2010. If granted intervention, OPAE will not attempt to add to the record in these proceedings except for purposes of opposing the November 30, 2010 stipulation and recommendation. OPAE will require the opportunity to review the record in these causes, an opportunity due any litigant—and, will request an extension of the procedural schedule in a separate filing. OPAE's purpose for requesting intervention is to allow OPAE the opportunity to offer input on the November 30, 2010 stipulation and recommendation in all dockets in which it was filed.

Moreover, statutes and rules governing intervention should be liberally construed in favor of intervention. This includes late requests for intervention. The Commission has granted late requests for intervention in other electric utility matters, and even in the SEET docket where the Commission granted Kroger's untimely request for limited intervention. Entry (December 1, 2010) at 4. OPAE's request for intervention, like Kroger's request, is limited to a specific purpose and, therefore, reasonably made.

For the above reasons, OPAE has a direct, real and substantial interest in these matters. The disposition of these matters may impair or impede OPAE's ability to protect its interests. No other party to the matters will adequately represent the interests of OPAE. OPAE is a rare organization that serves as an advocate, service provider and nonprofit customer group. No other party represents this group of interests. OPAE's participation in these matters will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues raised by these proceedings. Therefore, OPAE's intervention in these proceeding should be granted for the limited purpose of opposing the stipulation and recommendation filed in these proceedings on November 30, 2010.

Respectfully submitted,



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**MOTION TO ADMIT DAVID C. RINEBOLT TO PRACTICE
PRO HAC VICE BEFORE THE COMMISSION**

Pursuant to Rule 4901-1-08(B) of the Ohio Administrative Code, Colleen L. Mooney (0015668), an attorney licensed to practice in the State of Ohio, respectfully petitions the Commission to permit David C. Rinebolt to practice *pro hac vice* before the Commission in the above-referenced cases. Mr. Rinebolt represents Ohio Partners for Affordable Energy, which is an Ohio corporation engaged in advocating for affordable energy policies.

Mr. Rinebolt graduated from the Columbus School of Law of the Catholic University of America in May 1981. As an active member of the District of Columbia Bar, Bar No. 367210, Mr. Rinebolt is licensed to practice before the federal courts of the District of Columbia. Furthermore, Mr. Rinebolt has practiced law continuously since being admitted to the District of Columbia bar in October 1982. He has been granted permission to practice *pro hac vice* before this Commission on numerous occasions.

WHEREFORE, Colleen L. Mooney respectfully requests that David C. Rinebolt be permitted to practice before the Commission in the aforementioned dockets.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum of Support and Motion to Practice Pro Hac Vice was served by regular U.S. Mail upon the following parties identified below in this case on this 2nd day of December 2010.


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