

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of ) Case Nos. 11-346-EL-SSO  
Columbus Southern Power Company and ) 11-348-EL-SSO  
Ohio Power Company for Authority to )  
Establish a Standard Service Offer )  
Pursuant to § 4928.143, Ohio Rev. Code, )  
in the Form of an Electric Security Plan. )

In the Matter of the Application of ) Case Nos. 11-349-EL-AAM  
Columbus Southern Power Company and ) 11-350-EL-AAM  
Ohio Power Company for Approval of )  
Certain Accounting Authority. )

**COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER  
COMPANY'S MEMORANDUM CONTRA  
ENERNOC, INC'S MOTION TO INTERVENE**

Columbus Southern Power Company (CSP) and Ohio Power Company (OPCo)  
(collectively, the "Companies" or "AEP Ohio") oppose the Motion to Intervene filed by  
EnerNOC, Inc. (EnerNOC) in this matter.

**The Commission's Order and the Administrative Code Do Not Permit EnerNOC's  
Untimely Intervention**

Pursuant to Rule 4901-1-11(D), Ohio Admin. Code, a motion to intervene "will  
not be considered timely if it is filed later than five days prior to the scheduled date of  
hearing or any specific deadline established by order of the commission ..." Division  
(F) of that rule provides that "[a] motion to intervene which is not timely will be granted  
only under extraordinary circumstances." The Commission's February 9, 2011 Entry  
established a procedural schedule, setting March 14, 2011, as the intervention deadline.  
EnerNOC missed the deadline by more than two month, and its motion to intervene may  
be granted only if it identifies extraordinary circumstances that excuse its late request.

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EnerNOC does not identify any circumstances, let alone extraordinary circumstances, that excuse its untimely request to intervene. In fact, EnerNOC does not even acknowledge that its filing is untimely, and offers no excuse or justification for its failure to intervene in accordance with the Commission's procedural schedule.

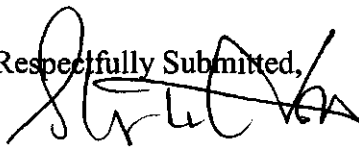
EnerNOC's untimely motion does not even satisfy the general standard for intervention. EnerNOC states, without specificity, that it has an interest in AEP Ohio's Electric Security Plan (ESP) application because "some of the programs proposed by AEP compete with or restrict programs offered in Ohio by EnerNOC." (Motion to Intervene, p.1). AEP Ohio filed its ESP application in January, and has not changed the substance of the filing since that time. EnerNOC had notice, time and opportunity to intervene to protect its alleged interests, and no extraordinary circumstances exist to permit late intervention.

Allowing EnerNOC to intervene at this advanced stage would not contribute to the resolution of these cases, and may delay the proceedings if EnerNOC seeks to extend the imminent testimony and discovery deadlines. For example, EnerNOC has served AEP Ohio with a discovery request at this late stage asking for a copy of all of the prior discovery requests that have been sent out to all of the parties in this case – this is in excess of 1,300 requests, many of which individually contain voluminous attachments. Further, EnerNOC has not established that it has any unique knowledge, experience or expertise to offer to the Commission. Moreover, EnerNOC's interests are adequately represented by the numerous existing intervenors – a large group which includes customers of AEP Ohio, trade associations, consumer and environmental advocacy

groups, and CRES providers. Accordingly, EnerNOC's motion to intervene is without merit.

### **CONCLUSION**

Allowing this untimely motion for leave to intervene out of time, absent extraordinary circumstances or any justification whatsoever would be disruptive and distracting, and would set bad precedent. The Commission should deny EnerNOC's tardy request for intervention.

Respectfully Submitted,  


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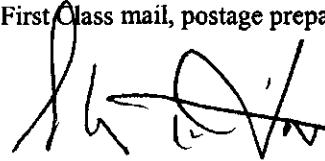
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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Columbus Southern Power Company's and Ohio Power Company's MEMORANDUM CONTRA MOTION TO INTREVEVE OF EnerNOC has been served upon the below-named counsel via First Class mail, postage prepaid, this 8<sup>th</sup> day of June, 2011.



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