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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Commission Review of)
The Capacity Charges of Ohio Power) Case No. 10-2929-EL-UNC
Company and Columbus Southern Power)
Company.)

**MOTION, *INSTANTER*, FOR LEAVE TO FILE TESTIMONY ONE DAY LATE
AND MEMORANDUM IN SUPPORT
OF THE OHIO MANUFACTURERS' ASSOCIATION**

Lisa G. McAlister, Counsel of Record
Thomas J. O'Brien
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
E-mail: lmcalister@bricker.com

**On behalf of The Ohio Manufacturers'
Association**

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Pursuant to Rule 4901-1-13, Ohio Administrative Code, and for the reasons set forth in the attached memorandum in support, the Ohio Manufacturers' Association ("OMA"), respectfully requests leave to file testimony, *instantly*, in the above captioned case one day out of time for good cause shown.

Respectfully submitted,



Lisa G. McAlister, Counsel of Record
Thomas J. O'Brien
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On November 1, 2010, AEP Electric Power Service Corporation, on behalf of Ohio Power Company ("OP") and Columbus Southern Power Company ("CSP," collectively, "AEP-Ohio"), filed an application before the Federal Energy Regulatory Commission ("FERC") in FERC Docket No. ER11-1995 et al., seeking authority to change the basis for compensation for capacity costs to a cost-based mechanism and included proposed formula rate templates under which the Companies would calculate their respective capacity costs under Section D.8 of Schedule 8.1 of the Reliability Assurance Agreement. At the direction of FERC, AEP-Ohio refiled its application in FERC Docket No. ER11-2183 on November 24, 2010, (hereinafter, "*FERC Case*").

In light of AEP-Ohio's proposed change, on December 8, 2010, the Public Utilities Commission of Ohio ("Commission") issued an Entry preventing AEP-Ohio from changing the mechanism at least until after FERC has completed a review. Specifically, the Commission stated, "However, in light of the change proposed by the Companies, the Commission will now expressly adopt as the state compensation mechanism for the Companies the current capacity charges established by the three-year capacity auction conducted by PJM, Inc. ("PJM")

during the pendency of this review." In other words, the Commission temporarily clarified the state mechanism upon which AEP-Ohio's FERC application relies.

Additionally, the Entry requested comments on three issues that will help the Commission determine what the state compensation mechanism should be. The Commission requested comments on: (1) what changes to the current state mechanism are appropriate to determine AEP-Ohio's FRR capacity charges to Ohio competitive retail electric service ("CRES") providers; (2) the degree to which AEP-Ohio's capacity charges are currently being recovered through retail rates approved by the Commission or other capacity charges; and (3) the impact of AEP-Ohio's capacity charges upon CRES providers and retail competition in Ohio. The OMA filed comments.

After an extensive proceeding on AEP-Ohio's standard service offer case (Case No. 11-346-EL-SSO, *et al.*), with which this case was consolidated, on February 23, 2012, the Commission ultimately rejected a settlement and directed that the individual cases go forward at the procedural point at which the settlement was filed. Accordingly, AEP-Ohio's capacity charge application is moving forward on its own. The Attorney Examiners set a procedural schedule that included a due date for intervenor testimony that was adjusted to be April 4, 2012.

II. ARGUMENT

The OMA prepared the testimony of five member companies for filing on April 4, 2012. Unfortunately, although the testimony was properly electronically

served on the parties on time, OMA missed the deadline to properly file the testimony on time.

Rule 4901-1-13(A), Ohio Administrative Code, permits parties to move for extensions of time to file pleadings and other papers for good cause shown. The reason the OMA's testimony was filed late is that the paralegal who normally performs the function of preparing documents for filing and actually files them was unexpectedly out of the county to attend to her daughter, who went into labor early. The back up person was not familiar with the process of filing testimony under seal and, as a result, just missed the deadline by mere minutes. Undersigned counsel regrets this inadvertent error and respectfully requests that leave to file one day out of time be granted, *instanter*.

As the testimony was properly served on all parties, granting this request will not prejudice any party in any way. In the absence of actual prejudice to a party, the Commission will typically accept and consider untimely filings. See *In the Matter of the Commission's Review of the MTSS Standards*, Case No. 00-1265-TP-ORD, et al (Entry dated February 6, 2008 granting OCC's Motion for leave to file comments out of time based upon a showing of good cause); *In the Matter of the Applications of Ohio Edison Co., Cleveland Electric Illuminating Co., and the Toledo Edison Co. for Retail Transition Cost Recovery*, Case No. 03-1445-EL-ATA, et al (Entry dated August 2, 2005, granting Ohio Edison's Motion for Leave to file out of time on the basis of a lack of prejudice to the City of Huron).

