

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company for Approval of)	Case No. 11-5333-EL-UNC
An Amendment to Its Corporate)	
Separation Plan)	

REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

Samuel C. Randazzo (Counsel of Record)
Frank P. Darr
Joseph E. Olikier
McNEES WALLACE & NURICK
Fifth Third Center
21 East State Street, Suite 1700
Columbus, OH 43215
Telephone: 614-469-8000
Telecopier: 614-469-4653
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com

December 29, 2011

ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company for Approval of)	Case No. 11-5333-EL-UNC
An Amendment to Its Corporate)	
Separation Plan)	

REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

I. INTRODUCTION

On September 30, 2011, Ohio Power Company (“AEP-Ohio”) filed an Application for Approval of an Amendment to its Corporate Separation Plan and requested approval to transfer generating assets to an unregulated affiliate (hereinafter, “Application”). The Public Utilities Commission of Ohio (“Commission”) issued an Entry on December 2, 2011, requesting that interested parties file comments regarding the Application. The Industrial Energy Users-Ohio (“IEU-Ohio”), Commission Staff (“Staff”), Duke Energy Commercial Asset Management (“Duke”), FirstEnergy Solutions (“FES”), Office of the Ohio Consumers’ Counsel (“OCC”), Buckeye Power, Inc. (“Buckeye”), and Exelon¹ Generation Company, Inc. (“Exelon”) filed Comments.

IEU-Ohio agrees with the Comments submitted by FES, Duke, and OCC, that the Application is deficient as filed. IEU-Ohio is submitting Reply Comments to address issues raised by Staff.

¹ Exelon’s Comments merely reiterate arguments that it made in the Joint Motion to Consolidate and Joint Motion for Waiver, filed on September 30, 2011 and October 18, 2011, respectively.

II. REPLY COMMENTS

A. Staff's Comments

Staff has identified that permitting AEP-Ohio to structurally separate its generation assets may affect competitive conditions in the electricity market.² Staff has also identified that AEP-Ohio's Application fails to provide the information required by statute and rule and that there are "a host of details that will need to be addressed during the steps to the new corporate structure."³ Without a more complete record, the Commission cannot determine whether the Application complies with Sections 4928.17 or 4928.02, Revised Code, or Rule 4901:1-37, Ohio Administrative Code, with respect to transfers of generation and corporate separation plans.

While Staff recognizes that the Application does not contain the required information, Staff recommends approving the Application.⁴ Because the Application does not contain the necessary information, the Commission cannot determine that the Application is just, reasonable and in the public interest. Thus, the Commission must direct AEP-Ohio to supplement the Application and set the matter for hearing.

As Staff noted, there will be future proceedings at the Federal Energy Regulatory Commission ("FERC").⁵ Given that those proceedings will impact AEP-Ohio's corporate separation plan and generation assets transfer, the Commission must not approve the Application until it is clear how those proceedings will be resolved. Moreover, the

² Staff Comments at 4.

³ *Id.*

⁴ Staff Comments at 8.

⁵ Staff Comments at 5-6, 8.

Commission will be in a better position to influence proceedings at FERC if it does not approve the Application and lock itself into a position.

IEU-Ohio also agrees with Staff's recommendation that AEP-Ohio file a separate application to transfer its generation assets because the Application does not contain the market value of AEP-Ohio's generation or terms and conditions regarding the transfer. But the Commission must not approve the present Application without first reviewing the details surrounding the transfer of the generation; otherwise, the Commission will not be able to determine whether the resulting corporate separation plan is just, reasonable, and in the public interest.

III. CONCLUSION

AEP-Ohio has not provided the information that is necessary for the Commission to properly review the Application. As a result, it is premature for the Commission to approve the Application at this time. The Commission should direct AEP-Ohio to fill in the holes in the Application identified by IEU-Ohio, FES, OCC, Duke, and Staff and set the matter for hearing.

Respectfully submitted:

/s/ Joseph E. Olikier

Samuel C. Randazzo (Counsel of Record)

Frank P. Darr

Joseph E. Olikier

MCNEES WALLACE & NURICK

Fifth Third Center

21 East State Street, Suite 1700

Columbus, OH 43215

Telephone: 614-469-8000

Telecopier: 614-469-4653

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

Certificate of Service

I hereby certify that a copy of the foregoing *Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 29th day of December 2011, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Joseph E. Olikier

Joseph E. Olikier

Matthew J. Satterwhite
Steven T. Nourse
Anne M. Vogel
American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
mjsatterwhite@aep.com
stnourse@aep.com
amvogel@aep.com

