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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	Case No. 11-346-EL-SSO
Columbus Southern Power Company and)	Case No. 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 No. 11-349-EL-AAM
Columbus Southern Power Company and)	Case No. 11-350-EL-AAM
Ohio Power Company for Approval of)	
Certain Accounting Authority.)	

**MEMORANDUM CONTRA AEP OHIO'S MOTION FOR LEAVE TO FILE
ADDITIONAL TESTIMONY AND ADJUST THE PROCEDURAL SCHEDULE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

On July 1, 2011, the Columbus Southern Power Company and Ohio Power Company ("AEP Ohio" or "Companies") filed a motion for leave to file additional testimony in this proceeding regarding the Turning Point Solar Project ("Turning Point"). The additional testimony involved more than 400 pages of supplemental testimony and exhibits of AEP Ohio witnesses Jay F. Godfrey, Philip J. Nelson, Thomas E. Mitchell and David M. Roush, and original direct testimony by AEP Ohio witness Michael J. Kelley.

In requesting leave to file the additional testimony, the Companies opined that the Public Utilities Commission ("PUCO" or "Commission") need not adjust the procedural schedule established for this proceeding.¹ If the Commission were to allow extra time for intervenor testimony or discovery, AEP Ohio requested "that such extensions be limited

¹ Motion, Memorandum in Support at [2].

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to the issues raised in the supplemental testimony, specific to the Turning Point Solar Project.”² The Companies also sought an expedited ruling on the Motion.

At a prehearing conference held on July 6, 2011, the attorney examiners in this case directed that any intervenor wishing to file a memorandum contra AEP Ohio’s Motion must do so by the end of business on July 7, 2011. The Office of the Ohio Consumers’ Counsel (“OCC”) files this Memorandum Contra the Companies’ Motion regarding adjustments to the procedural schedule.³

Contrary to AEP Ohio’s assertions, the procedural schedule in this proceeding should be amended. At the prehearing conference, several intervenors noted that the present procedural schedule does not provide adequate time for discovery on the additional testimony or for the preparation of responsive testimony. Because of the volume of new material docketed by the Companies and the complexity of the factual and legal issues regarding the Turning Point project, the Commission should modify the procedural schedule.

At the prehearing conference, some intervenors proposed that the Commission shorten the timeframe for discovery responses to five days and extend the deadlines for filing intervenor and PUCO Staff testimony. OCC concurs with these proposals. The Commission should require that discovery responses be provided within five calendar days. In addition, the deadlines for submitting all intervenor and PUCO Staff testimony in this case should be extended by two weeks, to July 29, 2011 and August 11, 2011, respectively. Because the Turning Point issue may be intertwined with other issues in

² Id. at [2]-[3].

³ OCC does not object to AEP Ohio submitting the additional testimony.

this case, the extension for testimony should apply to all intervenor testimony, not just testimony regarding the Turning Point issue.

II. ARGUMENT

The Companies filed their application for their second Electric Security Plan on January 27, 2011. The Commission established a procedural schedule in an Entry dated February 9, 2011, and modified the schedule in an Entry dated June 9, 2011. Under the latest schedule, intervenor testimony is due to be filed on July 15, 2011, the deadline for discovery (except for deposition notices) is July 22, 2011 and PUCO Staff testimony is due to be filed July 29, 2011. The hearing in this proceeding is scheduled to begin on August 15, 2011. R.C. 4928.143(C)(1) requires the Commission to issue an order on the Plan not later than 275 days after the application is filed, in this case, October 29, 2011.

The Companies state that “[b]ecause the Turning Point supplemental testimony is being filed on July 1 ..., well in advance of the current testimony and discovery deadlines, AEP Ohio does not believe that any adjustments to the current schedule are necessary.” The Companies, however, ignore the fact that they filed more than 400 pages of new testimony and supporting materials just two weeks before intervenor testimony is due. The documents include more than 300 pages of contractual materials between and among AEP Ohio, Turning Point and investors,⁴ as well as direct testimony by a new witness, Michael J. Kelley, who testifies as to tax matters concerning the transaction. The subject matter of all this material has not been addressed before in this proceeding, at least *not in the detail provided in the new testimony and supporting materials.*

⁴ Godfrey Supplemental Testimony, Exhibit JFG-6.

AEP Ohio served the additional testimony and supporting documentation on intervenors late on the Friday afternoon before the three-day Independence Day holiday weekend. Many intervenors were not aware of the new filing until July 5, 2011 – just ten days before the deadline for filing intervenor testimony. Given that the present procedural schedule allows 20 days for discovery responses,⁵ responses to discovery regarding the additional testimony and supporting documentation would not be due until at least July 25, 2011 – well after the present deadline for filing intervenor testimony. Thus, *out of fundamental fairness to intervenors in this proceeding, the PUCO should shorten the timeframe for AEP Ohio to respond to discovery.*

In addition, the Commission should extend the deadlines for filing intervenor and PUCO Staff testimony. Intervenor testimony is currently due in just eight calendar days. Thus, even with a shortened time for discovery responses, intervenors would be hard-pressed to incorporate the information gained from such responses into testimony. In addition, there may be a need for follow-up discovery or to resolve discovery issues. An extension of the deadline to file intervenor testimony is needed. An extension of the deadline for PUCO Staff to file testimony also is in order.

At the prehearing conference it was proposed that the timeframe for discovery responses be shortened to five days and the deadlines for intervenor and PUCO Staff testimony be extended by two weeks. This proposal seems fair. OCC thus recommends *that the Commission shorten the timeframe for discovery responses to five calendar days.*

⁵ Ohio Adm. Code 4901-1-19(A). The timeframe for discovery responses established under this rule has not been altered for this proceeding.

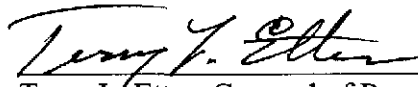
In addition, the deadlines for filing intervenor and PUCO Staff testimony should be extended by two weeks, to July 29, 2011 and August 11, 2011, respectively.⁶

III. CONCLUSION

As discussed herein, there is good cause for the Commission to shorten the timeframe for discovery responses to five calendar days and to extend the deadlines for the filing of intervenor and PUCO Staff testimony.⁷ The Commission should adopt this revised schedule.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



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Assistant Consumers' Counsel

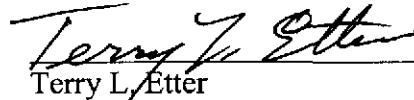
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⁶ Although the attorney examiners stated that delaying the hearing was not subject to discussion, if PUCO Staff testimony is filed August 12, 2011 – the Friday before the scheduled Monday start of the hearing – the Commission should consider delaying the start of the hearing so that parties may have a better opportunity to read and analyze the PUCO Staff's testimony.

⁷ See Ohio Adm. Code 4901-1-13.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra has been served electronically upon those persons listed below this 7th day of July 2011.



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