III. CONCLUSION

As no party was prejudiced and the inadvertent error was the result of good cause, the OMA respectfully requests leave to file *instantly* the testimony one day out of time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa G. McAlister", with a checkmark at the end.

Lisa G. McAlister, Counsel of Record
Thomas J. O'Brien
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
E-mail: lmcalister@bricker.com

**On behalf of The Ohio Manufacturers'
Association**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail, and by first-class postage prepaid mail, to all parties on this 5th day of April, 2012.



Lisa G. McAlister

greta.see@puc.state.oh.us
Greg.Price@puc.state.oh.us
jeff.jones@puc.state.oh.us
Jonathan.Tauber@puc.state.oh.us
Jodi.Bair@puc.state.oh.us
Bob.Fortney@puc.state.oh.us
Doris.McCarter@puc.state.oh.us
Daniel.Shields@puc.state.oh.us
Tammy.Turkenton@puc.state.oh.us
Stephen.Reilly@puc.state.oh.us
Werner.Margard@puc.state.oh.us
William.Wright@puc.state.oh.us
Thomas.Lindgren@puc.state.oh.us
john.jones@puc.state.oh.us
dclark1@aep.com
grady@occ.state.oh.us
keith.nusbaum@snrdenton.com
kpkreider@kmklaw.com
mjsatterwhite@aep.com
ned.ford@fuse.net
pfox@hilliardohio.gov
ricks@ohanet.org,
stnourse@aep.com
cathy@theoec.org
dsullivan@nrdc.org
aehaedt@jonesday.com
dakutik@jonesday.com
haydenm@firstenergycorp.com
dconway@porterwright.com
jlang@calfee.com
lmcbride@calfee.com

talAlexander@calfee.com
etter@occ.state.oh.us
grady@occ.state.oh.us
small@occ.state.oh.us
cynthia.a.fonner@constellation.com
David.fein@constellation.com
Dorothy.corbett@duke-energy.com
Amy.spiller@duke-energy.com
dboehm@bklawfirm.com
mkurtz@bklawfirm.com
ricks@ohanet.org
tobrien@bricker.com
jbentine@cswlaw.com
myurick@cswlaw.com
zkravitz@cswlaw.com
jejadwin@aep.com
msmalz@ohiopoveritylaw.org
jmaskovyak@ohiopoveritylaw.org
todonnell@bricker.com
cmontgomery@bricker.com
lmcAlister@bricker.com
mwarnock@bricker.com
gthomas@gtpowergroup.com
wmassey@cov.com
henryeckhart@aol.com
laurac@chappelleconsulting.net
whitt@whitt-sturtevant.com
thompson@whitt-sturtevant.com
sandy.grace@exeloncorp.com
cmiller@szd.com
ahaque@szd.com

gdunn@szd.com
mhpeticoff@vorys.com
smhoward@vorys.com
mjsettineri@vorys.com
lkalepsclark@vorys.com
bakahn@vorys.com
Gary.A.Jeffries@dom.com
Stephen.chriss@wal-mart.com
dmeyer@kmklaw.com
holly@raysmithlaw.com
barthroyer@aol.com
philip.sineneng@thompsonhine.com
carolyn.flahive@thompsonhine.com
terrance.mebane@thompsonhine.com
cmooney2@columbus.rr.com
drinebolt@ohiopartners.org
trent@theoeg.com
nolan@theoec.org
gpoulos@enernoc.com
emma.hand@snrdenton.com
doug.bonner@snrdenton.com
clinton.vince@snrdenton.com
sam@mwncmh.com
joliker@mwncmh.com
fdarr@mwncmh.com
jestes@skadden.com
paul.wight@skadden.com
dstahl@eimerstahl.com
aaragona@eimerstahl.com
ssolberg@eimerstahl.com
tsantarelli@elpc.org
callwein@wamenergylaw.com
malina@wexlerwalker.com
jkooper@hess.com
kquerry@hess.com
afreifeld@viridityenergy.com
swolfe@viridityenergy.com,
korenergy@insight.rr.com
sasloan@aep.com
Dane.Stinson@baileycavalieri.com
cendsley@ofbf.org
Jeanne.Kingery@duke-energy.com
rsugarman@kegler.brown.com
asimhaque@icemiller.com
gregory.dunn@icemiller.com
christopher.miller@icemiller.com

bpbarger@bcslawyers.com