Daniel R. Conway
Porter Wright Morris & Arthur
Huntington Center
41 S. High Street
Columbus, OH 43215
dconway@porterwright.com

**ON BEHALF OF COLUMBUS SOUTHERN
POWER COMPANY AND OHIO POWER
COMPANY**

Philip B. Sineneng
Terrance A. Mebane
THOMPSON HINE LLP
41 S. High St., Suite 1700
Columbus, OH 43215
Philip.Sineneng@ThompsonHine.com
Terrance.Mebane@ThompsonHine.com

**ON BEHALF OF DUKE ENERGY RETAIL SALES,
LLC**

Bruce J. Weston
Terry L. Etter
Maureen R. Grady
Jeffrey L. Small
Office of the Ohio Consumers' Counsel
10 W. Broad Street, 18th Floor
Columbus, OH 43215-3485
etter@occ.state.oh.us
grady@occ.state.oh.us
small@occ.state.oh.us

**ON BEHALF OF THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL**

Richard L. Sites
General Counsel & Senior Director of
Health Policy
Ohio Hospital Association
155 East Broad Street, 15th Floor
Columbus, OH 43215-3620
ricks@ohanet.org

Thomas J. O'Brien
BRICKER & ECKLER, LLP
100 South Third Street
Columbus, OH 43215-4291
tobrien@bricker.com

OH BEHALF OF OHIO HOSPITAL ASSOCIATION

Mark A. Hayden
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
haydenm@firstenergycorp.com

James F Lang
Laura C. McBride
N. Trevor Alexander
CALFEE, HALTER & GRISWOLD LLP
1400 KeyBank Center
800 Superior Ave.
Cleveland, OH 44114
jlang@calfee.com
lmcbride@calfee.com
talexander@calfee.com

David A. Kutik
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114
dakutik@jonesday.com

Allison E. Haedt
Jones Day
P.O. Box 165017
Columbus, OH 43216-5017
aehaedt@jonesday.com

John N. Estes III
Paul F. Wight
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Ave., N.W.
Washington, DC 20005
jestes@skadden.com
paul.wight@skadden.com

**ON BEHALF OF FIRSTENERGY SOLUTIONS
CORP.**

Lisa G. McAlister
Matthew W. Warnock
Thomas O'Brien
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
lmcaster@bricker.com
mwarnock@bricker.com
tobrien@bricker.com

ON BEHALF OF OMA ENERGY GROUP

Sandy I-ru Grace
Assistant General Counsel
Exelon Business Services Company
101 Constitution Ave., NW
Suite 400 East
Washington, DC 20001
sandy.grace@exeloncorp.com

Jesse A. Rodriguez, Esq.
Public Policy & Affairs Manager
Exelon Generation Company, LLC
300 Exelon Way
Kennett Square, PA 19348
jesse.rodriquez@exeloncorp.com

M. Howard Petricoff
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
mhpetricoff@vorys.com

David M. Stahl
Arin C. Aragona
Scott C. Solberg
Eimer Stahl Klevorn & Solberg LLP
224 South Michigan Avenue, Suite 1100
Chicago, IL 60604
dstahl@eimerstahl.com
aaragona@eimerstahl.com
ssolberg@eimerstahl.com

Anastasia Polek-O'Brien
Exelon Generation Company, LLC
10 S. Dearborn Street, 49th Floor
Chicago, IL 60603

**ON BEHALF OF EXELON GENERATION
COMPANY, LLC**

Kurt P. Helfrich
Ann B. Zallocco
Thompson Hine LLP
41 South High Street, Suite 1700
Columbus, OH 43215-6101
kurt.helfrich@ThompsonHine.com
ann.zallocco@ThompsonHine.com

ON BEHALF OF BUCKEYE POWER, INC.

William Wright
Werner Margard
Thomas Lindgren
John H. Jones
Stephen A. Reilly
Assistant Attorneys' General
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, OH 43215
john.jones@puc.state.oh.us
werner.margard@puc.state.oh.us
thomas.lindgren@puc.state.oh.us
william.wright@puc.state.oh.us
stephen.reilly@puc.state.oh.us

**ON BEHALF OF THE PUBLIC UTILITIES
COMMISSION OF OHIO**

Greta See
Jon Tauber
Attorney Examiner
Public Utilities Commission of Ohio
180 East Broad Street, 12th Floor
Columbus, OH 43215

ATTORNEY EXAMINERS

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/29/2011 3:46:23 PM

in

Case No(s). 11-5333-EL-UNC

Summary: Reply Comments of Industrial Energy Users-Ohio electronically filed by Mr. Joseph E. Oliker on behalf of Industrial Energy Users-Ohio