



**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Long-Term Forecast)	
Report of Ohio Power Company and)	Case No. 10-501-EL-FOR
Related Matters.)	

In the Matter of the Long-Term Forecast)	
Report of Columbus Southern Power)	Case No. 10-502-EL-FOR
Company and Related Matters.)	

**MOTION TO EXTEND THE DEADLINE FOR TESTIMONY, AND MOTION TO DELAY
HEARING DATE, AND MOTION FOR EXPEDITED DISCOVERY SCHEDULE, AND
REQUEST FOR EXPEDITED RELIEF, AND MEMORANDUM IN SUPPORT OF
INDUSTRIAL ENERGY USERS-OHIO AND FIRSTENERGY SOLUTIONS CORP.**

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HEARING DATE, AND MOTION FOR EXPEDITED DISCOVERY SCHEDULE, AND
REQUEST FOR EXPEDITED RELIEF OF
INDUSTRIAL ENERGY USERS-OHIO AND FIRSTENERGY SOLUTIONS CORP.**

On November 21, 2011, Columbus Southern Power Company and Ohio Power Company (collectively "OPCo") and Staff entered into a Partial Stipulation and Recommendation (hereinafter "Stipulation") requesting that the Public Utilities Commission of Ohio ("Commission") find that there is a need for the Turning Point Solar project ("Turning Point"). On December 14, 2011, Industrial Energy Users-Ohio ("IEU-Ohio") and FirstEnergy Solutions Corp. ("FES") (collectively "Joint Movants") filed a Motion to Strike Paragraph 2 of the Stipulation and Motion *in Limine* ("Motion").

On February 29, 2012, the Commission denied the Motion and set a procedural schedule: The Commission determined that Staff and OPCo testimony must be submitted no later than March 9, 2012, Joint Movants must submit testimony no later than March 21, 2012, and the hearing will commence on March 28, 2012. The schedule set forth in the Entry, if not modified, will deny Joint Movants from performing any discovery on OPCo's witness testimony in violation of due process.

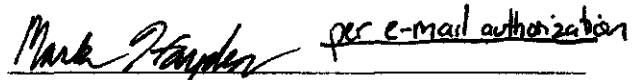
Joint Movants respectfully move the Commission to extend the deadline for filing Joint Movant testimony until March 28, 2012, delay the hearing date until April 9, 2012, and provide an expedited discovery schedule. Joint Movants request that discovery responses be provided in three business days. At a minimum, the Commission must provide a reasonable amount of time to participate in discovery after OPCo and Staff submit witness testimony. Joint Movants request an expedited ruling.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT OF
INDUSTRIAL ENERGY USERS-OHIO AND FIRSTENERGY SOLUTIONS CORP.**

On November 21, 2011, Columbus Southern Power Company and Ohio Power Company (collectively "OPCo") and Staff entered into a Partial Stipulation and Recommendation (hereinafter "Stipulation") requesting that the Public Utilities Commission of Ohio ("Commission") find that there is a need for the Turning Point Solar project ("Turning Point"). On December 14, 2011, Industrial Energy Users-Ohio ("IEU-Ohio") and FirstEnergy Solutions Corp. ("FES") (collectively "Joint Movants") filed a Motion to Strike Paragraph 2 of the Stipulation and Motion *in Limine* ("Motion"). On February 29, 2012, the Commission issued an Entry denying the Motion and setting a procedural schedule. The Commission required OPCo and Staff to file testimony no later than March 9, 2012. Joint Movants must file testimony no later than March 21, 2012. The hearing will be held on March 28, 2012.

The procedural schedule set by the Commission fails to provide Joint Movants any meaningful opportunity to participate in discovery and prepare testimony. First, the Entry requires Joint Movants to file testimony less than two weeks after OPCo and Staff.

Joint Movants should have an opportunity to submit testimony in response to OPCo's testimony and two weeks does not provide sufficient time. Moreover, Joint Movants should be given the opportunity to perform discovery on OPCo's testimony prior to filing their own testimony. Due process and fairness require that Joint Movants be given this opportunity, but the current procedural schedule in this proceeding would bar Joint Movants from participating in any discovery.

Rule 4901-1-17(E), Ohio Administrative Code ("OAC"), states "In long-term forecast report proceedings, no party may serve a discovery request later than twenty-five days prior to the commencement of the evidentiary hearing," but the Commission or an attorney examiner may extend the period for discovery for good cause shown.¹ Rule 4901-1-17(G), OAC. The Entry setting the procedural schedule was issued on February 29, 2012; thus, Joint Movants had only two days to submit discovery requests upon OPCo prior to the discovery cut-off, and the cut-off occurred before supporting testimony was filed. In the interest of fairness, Joint Movants have a right to submit discovery requests after OPCo files its testimony.

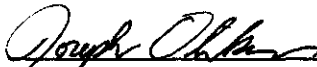
In addition to the interest of fairness, discovery also plays an important role in promoting administrative economy. Interrogatories and requests for production of documents streamline the issues for trial. Requests for Admission may conclusively establish facts which may otherwise be the subject of contention in the hearing room. Conversely, in the event that discovery is not permitted after the filing of testimony, it is likely that cross-examination will be a prolonged affair. Thus, in the interest of fairness

¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates*, Case Nos. 07-589-GA-AIR, *et al.*, Entry at 3 (Feb. 15, 2008); *see also In the Matter of the Application of United Telephone Company of Ohio dba Embarq for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 09-151-TP-BLS, Entry at 2 (Mar. 25, 2009).

and administrative economy, the Commission should extend the deadline for discovery and delay the hearing date. Joint Movants have shown good cause to grant the Motion on an expedited basis.

The Commission can easily remedy the inequity that has resulted from the procedural schedule in two ways. First, the Commission should extend the deadline for Joint Movant's testimony until March 28, 2012. Second, the Commission should delay the hearing date until April 9, 2012. Finally, the Commission or the attorney examiner should extend the discovery period and require discovery responses to be served within three business days. In the event that the Commission does not delay the hearing date, it should, at a minimum, extend discovery and provide for expedited responses to discovery.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Extend the Deadline for Testimony, and Motion to Delay Hearing Date, and Motion for Expedited Discovery Schedule, and Request for Expedited Relief, and Memorandum in Support of Industrial Energy Users-Ohio and FirstEnergy Solutions Corp.*, was served upon the following parties of record this 12th day of March, 2012, via first class mail, postage prepaid.



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