

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and)	
Ohio Power Company for Authority to)	Case No. 11-346-EL-SSO
Establish a Standard Service Offer Pursuant)	Case No. 11-348-EL-SSO
To Section 4928.143, Revised Code, in the)	
Form of an Electric Security Plan.)	
)	
In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of)	Case No. 11-350-EL-AAM
Certain Accounting Authority.)	

**BORDER ENERGY ELECTRIC SERVICES, INC.’S
MOTION TO INTERVENE**

By the above-styled applications, Columbus Southern Power Company and Ohio Power Company (collectively, “AEP-Ohio”) seek to establish a standard service offer (“SSO”) in the form of an electric security plan (“ESP”) pursuant to Ohio Revised Code §§ 4928.141 and 4928.143, and approval of certain related accounting measures. As more fully discussed in the accompanying memorandum, Border Energy Electric Services, Inc. (“Border Energy”) has a real and substantial interest in this proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Further, Border Energy’s interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceeding or unjustly prejudicing any existing party. Accordingly, Border Energy hereby moves to intervene in this proceeding pursuant to Ohio Rev. Code § 4903.221, Ohio Admin. Code Rule 4901-1-11, and the Commission’s April 11, 2012 Entry in this proceeding.

WHEREFORE, Border Energy respectfully moves that the Commission grant its Motion to Intervene and direct that Border Energy Electric Services, Inc. be made a full party of record.

Respectfully submitted,

BORDER ENERGY ELECTRIC SERVICES, INC.

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**BORDER ENERGY ELECTRIC SERVICES, INC.’S
MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

By the application filed herein on March 30, 2012, AEP-Ohio seeks approval of a modified ESP-based SSO pursuant to Ohio Rev. Code §§ 4928.141 and 4928.143. Ohio Rev. Code § 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” Border Energy is a Commission-certified competitive retail electric supplier (“CRES”), authorized to offer competitive retail electric service to customers within AEP-Ohio’s service territory, pursuant to Certificate Nos. 10-249E (1) and 11-325E (1). As such, Border Energy has a real and substantial interest in parts of the underlying AEP-Ohio application. Thus, there can be no question that Border Energy may be adversely affected by this proceeding. Further, not only does Border Energy satisfy the underlying statutory test for intervention in Commission proceedings, but it also satisfies the standards governing intervention set forth in the Commission’s rules.

Ohio Admin. Code Rule 4901-1-11 provides, in pertinent part, as follows:

- (A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

...

- (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his ability to protect that interest, unless the person's interest is adequately represented by existing parties.

As a CRES supplier, Border Energy plainly has a real and substantial interest in a proceeding in which the Commission is being asked, among other things, to determine how the price against which it must compete will be established, as well as what charges Border Energy must pay. Both of these considerations have a substantial impact on the viability of Border Energy's business model and the sustainability of its business interests. This proceeding may, therefore, as a practical matter, impair or impede its ability to protect those interests, among others, which are unique to Border Energy and cannot be adequately represented absent its intervention in these proceedings.

Although Border Energy does not believe this to be a close question, each of the specific considerations that the Commission may, by rule, take into account in applying the Ohio Admin. Code Rule 4901-1-11(A)(2) standard also fully support granting Border Energy's motion. Ohio Admin. Code Rule 4901-1-11(B), provides as follows:

In deciding whether to permit intervention under paragraph (A)(2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner shall consider:

- (1) The nature and extent of the prospective intervenor's interest.
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.

First, as previously explained, Border Energy's interest in the AEP-Ohio application is clearly direct and substantial. Second, although Border Energy must necessarily await further developments before determining the specific positions it will adopt with respect to the issues in these proceedings, Border Energy will certainly advocate that the terms of the ESP-based SSO authorized as a result of this proceeding be fair, reasonable, non-discriminatory, and designed to promote retail electric competition. Third, in view of the procedural posture of this case, granting Border Energy's motion will not unduly delay or prolong the proceeding. Fourth, Border Energy will bring its experience as a CRES to bear on the issues raised. Finally, it would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its proceedings"¹ to apply Ohio Admin. Code Rule 4901-1-11(B) standards in a manner that would exclude Border Energy from intervention and full participation in these proceedings. Thus, granting Border Energy intervenor status is consistent with all the considerations set out in Ohio Admin. Code Rule 4901-1-11(B).

WHEREFORE, Border Energy respectfully requests that the Commission grant its Motion to Intervene.

Respectfully submitted,

BORDER ENERGY ELECTRIC SERVICES, INC.

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¹ See, *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR (Entry dated January 14, 1986), at 2.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Border Energy Electric Services, Inc.*'s
Motion to Intervene and Memorandum in Support has been served via e-mail this 20th day of
April, 2012 upon the following:

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Summary: Motion to Intervene electronically filed by Carolyn S Flahive on behalf of Border Energy Electric Services, Inc.